

SECTION 10. SUPPLEMENTARY STANDARDS

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10.1 PURPOSE

The purpose of this Section is to set forth supplemental standards for the use of land and buildings to ensure that the use is compatible with the surrounding area. This Section is also intended to set forth standards for other structures and uses on a lot other than for the principal building and use. This includes accessory buildings, structures and uses, and permitted encroachments. This Section also sets forth standards for temporary uses and structures.

10.2 USE OF LAND AND BUILDINGS

A. Use to be in Conformity

No building, structure, or premises shall be used or occupied except in conformity with the regulations for the zoning district in which it is located. No building or structure shall be erected, reconstructed, extended, enlarged, altered or moved except in conformity with the regulations of the zoning district in which it is located.

B. Number of Buildings on a Lot

In the RR, ER, SR-1 and SR-2 Districts there shall be no more than one (1) principal building per lot. In all other districts, more than one (1) building may be erected on a single lot, provided that each building shall comply with all yard and bulk requirements of a district as though it were a principal building on an individual lot.

C. All Activities within an Enclosed Building

Within all districts, all activities, including storage, shall be conducted entirely within an enclosed building, with the exception of the following activities and uses:

1. Off-street parking and loading, in accordance with Section 11.2 (Off-Street Parking and Loading).
2. Outdoor businesses, and those businesses with an outdoor component, including, but not limited to, outdoor entertainment, outdoor recreation, restaurants, car sales, car washes, kennels and similar businesses. These businesses may be limited, or outdoor components prohibited, as a condition of a conditional use permit.

3. Outdoor storage, and outdoor sales and display areas, in accordance with Section 10.4M (Outdoor Display) and Section 10.4N (Outdoor Storage) below.
4. Temporary uses, in accordance with Section 10.6 (Temporary Uses).

D. Frontage on a Public or Private Street

All buildings shall front on a public or private street. Private streets include streets or drives within a recorded easement.

E. Required Yards

No lot shall be reduced in area so that the yards are less than required by this Ordinance. The yards of a building or structure shall not be considered yard space for any other building or structure. All yards allocated to a building or structure shall be located on the same zoning lot as such building or structure. Yards may be used for parking, landscaping and other accessory uses provided all requirements of this Ordinance are met. Rear yards shall not be required where a building in an industrial zone borders a railroad.

F. Applicability of Bulk Requirements

All buildings and structures erected after the effective date of this Ordinance shall meet the lot size, yard size and other bulk regulations for the zoning district in which the building or structure is located. No existing building shall be enlarged, altered, reconstructed or relocated in such a manner that conflicts with the regulations of the zoning district in which the building or structure shall be located except as may be allowed by Section 14 (Nonconforming Use Standards).

G. Applicability of Use Restrictions

No building, structure or land shall be used for any use other than one allowed as either a permitted or conditional use in the zoning district in which such building, structure or land is located. Buildings, structures or land may also be used for a temporary use or accessory use, in accordance with the requirements of Section 10.6 (Temporary Uses and Structures) and Section 10.4 (Accessory Uses, Buildings and Structures).

H. Motorist View Obstruction in Residential Districts

The site clearance area at the intersection of two (2) streets within residential districts shall be defined as a triangular area of a corner lot measured fifteen (15) feet from the point of intersection of the property lines of the lot along a street; and shall not be obstructed by any sign, wall, fence, hedge, shrub or other object which exceeds twenty-four (24) inches in height. Trees may be maintained within this area as long as there is no foliage within forty-eight (48) inches as measured from the ground to the lowest foliage. In the event that the grade of a lot is higher than the

street grade, the height of the wall, fence, hedge, or shrub shall be reduced so that the site clearance is not obstructed twenty-four (24) inches over the grade of the street. See Figure 1: View Obstruction.

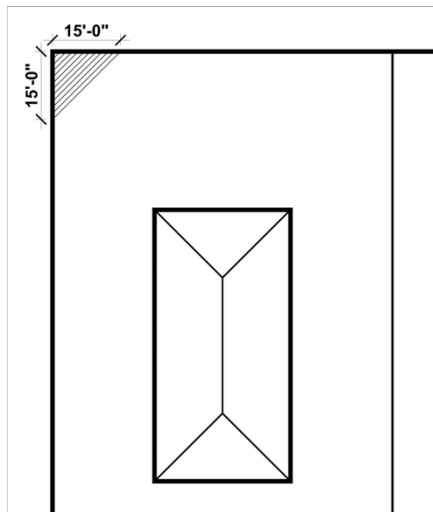


Figure 1: View Obstruction

I. Buildings not to be on Easements

No building, pool, deck, patio, or permanent structure shall be located on an easement except as per section 10.4A4d regarding accessory buildings without a permanent foundation.

10.3 USE-SPECIFIC STANDARDS

In addition to the use standards below, all uses are required to comply with the provisions of this Ordinance including, but not limited to, Section 11 (Site Development Standards), Section 11.2 (Off-Street Parking and Loading), Section 11.3 (Outdoor Lighting), Section 11.4 (Landscaping, Screening and Tree Preservation), Section 12 (Building Design Standards) and Section 13 (Sign Standards), and all other City regulations.

A. Assisted Living Facility, Independent Living Facility and Nursing Home

Assisted living facilities, independent living facilities and nursing homes shall meet all federal, state and local requirements including, but not limited to, licensing, health, safety and building code requirements. In addition, the following criteria shall be required:

1. The location, design and operation of the facility shall be compatible with, and shall not adversely affect, adjacent properties and the surrounding area.

2. The facility shall be harmonious with surrounding buildings, in respect to scale, architectural design and building placement. If located within a residential district, the facility shall not alter the residential character of the neighborhood.
3. The surrounding street network shall be capable of accommodating the traffic generated by the facility.
4. Minimum lot size is three (3) acres.
5. Maximum number of living units:
 - a. Independent Living Units – 15 units/acre
 - b. Assisted Living Units – 20 units/acre
 - c. Nursing Home Living Units – 25 units/acre

B. Community Residence

Community residences shall meet all federal, state and local requirements including, but not limited to, licensing, health, safety and building code requirements. In addition, the following criteria shall be required.

1. The location, design and operation of the facility will not alter the residential character of the neighborhood.
2. The facility shall retain a residential character, which shall be compatible with the surrounding neighborhood.
3. The operation of the facility shall not adversely impact surrounding properties.

C. Day Care Center, Adult and Child

1. Day care centers shall meet all federal, state and local requirements including, but not limited to, licensing, health, safety and building code requirements. In addition, the following criteria shall be required:
 - a. Adequate on-site drop-off zones, sidewalks and exterior lighting shall be provided.
 - b. The amount of traffic or noise to be generated shall not be excessive.
 - c. Adequate open space and recreational areas shall be provided.

D. Day Care Home, Adult and Child

1. Day care homes shall meet all federal, state and local requirements including, but not limited to, licensing, health, safety and building code requirements. In addition, the following criteria shall be required:

- a. Adequate on-site drop-off zones, sidewalks and exterior lighting shall be provided.
 - b. The amount of traffic or noise to be generated shall not be excessive.
 - c. Adequate open space and recreational areas shall be provided.
 - d. The day care home shall retain a residential character and the effect of the day care home shall not alter the residential character of the neighborhood.
 - e. The operation of the day care home shall not adversely impact surrounding properties.
2. Services are provided in a protective setting for more than four (4), up to a maximum of twelve (12), children or adults for less than twenty-four (24) hours per day.
 3. Child day care home does not include facilities which receive only children from a single household.

E. Dwelling, Multi-Family and Dwelling, Townhouse

1. Townhouse and multi-family dwellings which are approved to be located in planned developments are restricted in number as shown below in terms of percentage of the total number of dwelling units proposed:

<u>Zone Permitted</u>	<u>TH</u>	<u>MF</u>
SR-1	25%	0%
SR-2	30%	0%
WR	25%	15%
MXR	25%	25%
OTR	100%	100%
MFR	100%	100%
MXC	25%	25%

These restrictions do not apply to the base zones where townhouse and multi-family dwellings are allowed.

2. Any unused allowance for multi-family dwellings within a planned development may be utilized for townhouses within the same planned development.
3. See Section 11 (Site Development Standards) and Section 12 (Building Design Standards).

F. Entertainment and Recreation Facilities, Indoor or Outdoor

Entertainment and recreation facilities shall be designed so that the location of entrances and exits, exterior lighting, service areas, and parking and loading facilities will minimize traffic congestion, pedestrian hazards and adverse impacts on adjoining properties.

G. Kennel

1. Exterior enclosures and runs shall provide protection against weather extremes. Floors of runs shall be made of impervious material to permit proper cleaning and disinfecting.
2. All animal quarters and runs are to be kept in a clean, dry and sanitary condition.
3. Fencing surrounding exercise areas and/or runs shall be of a sufficient height to prevent escape and shall be buried as part of installation to prevent escape by digging beneath the fence posts.
4. Kennel noise shall be mitigated so as not to create a public nuisance for adjoining properties. This shall exclude noise from exercise or training while outdoors during the daytime. Kennels shall comply with all local noise regulations.

H. Motor Vehicle Service Station

1. Motor vehicle service station and fuel center canopies shall be designed with luminaires fully recessed into the ceiling of the canopy to minimize light pollution. Light intensity directly under the canopy shall not exceed thirty (30) footcandles at any location. All lighting mounted under the canopy, including auxiliary lighting within signage and panels over the pumps, shall be included in the thirty (30) footcandle limit. For service stations and fuel centers adjacent to residential zones, see Section 11.3C (Light Trespass).
2. All motor vehicle service station driveways must be located and designed to ensure that they will not adversely affect the safety and efficiency of traffic circulation on adjoining streets.
3. Motor vehicle service stations may offer convenience items for sale as a secondary activity.
4. Motor vehicle service stations may also include an automatic car wash with one (1) bay. Stacking spaces shall be in accordance with Section 11.2 (Off-Street Parking and Loading). More than one (1) bay constitutes a separate principal use and requires compliance as such.

5. In addition, Minor Motor Vehicle Repair Shops may be included as part of a Motor Vehicle Service Station. However, they shall be subject to the provisions of this Section and the standards of Section 10.3K (Motor Vehicle Service and Repair, Major and Minor) below.

I. Motor Vehicle Dealership

Newly established used motor vehicle dealerships may be no closer to an existing used car dealership than 1,000 feet. This does not apply to used car sales which are accessory to new car dealerships. Any service and repair facilities, which are open to the public and included as part of the dealership must also comply with the standards of Section 10.3K (Motor Vehicle Service and Repair, Major or Minor).

J. Motor Vehicle Operations Facility

All repair operations and service bays shall be fully enclosed.

K. Motor Vehicle Service and Repair, Major or Minor

1. Minor motor vehicle service and repair shops may not store the same vehicles outdoors on the site for longer than ten (10) days. Major motor vehicle service and repair shops may not store the same vehicles outdoors on the site for longer than sixty (60) days.
2. All driveways must be located and designed to ensure that they will not adversely affect the safety and efficiency of traffic circulation on adjoining streets.
3. All repair operations shall be fully enclosed. Wrecked or junked vehicles shall not be stored for longer time periods than those specified above and shall be completely screened from the public right-of-way and any adjacent residential districts with a solid board fence and/or evergreen shrubs.
4. Minor motor vehicle service and repair shops may also include gas stations as a secondary use. All gas stations which are part of such an establishment must comply with the regulations of Section 10.3H (Motor Vehicle Service Station).

L. Sexually-Oriented Business

Sexually-oriented business shall be subject to the following standards:

1. No sexually-oriented business shall be located within one thousand (1,000) feet of any other sexually-oriented business or any residential district, school, place of worship, liquor store or child care as measured in a straight line between the nearest parts of the two structures.
2. The sexually-oriented business shall be so designed, located and operated so that the public health, safety, comfort, convenience and general welfare will be protected.

3. The sexually-oriented business shall not cause substantial injury to the value of other property in the neighborhood in which it is located.
4. The sexually-oriented business shall not unduly increase traffic congestion in the public streets and highways in the area in which it is located.
5. The sexually-oriented business shall not cause additional public expense for fire or police protection.
6. No sexually-oriented business shall be conducted in any manner that permits the observation of any material depicting, describing or relating to “Specified Sexual Activities” or “Specified Anatomical Areas” from any public way or from any adjacent property. This provision shall apply to any display, decoration, sign, show window or other opening.

M. Radio and Television Towers and Transmission Facilities

1. Site Plan and Design Review approval is required in accordance with Section 4.7 (Site Plan and Design Review).
2. All towers shall conform to the definition of Tower as stated in Section 15 (Definitions)
3. The maximum height is 150 feet unless further restricted by the Board of Zoning Appeals in the granting of a conditional use permit, if required.
4. All towers and facilities shall conform to the following provisions contained in Appendix C (Wireless Telecommunications Facilities and Towers):
 - a. AC.6 Setbacks
 - b. AC.7 Structural Requirements
 - c. AC.8 Separation of Towers
 - d. AC.10 Illumination
 - e. AC.11 Exterior Finish
 - f. AC.12 Landscaping and Inspections
 - g. AC.15 Certifications and Inspections
 - h. AC.16 Maintenance
 - i. AC.18 Abandonment

- j. AC.19 (Special Conditions for Location of Telecommunications Facilities within Residential Districts) sub-sections A. (Property Allowed), C. (Tower Design), D. (Protection Against Climbing), E. (Color) and F. (Equipment Enclosure).

N. Social Club or Lodge

- 1. Social clubs or lodges shall be designed so that the location of entrances and exits, exterior lighting, service areas, and parking and loading facilities will minimize traffic congestion, pedestrian hazards, and adverse impacts on adjoining properties.
- 2. Social clubs and lodges are permitted to serve food and meals on the premises. There shall be no sleeping facilities.

O. Wireless Telecommunications Facilities and Towers

See Appendix C (Wireless Telecommunications Facilities and Towers).

P. Recycling Drop-Off Center

- 1. All recyclables to be kept in leak-free enclosed bins.
- 2. All recyclables to be removed from the site no less than every two (2) days.
- 3. All storage/collection bins and equipment to be screened as per Section 11.4K3 (Outdoor Storage Areas).
- 4. The site shall be kept odor free (at the property lines) and shall be kept free of bees and other insects.
- 5. Site plan approval is required as per Section 4.7 (Site Plan and Design Review).
- 6. See also Section 10.4G (Donation and Recycle Collection Bins) for recycle collection bins as an accessory use.

10.4 ACCESSORY USES, BUILDINGS AND STRUCTURES

The purpose of this Section is to authorize the establishment of accessory uses, buildings and structures that are incidental and customarily subordinate to principal uses. The City's intent in adopting this Section is to allow a broad range of accessory uses, buildings and structures, so long as such uses are located on the same lot as the principal use, and so long as they comply with the standards set forth in this Section in order to reduce potentially adverse impacts on surrounding lands.

A. General Standards and Limitations

1. Compliance with Ordinance Requirements

All accessory uses and accessory buildings and structures shall conform to the applicable requirements of this Ordinance. The provisions of this Section establish additional standards and restrictions for particular accessory uses and structures. Boat houses, docks and piers on Old Hickory Lake are subject to Corps of Engineers regulations and thus exempt from all regulations herein. Barns and other farm buildings on property where agricultural uses are permitted are exempt from Section 10.4A5 through 9. NOTE: Agricultural uses are permitted on RR and ER property containing at least 10 acres and on any legally pre-existing/non-conforming farms.

2. General Standards

All accessory uses and accessory structures shall meet the following standards:

- a. Directly serve the principal use or structure;
- b. Be customarily accessory and clearly incidental and subordinate to principal use or structure;
- c. Be subordinate in area, extent, and purpose to the principal use or structure;
- d. Be owned or operated by the same person or company as the principal use or structure;
- e. Be located on the same lot as the principal use or structure;
- f. Together with the principal use or structure, not violate the bulk, density, parking, landscaping, or open space standards of this Ordinance; except that variances may be granted from the standards contained in Section 10.4A5 and 10.4A6 and from the minimum setback/yard requirements of this Ordinance.
- g. Not be constructed or established prior to the time the principal use or structure is constructed or established; and
- h. Not constitute a combination use, which is the combination of two principal uses. Combination uses will not meet the above standards in terms of being subordinate or providing service to the principal use.
- i. Be a permitted or conditional use in the zone in which it is located or specifically listed as an accessory use in Section 10.4 B-W or as allowed by Section 10.4A3b.

3. Permitted Accessory Uses

- a. Sections 10.4B through W list permitted accessory uses. Specific standards for these uses are given, including the extent to which each use may encroach into the required yards. The next Section, Section 10.5 (Permitted Encroachments), includes Table 7 which lists additional permitted accessory uses and the extent to which they may encroach into required yards. Together, these two Sections list all known accessory uses.
- b. The Planning Director shall evaluate potential accessory uses that are not identified in Section 10.4B through W and Table 7 (Permitted Encroachments) on a case-by-case basis, as an interpretation. In making the interpretation, the Planning Director shall apply the following standards.
 - i The definition of accessory use (see Section 15: Definitions), and the general accessory use standards established in Section 10.4A2 (General Standards).
 - ii The purpose and intent of the zoning district in which the accessory use is located (see Sections 6 and 7).
 - iii Any potential adverse impacts the accessory use may have on other lands in the area, compared with other accessory uses permitted in the zoning district.
 - iv The compatibility of the accessory use, including the structure in which it is housed, with other principal and accessory uses permitted in the zoning district.

4. Location of Accessory Buildings and Structures

- a. Accessory buildings and structures are prohibited within required yards of any lot, unless otherwise permitted by this ordinance.
- b. Within all residential zones, accessory buildings and structures with a roof are further prohibited from being located in front of the principal building, unless otherwise permitted by this Ordinance.
- c. The following exceptions to a and b above are allowed:
 - i Accessory buildings and structures with a roof located at least ten (10) feet from the principal building and not exceeding four hundred (400) square feet in size are allowed to encroach into the required yards as follows:

Interior Lots: May encroach to within 5 feet of the rear and side lot lines. Garage and carports may be within five (5) feet of an alley, but, if greater than five (5) feet, it must be at least twenty (20) feet from the alley.

Double Frontage Lots: May encroach to within five (5) feet of the side line.

Corner Lots: May encroach to within five (5) feet of the side line and the rear line

For subdivisions with a platted Minimum Building Setback Line or Front Yard line or covenant which requires a greater setback, such setback shall be required.

- ii Arbors, trellises, gazebos and pergolas which are detached from the principle building and which do not exceed one hundred and fifty (150) square feet of combined size or fifteen (15) feet in height in addition to being allowed the exceptions contained in 10.4A4ci may be located in front of the principal building and may encroach into the required front yard to within twenty (20) feet of the street.
- d. Accessory buildings and structures with a roof and a permanent foundation (concrete slabs or piers), and pools (and their aprons and/or decks) shall not be located on an easement. Accessory building without a permanent foundation may be located on an easement provided the property owner submits a notarized letter acknowledging that they could be required by any party having a right to the use of the easement to move the building off the easement. Note: The City's current building code requires a permanent foundation for all buildings four hundred (400) square feet and larger.

5. Maximum Number and Size of Accessory Buildings and Structures

- a. In all residential zones a maximum of two (2) detached accessory buildings and structures with a roof shall be permitted on a zone lot. Arbors, trellises, gazebos and pergolas which do not exceed one hundred and fifty (150) square feet of combined size or fifteen (15) feet in height are exempt from this restriction. Note: Pools (in-ground or above-ground) do not count since they are structures without a roof.
- b. In all residential zones, the area of all residential accessory buildings and structures with a roof on a zone lot shall not exceed the lesser of:
 - i. 50% of the area of the house or 800 square feet on lots up to 15,000 square feet in size

- ii. 50% of the area of the house or 1,200 square feet on lots between 15,001 and 30,000 square feet in size
- iii. 50% of the area of the house or 1,800 square feet on lots between 30,001 square feet and 1 acre in size
- iv. 50% of the area of the house or 2,500 square feet on lots over 1 acre in size

Area refers to the area in square feet of all floors, covered porches and patios, attached garage and carport. Refer to Tables 2 and 5 for maximum lot coverage.

6. Maximum Height of Accessory Buildings and Structures

In all residential zones, the height of accessory buildings and structures shall not exceed the height of the principal building on the zone lot. Exception: if the principal building is a one (1) story dwelling, an accessory building or structure may be constructed to a height not exceeding one and one-half (1 ½) times the height of the principal building. However, the accessory building or structure shall not exceed the height specified by Table 2 (Lot and Building Bulk Standards Residential Districts).

7. Construction Standards

- a. Accessory buildings and structures with a roof in all residential zones located in any yard other than the rear yard of an interior lot and which exceed one hundred and twenty (120) square feet shall be constructed of the same materials as the principal building and shall be of the same architectural design and quality as the principal residential structure on the property. When the principal structure is predominantly brick or stone, the introduction of wood or fibrous cement siding over a matching brick or stone perimeter foundation wall is appropriate to re-enforce the subordinate nature of the accessory building. This does not preclude the construction of an open carport within the side and corner side yards provided the roof, columns and other components match the house. *NOTES: 1. This prohibits metal carport awnings and RV awnings except in the rear yard. 2. As per Section 10.4A4b, Accessory Buildings may not be located in the front yard in residential zones.*
- b. Metal buildings exceeding 200 square feet are prohibited in all yards except that the Board of Zoning Appeals may grant a Conditional Use Permit for metal buildings exceeding this limit.
- c. Tents shall not be used for accessory buildings. Awnings with plastic, vinyl or similar roofs or sides are prohibited in all residential zones, except for use as a green house.

8. Zoning Permit Required

A zoning permit must be secured from the Planning Department prior to the construction or placement of an accessory building or structure which has a roof and exceeds fifty (50) square feet in size. A Zoning Permit is also required for certain of the accessory uses listed in 10.4B-W below.

9. Maintenance Required

All accessory buildings shall be maintained in accordance with the City's property maintenance and related codes.

B. Accessory Apartments and Dwellings

1. General

A Business Accessory Apartment is permitted under the terms of Section 10.4 B 4 below.

A lot which is zoned to allow a single-family detached dwelling may include an accessory apartment or accessory dwelling upon the lot as an accessory use under the following general conditions as well as the conditions listed in Section 10.4 B 2 and 3 below.

- a. The lot, dwelling, and accessory apartment or accessory dwelling shall be under single ownership and shall remain under single ownership. The lot shall not be subdivided except in conformance with the requirements of the Hendersonville Zoning Ordinance, Subdivision Regulations and Construction Codes and all other applicable laws. Neither shall the dwelling or accessory apartment or accessory dwelling be conveyed to a separate owner as a condominium or by any other means of conveyance.
- b. At least one owner of the premises must reside in either the dwelling or the accessory apartment or dwelling or both. For purposes of this section, "reside" means that this is the owner's principal place of residence for at least 75% of the year.
- c. The people residing in the accessory apartment or dwelling shall be parents, grandparents, great grandparents, children, step-children, in-laws, or niece or nephews of one or more of the people residing in the dwelling, or they may be a domestic employee(s) of the people residing in the dwelling or a family member of the employee(s).
- d. There shall be but one water and gas utility meter and connection to serve both the dwelling and accessory apartment or dwelling.
- e. The lot shall have but one driveway to serve both the dwelling and the accessory apartment or dwelling.

- f. At least three (3) off-street parking spaces must be provided. Garage or carport spaces count.
- g. An instrument must be recorded with the county registrar's office covenanting that the property will be utilized in accordance with the terms of this ordinance. The covenant shall run with the land.
- h. A Zoning Permit shall be secured for an accessory apartment or dwelling prior to construction and/or occupancy of the accessory apartment or dwelling.

2. Accessory Apartment (Attached)

- a. For the purposes of this section, an accessory apartment is a dwelling unit within the principal dwelling on the lot or within an addition to the principal dwelling. It contains independent living facilities, including kitchen and bedrooms.
- b. The heated area of the accessory apartment shall not exceed 40% of the total heated area of the dwelling and apartment combined.
- c. The dwelling shall have only one front door per street frontage.

3. Accessory Dwelling (Detached)

- a. For the purpose of this section, an accessory dwelling is a dwelling unit in a separate structure from the principal dwelling on the lot. It contains independent living facilities, including a kitchen and bedrooms. It is detached from the dwelling. It may be above a detached garage. The accessory dwelling and the principal dwelling may be connected by a breeze-way, hallway, or similar structure. Under such conditions, the accessory dwelling is still considered an accessory dwelling (detached) and not an accessory apartment (attached).
- b. An Accessory Dwelling is not permitted if restrictive covenants prohibit.
- c. The lot shall contain a minimum of 30,000 square feet.
- d. The Accessory Dwelling shall be located in the rear yard of the principal dwelling, that is behind the rear plane of the dwelling.
- e. The Accessory Dwelling shall be consistent and complimentary to the principal dwelling in terms of architectural design, building materials, and colors. This includes roof form and pitch. When the principal dwelling is predominately brick or stone, the introduction of fibrous cement siding over a matching brick or stone perimeter foundation is appropriate to reinforce the ancillary and subordinate nature of the Accessory Dwelling. Accessory Dwellings shall be located and oriented to minimize its impact on the privacy

of neighbors. Site Plan and Design Review approval by the Planning Commission is required.

- f. Any door on the front of the Accessory Dwelling which is visible from the street shall appear clearly secondary to the front door of the principal dwelling.
- g. The maximum number and size of the accessory buildings and structures with a roof, including the Accessory Dwelling, shall comply with Section 10.4 A5.
- h. The Accessory Dwelling and Dwelling may be inspected on a periodic basis to confirm continuing compliance with the terms of this ordinance.

4. Business Accessory Apartments

A commercial establishment (business, industry, institution, community facility, or otherwise) may contain within one (1) principal building, one (1) accessory apartment occupied by the owner and family of the owner or by an employee and family of the employee, provided the apartment does not exceed 25% of the heated area of the building or 1,000 square feet, whichever is less.

C. Amateur (HAM) Radio Equipment

- 1. Towers that solely support amateur (HAM) radio equipment shall be permitted only in the rear yard. Towers shall not exceed the maximum building height of the applicable district by more than ten (10) feet, unless a taller tower is technically necessary to engage successfully in amateur radio communications. Such taller height may only be approved by the Planning Commission in accordance with Section 10.4C3.
- 2. Antenna may be ground-, building- or roof-mounted, provided they do not exceed the maximum building height by more than ten (10) feet unless a taller antenna is technically necessary to engage successfully in amateur radio communications. Such taller height may only be approved by the Planning Commission in accordance with Section 10.4C3. Every effort shall be made to install radio antennae in locations that are not readily visible from neighboring properties or from the public right-of-way
- 3. The Planning Commission may approve a taller antenna or tower provided the operator provides evidence that a taller tower and/or antenna are necessary to engage successfully in amateur radio communications. As part of the application, the applicant must submit a site plan for staff review and approval showing the proposed location of the tower and/or antenna, as well as its relation to the principal building and any additional accessory structures.
- 4. Antennae and/or towers owned and operated by the City are exempt from these requirements.

D. Auto Repair at a Residential Use (Auto Hobbyist)

Automobile repair at a residential use shall comply with the following standards:

1. Automobile repair activities shall be limited to vehicles owned by the person inhabiting the principal use.
2. All repair shall be within an enclosed garage or out of sight of a public right-of-way.
3. In no instance shall there be more than one inoperable vehicle stored outside a fully enclosed structure.
4. Activities that create objectionable noise shall not take place between the hours of 9:00 pm and 7:00 am.

E. Child and Family Care

1. Child and family care for up to four (4) pre-teen children and/or adults is allowed as an accessory use in a detached single family dwelling.
2. Child care for pre-teen children and for adults is allowed as an accessory use in any commercial establishment, industry, institutional use, and community facility use provided it is for the family members of the employees and does not exceed twenty-five (25)% of the area of the principal buildings on the property.

F. Decks and Patios

Decks and patios shall not be located on easements. A Zoning Permit must be secured before construction commences.

See Section 10.5 (Permitted Encroachments)

G. Donation and Recycle Collection Bins

Donation, recycle, and similar collection bins are permitted as an accessory use at schools and other government facilities and on commercial and industrial sites under the following conditions.

1. No more than two (2) bins per parcel.
2. Bins shall not exceed 200 cubic feet total.
3. Bins shall be located at least 100 feet from the front property line and, in the case of a corner lot, the side street property line.
4. Bins shall be located beside or behind the building; otherwise, the bins must be screened from view from the street(s) by evergreen landscaping or an approved panel.

5. If located in a parking space, the bins shall be adjacent to a landscape island and screened as specified above in Condition #4. The parking space(s) used shall be in excess of the number of spaces required by the Zoning Ordinance.
6. Loading and unloading of the bins shall not block traffic or interfere with motorists' visibility.
7. Bins shall be emptied on a regular basis such that goods do not overflow and such that it does not cause a nuisance. Items placed outside of the bins shall be removed within twenty-four hours of notification.
8. Bins shall be kept clean and well maintained.
9. Contact information shall be placed on the bins in a permanent manner. No banners, posters, or temporary signs.

H. Electrical Generators

Emergency electrical generators may only be installed as follows:

1. An emergency electrical generator must comply with the same yard/setback requirements as the principal building.
2. An emergency electrical generator located in the interior side yard, corner side yard or front yard shall be screened.
3. Screening materials may be masonry, wood, landscaped hedges or other opaque material, and shall screen the generators so no portion is visible from a street or the ground level of a building on an adjoining lot. Color and texture of a masonry screen wall shall be compatible with the color and texture of the principal building on the site.

I. Fences

A Zoning Permit is required prior to the erection or replacement of any fence.

Height of all fences shall be measured from existing grade, unless otherwise specified.

1. Fences in Residential Districts

- a. Fences shall not be located any closer to the front lot line or side street lot line than the principal building.

Exception: Wrought iron, picket, split rail, brick, stone or similar decorative fences and walls which are not more than 42 inches in height and which are determined by the Planning Department to be compatible with the design, architecture and building materials in the neighborhood.

The standards contained in this sub-section (I1a) shall not apply to fences in the rear yard of double-frontage lots.

- b. Fences may be erected to a height of seven (7) feet in any interior side, rear or corner side yard of an interior or corner lot, except for the following:
 - i. On corner lots, where the fence would be adjacent to the front yard of the adjacent lot the fence shall be at least fifteen (15) feet from the side street lot line unless the fence does not exceed 42 inches in height.
 - ii. A fence may be erected to a height of eight (8) feet along a property line which abuts a railroad right-of-way.

2. Fences in Commercial Districts

- a. Fences are prohibited in the front or corner side yard unless a conditional use permit is first secured.
- b. Fences may not exceed eight (8) feet in height except when required by Section 11.4J (Buffer Yards) and 11.4K (Screening Requirements) to be a greater height.
- c. See Section 11.4J (Buffer Yards) for fencing required to buffer residential uses.

3. Fences for Buffers and Screening

Fences shall be required for screening in accordance with Section 11.4J (Buffer Yards) and 11.4K (Screening Requirements).

4. Fence Construction and Design Requirements

- a. The finished side of all board fences shall face away from the lot on which it is located.
- b. All fence posts shall be placed on the inside of the fence. Placement on the outside face of the fence may be approved by the Planning Department if it enhances the architectural character of the fence.
- c. A fence or wall, including all posts, bases, and other structural parts shall be located completely within the boundaries of the lot on which it is located.
- d. Fences shall only be constructed of the following materials:
 - i. Treated wood, cedar or redwood
 - ii. Simulated wood, including vinyl covered and synthetic wood composite, or equivalent
 - iii. Decorative brick or stone
 - iv. Wrought-iron or aluminum designed to simulate wrought-iron

- v. Coated chain link, brown, black or green in color
- vi. Any other material which the Planning Department determines to be equivalent to the above in terms of quality and appearance.

5. Nonconforming Fences

Existing fences which are an existing legal nonconforming structure may be repaired or reconstructed. However, any change to fence style or material, height or length shall not be permitted without approval of the Planning Department in the form of staff-approved site plan and design review.

J. Home Occupations

The following standards are intended to ensure that home occupations, conducted in a dwelling, are compatible with the neighborhoods in which they are located and do not interfere with the rights of the surrounding property owners to enjoy the established character of the neighborhood. A minor home occupation is permitted by right provided a minor home occupation permit is secured and renewed every two (2) years. A major home occupation is allowed only with the approval of the Board of Zoning Appeals. Such approval shall follow the process of a conditional use permit.

1. The home occupation shall be conducted entirely within the dwelling and shall be clearly incidental and secondary to the use of the dwelling for residential purposes. The dwelling is considered to be the house and any attached garage and any addition to the house, but not a detached garage or building. A major home occupation may be conducted within a detached garage or building.
2. Use of a detached accessory building for home occupation purposes is prohibited except for storage purposes or as a major home occupation.
3. The home occupation shall not exceed twenty-five (25)% of the total floor area of the principal building.
4. A home occupation shall not be established prior to the member(s) of the family conducting the home occupation taking possession of, and residing in, the dwelling.
5. No person other than a family member residing on the premises shall be employed as part of a minor home occupation unless such employee(s) works off-premises. No contractor, contract employee, consultant, associate or any other person associated with the business shall be on the premises for purposes of conducting business. A major home occupation may include two (2) employees or contractors or others as listed above who do not reside on the premises and provided they are not on the premises between the hours of 10 pm and 7 am. The Board of Zoning Appeals may, with the approval of the major

home occupation conditional use permit, further restrict the number of employees and the hours of operation.

6. There shall be no customers, clients, or the like on the premises of a minor home occupation. A major home occupation may have no more than two (2) customers or other persons other than employees on the premises at one time and no more than eight (8) per day and provided they are not on the premises between the hours of 10 pm and 7 am. The Board of Zoning Appeals, with the approval of the major home occupation conditional use permit, may further restrict the number of customers and the hours of operation.
7. There shall be no more than one (1) commercial vehicle on the premises. This includes cars, trucks, vans and trailers with the business name and logo. They may be loaded with the tools of the trade and merchandise,. Wreckers are prohibited. See also Section 10.4O (Parking) for limits on length of vehicles and trailers. Vehicles shall not be parked on the street. If parked in the front yard, it must be parked in the driveway.
8. The receipt, sale or shipment of deliveries shall not be permitted on or from the premises, with the exception of regular U.S. Mail and/or an express shipping service that is characteristic of service to residential neighborhoods.
9. The home occupation shall not change the fire rating of the structure.
10. A home occupation shall not generate noise, solid waste, vibration, glare, fumes, odors or electrical interference beyond what normally occurs in a residential use.
11. No outside storage or display of materials, merchandise, inventory or heavy equipment shall be permitted.
12. No exterior alteration that changes the residential character of the principal building shall be permitted. No exterior building signs shall be permitted unless authorized by Section 13 (Signs).
13. Any type of motor vehicle service and repair is a prohibited home occupation. Day care homes are not considered a home occupation.
14. A Minor Home Occupation Permit is required prior to starting the home occupation. This permit must be renewed every two years.

K. Mechanical Equipment

1. In all districts, all ground-based mechanical equipment including, but not limited to, heating, ventilating and air-conditioning (HVAC) units and sewer grinder pumps, may encroach into one (1) required side yard up to seventy (70)% of the width of the required yard, into the required front and side street yard up to twenty (20)% of the width of the required yard, and into the required rear yard up

to fifty (50)% of the width of the required yard. Existing HVAC units and other mechanical equipment may be replaced in the same existing nonconforming location, as long as the units do not increase the extent or degree of nonconformity, with respect to the minimum required yard by more than twenty-five (25)%.

2. Any HVAC units located on the roof of any structure in any zoning district shall be screened by an architectural feature forming an integral part of the building.

L. Outdoor Restaurant Seating

Outdoor restaurant seating is considered an accessory use to a restaurant.

1. Outdoor restaurant seating shall be subject to administrative site plan/design review.
2. Outdoor restaurant seating shall not interfere with the use of parking spaces and aisles.
3. Outdoor restaurant seating shall not be located in any required yard that abuts a residential use or district, unless an alley or street is located between the use and a residential use or district.
4. One parking space shall be provided for each three (3) seats.

M. Outdoor Display

Outdoor display may be allowed as an accessory use for all Retail Uses, Motor Vehicle Rental, Motor Vehicle Service Station/Fuel Center and Heavy Retail and Rental. It is the intent of this Ordinance to allow the display of merchandise for sale, but not where the display of such items impedes the flow of pedestrian or vehicular traffic, or creates an unsafe condition. The outdoor display of goods shall meet all of the following standards:

1. Outdoor display areas shall be depicted upon the site plan for new retail and wholesale buildings.
2. All outdoor display of goods in front of the building or between the building and any side street shall be located immediately adjacent to the storefront and within twenty (20) feet of the building and not in drive aisles, loading zones, fire lanes, or parking lots.
3. All outdoor display beside and behind the building shall not be located within the required side or rear yards and shall not exceed forty (40)% of the combined required and non-required yards.
4. Outdoor display areas shall be limited to no more than one-half (1/2) of the length of the store front.

5. In the case of a shopping center, the storefront shall include the entire frontage of the shopping center façade, meaning that the total amount of display for all the in-line tenants combined shall not exceed fifty (50) percent of the aggregate store front of the total shopping center.
6. The outdoor display area shall take place on an improved surface such as the sidewalk or pavement.
7. At least five (5) feet along the parking lot side of the display shall be maintained free of obstruction to allow for pedestrian and handicap movement, such that handicapped pedestrians and others do not have to enter the parking lot or drive aisle to walk around the display.
8. Any proposed display which does not conform to the above standards may be approved by the Planning Commission in the form of site plan and design review approval.
9. The outdoor display of cars, trucks, trailers, boats, recreational vehicles, farm equipment, construction equipment, motorcycles, landscape materials and similar items for sale or rent which are customarily displayed outdoors shall be exempt from the above standards provided they are located out of the street right-of-way and at least twenty (20) feet from the edge of pavement of the adjoining street(s).
10. See Section 10.6C5 (Sidewalk and Other Outdoor Sales).

N. Outdoor Storage

Outdoor storage of materials used by the principal business on the site may be allowed as an accessory use in accordance with the following standards:

1. Each outdoor storage area shall be located at the side or rear of the principal structure.
2. Each outdoor storage area shall be screened in accordance with Section 11.4K3 (Screening Requirements, Outdoor Storage Areas).
3. For the purpose of this Section, the parking of vehicles, trucks and trailers associated with the business is not considered storage.
4. Any proposed storage which would not conform to these standards may be approved by the Planning Commission in the form of site plan and design review approval.
5. Storage within over-the-road trailers, freight containers and similar structures are prohibited in all zones except as allowed on a temporary basis by Section 10.6C10 (Temporary Uses).

6. Where there is no principal building on the site, storage is a principal use, and, as such shall be subject to site plan and design review approval.

O. Parking

1. Off-street parking and loading are permitted as an accessory use. Requirements and standards are contained in Section 11.2 (Outdoor Parking and Loading) which specifies the minimum number of parking spaces required for each land use classification. Parking lot design standards are also included as well as standards for off-street loading.
2. The parking of the following commercial vehicles and/or trailers is permitted as a residential accessory use:
 - a. One commercial vehicle not exceeding 22 feet in length or 8 feet in height, or,
 - b. One commercial vehicle and trailer not exceeding 30 feet in length or 8 feet in height.

These vehicles and trailers shall not be parked on the street or between the street or side street and the residence except in a paved driveway.

Specifically prohibited are semi-tractor trailers and dump trucks.

Heavy construction equipment is also prohibited in residential zones. This includes bulldozers, end loaders, backhoes, and similar equipment.

The above standards shall not preclude temporary parking in connection with commercial service, sales and delivery, or construction projects.

3. The parking and storage of recreational vehicles, campers, travel trailers, motor homes, boats and similar items are permitted as a residential accessory use provided they are not parked on the street or in the required front and corner side yards for more than three (3) days per calendar month except in the driveway. Furthermore, not more than one (1) shall be parked between the house and the street or any side street, even if parked in a driveway.

No recreational vehicle, camper, travel trailer, motor home or the like shall be used for living, sleeping, or housekeeping purposes except for visitors for not more than two (2) weeks per calendar year.

P. Pets, Poultry and Other Animals

The following pets, poultry, and other animals are permitted as an accessory use in the zones specified. Where a maximum number of such animals is specified based on lot area, this number is the collective maximum number allowed for all such animals on the lot.

1. Dogs, cats, and rabbits, are allowed as a residential accessory use in all zones under the following conditions:
 - a. 1 per 3,000 square feet of lot area, minimum of 3.
 - b. Subject to Animal Control Ordinance.
2. Chickens, ducks and similar fowl are allowed as a residential accessory use in RR, ER, SR-1, SR-2, and OTR zones under the following conditions:
 - a. 1 per 5,000 square feet of lot area.
 - b. Shall be fenced in rear yard
 - c. No roosters
3. Pot-belly pigs, pygmy goats and similar animals are permitted in RR, ER, SR-1 and SR-2 zones under the following conditions:
 - a. One (1) per 7,500 square feet of lot area.
 - b. Shall be fenced in the rear yard.
4. Horses, ponies, goats, and similar large animals are permitted in RR, ER, and SR-1 zones under the following conditions:
 - a. One (1) per 15,000 square feet of lot area.
 - b. Shall be kept in a stable or within a fenced area or otherwise secured behind the house or beside the house. On a corner lot, the animal(s) shall not be kept in the area between the house and the side street.
 - c. Shall be located at least 50 feet from all property lines except where adjacent to other such animals.
5. Exotic animals are allowed as a residential accessory use in RR, ER, SR-1, SR-2, and OTR zones under the following conditions:
 - a. One (1) per 10,000 square feet of lot area
 - b. The animals are confined at all times.
6. Beehives are allowed as a residential accessory use in RR, ER, and SR-1 zones under the following conditions:
 - a. One (1) beehive per 7,500 square feet of lot area.
 - b. Conformance with state law.

7. Breeding and raising of animals for sale in residential zones is prohibited except for 1 litter per parcel per year. The restriction on the maximum number of animals per square foot of lot area shall not apply to the litter for a period of eight (8) weeks following birth.
8. Livestock and all other animal keeping and raising is restricted to RR and ER zones on parcels of land containing a minimum of 10 acres.

Q. Porches

1. Unenclosed porches, with roof and columns only, may encroach five (5) feet into any front, corner side or rear yard.
2. Enclosed, or partially enclosed porches, with roof, columns and any type of wall including screens, must meet all setback requirements.
3. Steps and stoops are not considered porches. Existing stoops, as of the date of adoption of this Ordinance, located in the interior side yard, shall be considered conforming uses and may be repaired or replaced.

R. Production of Goods at a Retail Business and Restaurant

Production of goods for sale by a firm engaged in a permitted principal commercial activity on the same zone lot is permitted as an accessory use, but only if;

1. At least fifty (50) percent of all goods so produced are sold on premises and must be sold by the same firm.
2. Such production does not occupy more than forty-nine (49) percent of the total floor area.
3. Such production does not in any case occupy more than two thousand (2,000) square feet of such floor area.
4. Such production may only be permitted in an enclosed building.

S. Retaining Walls

1. If the face of a building is within five (5) feet of a retaining wall, the height of the retaining wall shall be included in the building height calculation. The combination of the retaining wall height and the remainder of the building height above the wall shall not exceed the maximum building height limitation.
2. Retaining walls greater than five (5) feet in height must be located at least five (5) feet from any property line.

T. Satellite Dish Antennas

1. Satellite dish antennas shall be permanently installed on a building, in the ground or on a foundation.
2. Subject to operational requirements, the dish color shall be of a neutral color, such as white or grey, and shall blend with the surroundings as best as possible. No additional signs or advertising shall be permitted on satellite dish itself, aside from the logos of the satellite dish service provider or dish manufacturer.
3. Cables and lines serving ground-mounted satellite dish antennas shall be located underground and/or along the wall or roof of the building to which it is attached.
4. Compliance with all federal, state and local regulations shall be required in the construction, installation and operation of satellite dish antennas.
5. All exposed surfaces of the antenna shall be kept clean and all supports shall be painted to maintain a well-kept appearance. Antennas no longer in use must be removed.
6. Satellite dish antenna greater than one (1) meter in diameter shall be located in the rear or interior side yard, and shall be set back a distance from all lot lines that is at least equal to the height of the dish, but in no case less than five (5) feet from any lot line.

U. Signs

See Section 13.

V. Solar Panels

1. One and Two-Family Residential

Solar Panels are allowed as an accessory use at one and two-family residences on the roof of the residence and accessory buildings and as free-standing structures in the rear yard. A Zoning Permit is required prior to erecting the panels.

2. Multi-Family Residential and Institutional

Solar panels are allowed as an accessory use at multi-family residential buildings and institutional buildings in residential zones, provided the panels are located on the roof of the buildings, including garages, carports and other accessory buildings. Note: garages, carports and other accessory buildings at multi-family residential and institutional developments are subject to site plan and design review approval. As such, landscaping and screening are required as per Section 11.4 (Landscaping, Screening and Tree Preservation). Refer to these sections.

3. Commercial and Industrial Districts

Solar panels are allowed as an accessory use in commercial and industrial districts provided the panels are placed on the roof of the principal or accessory buildings. See Section 12.3F8 for design standards for canopies and carports on which solar panels may be placed in commercial districts. See Section 12.4E8 for industrial district standards. Solar panels may be freestanding in commercial and industrial districts if located behind the principal building(s) and not visible from any public streets or surrounding property. Screening may be provided as per Section 11.4K3 to block visibility.

W. Swimming Pools and Hot Tubs

1. Location

- a. Swimming pools and hot tubs and any related equipment are permitted within the rear yard and must be located at least five (5) feet from any lot line. Measurement shall be from the lot line to the nearest part of the pool, excluding apron and deck. Pools shall not be located on any easement. This includes the apron or deck.
- b. Swimming pools and hot tubs may be located between the house and the front lot line or the corner street lot line provided they do not encroach into the required yards and provided they are enclosed with a wall, 6 feet in height minimum, which is constructed of the same materials as the house and which are otherwise architecturally consistent with the house. Plans drawn by a licensed architect must be submitted to and approved by the Planning Department prior to issuance of the pool permit.
- c. A Zoning Permit must be secured prior to commencement of construction.

2. Walkways

A grade-level walkway or deck surrounding a pool or hot tub must be located at least five (5) feet from any lot line in the rear yard. A pool walkway or deck elevated one (1) foot or more above grade must be located at least ten (10) feet from any lot line in the rear yard.

3. Fencing

All pools and hot tubs shall be enclosed by a fence conforming to the requirements of Section 10.4I (Fences) of this ordinance, the City's pool code and any other law.

10.5 PERMITTED ENCROACHMENTS AND HEIGHT EXCEPTIONS

A. Permitted Encroachments into Required Yards

An encroachment is the extension or placement of any structure or building, or component of such, into a required yard. Additional restrictions on permitted encroachments, including additional setback requirements and bulk regulations, can be found in Section 10.4 (Accessory Uses) above and are referenced within the following table. Permitted encroachments are found in Table 7 (Permitted Encroachments).

CITY OF HENDERSONVILLE, TN
TABLE 7: PERMITTED ENCROACHMENTS

Y=Permitted // N=Not Permitted

Type of Encoachment	Yards Where Encroachment Permitted		
	Front Yard, Corner Side Yard	Interior Side Yard	Rear Yard
Accessibility Ramp	Y	Y	Y
Air Conditioner Window Unit -No more than 18" into any required yard	Y	Y	Y
Amateur (HAM) Radio Equipment -Subject to Section 10.4C	N	N	Y
Arbor or Trellis -Subject to Section 10.4A4cii	Y	Y	Y
Awning & Canopy (Residential Use)	Y, no more than 4' into required yard	Y, no more than 2' into required yard	Y, no more than 4' into required yard
Balcony -Must be located at least 2 feet above ground, and does not rest on the building foundation or on the ground	Y, no more than 4' into required yard	N	Y, no more than 4' into required yard
Basketball Goal	Y, no more than 12' into required yard	Y	Y
Bay Window	Y, no more than 4' into required yard	N	Y, no more than 4' into required yard
Chimney -No more than 18" into a required yard	Y	Y	Y
Compost Pile	N	N	Y
Deck -Does not include decks constructed around and part of swimming pools -No higher than the first floor of a structure -if fenced, see fence requirements	N	N	Y, no more than 12' into required yard
Dog House & Dog Run	N	N	Y, but 5' from any lot line
Driveway	Y	Y	Y
Eaves (Principal Building)	Y, no more than 2' into a required yard	Y, no more than 2' into a required yard	Y, no more than 2' into a required yard
Eaves (Accessory Building or Structure)	N	Y, no more than 1'	Y, no more than 1' into a required yard
Emergency Electrical Generator -Subject to Section 10.4H	N	N	N
Exterior Stairwells	N	N	Y, no more than 4' into required yard
Fall-Out Shelter (Underground)	N	N	Y
Fence (Residential District) -Subject to Section 10.4I	Y	Y	Y

CITY OF HENDERSONVILLE, TN
TABLE 7: PERMITTED ENCROACHMENTS

Y=Permitted // N=Not Permitted

Type of Encoachment	Yards Where Permitted		
	Front Yard, Corner Side Yard	Interior Side Yard	Rear Yard
Fence (Commercial District) -Subject to Section 10.4I	Y	Y	Y
Fire Escape	Y	Y	Y
Flagpole -No more than 3 per zoning lot -Not to exceed 35' in height	Y	Y	Y
Garage, Detached -Subject to Section 10.4A	N	Y	Y
Gazebo -Subject to Section 10.4A4cii	Y	Y	Y
Laundry Drying Equipment (Clotheslines & Poles)	N	N	Y
Mechanical Equipment, Ground Mounted (Central air conditioning, heating, ventilating, compressors, etc.) -Subject to Section 10.4K	Y	Y	Y
Ornamental Lighting, Lamp Posts & Permanently Anchored Lawn Furniture & Decorations (Benches, statues, birdbaths, sculptures, etc.) -Subject to view obstruction and exterior lighting regulations	Y	Y	Y
Outdoor Fireplaces	N	N	Y
Parking Lots -Subject to Section 11.2	Y	Y	Y
Patio	Y, no more than 10' into required yard	Y, no closer than 5' to the side line	Y, No closer than 5' to the rear line
Pens, Animal	N	Y, no closer than 1' to the side line	Y, no closer than 1' to the rear line
Pergola -Subject to Section 10.4A4cii	Y	Y	Y
Planter Box, Building-Mounted or Freestanding -No more than 1' into any required yard	Y	Y	Y
Playground & Recreational Equipment -Must be located at lest 3' from any lot line	N-Front Y-Corner Side if Fenced	Y	Y

CITY OF HENDERSONVILLE, TN
TABLE 7: PERMITTED ENCROACHMENTS

Y=Permitted // N=Not Permitted

Type of Encoachment	Yards Where Permitted		
	Front Yard, Corner Side Yard	Interior Side Yard	Rear Yard
Porch, Unenclosed -Subject to Section 10.4Q	Y, no more than 5' into required yard	N	Y, no more than 5' into required yard
Porch, Enclosed	N	N	N
Retaining Wall -Subject to Section 10.4S	Y	Y	Y
Satellite Dish Antenna (1 meter or less in diameter) -Subject to 10.4T	Y	Y	Y
Satellite Dish Antenna (More than 1 meter in diameter) -Subject to Section 10.4T	N	Y	Y
Sidewalk and Private Walkway	Y	Y	Y
Signs	Y, subject to Section 13 (Signs)	Y, subject to Section 13 (Signs)	Y, subject to Section 13 (Signs)
Sills, belt course, cornices & ornamental features of the principal building -No more than 12" into a required yard	Y	Y	Y
Sheds & Private Greenhouses -Subject to Section 10.4A	N	Y	Y
Solar Collectors	N	N	Y
Steps & Stoops, Open	Y, no more than 10' into required yard	Y, no more than 3' into required yard	Y
Swimming Pools & Hot Tub -Subject to Section 10.4W	Section 10.4W1b	Y	Y
Tennis Court	N	N	Y
Terrace -No more than 5' into any required yard -Located no more than 3' above grade	Y	N	Y
Trash Receptacles -Does not include trash receptacles temporarily placed on the lot for trash collection	N	Y	Y
Water Feature & Man-Made Pond	Y	Y	Y

B. Permitted Exceptions from Height Limitations

The height limitations specified by Tables 2, 4, 5 & 6 shall not apply to water tanks installed by a state regulated water utility district or to telecommunication towers as regulated by Appendix C (Wireless Telecommunications Facilities and Towers). Church steeples, spires, chimneys and similar structures are exempt provided they do not exceed 80 feet in height as measured from the ground.

10.6 TEMPORARY USES AND STRUCTURES

A. Temporary Use and Structure Permit Application

1. Unless specifically exempt below, any person, firm or corporation desiring to conduct a temporary use within Hendersonville or the Hendersonville Planning Region shall first obtain a temporary use permit. Such person, firm or corporation shall file a written application with the Planning Department on a form provided by the City, together with an application fee as required by separate ordinance. For any event not conducted by the owner of the property where the temporary use is to occur, a letter from the property owner granting permission to conduct the event shall be provided. A permit is not required for Temporary Uses to be conducted on City property, provided such use has been approved by the appropriate City official and provided the temporary use complies with all other provisions of this ordinance.
2. The Planning Department shall grant temporary use permits for those uses listed below so long as it is determined that the proposed use, including the erection of any temporary building or structure, complies with the requirements of this Section and this Ordinance. Unless expressly provided in this Section, every temporary use shall comply with the bulk requirements applicable in the district in which the temporary use is located.
3. Temporary uses not specifically listed herein shall require the specific approval of the Planning Commission. The process for approval shall be the same as for a site plan, except that the submittal items shall conform to the requirements for a staff approved site plan. Such uses may be allowed in any zoning district, provided that such temporary use is consistent with the purpose and intent of this Ordinance and the zoning district in which it is located.
4. Every temporary use shall comply with this Ordinance and all local regulations. The Planning Department may impose other conditions, as part of the temporary use permit approval, as necessary to achieve the purposes of this Ordinance, and to protect the public health, safety, comfort, convenience and general welfare. No temporary use shall be permitted in any district if it would have a significant negative impact on any adjacent property or on the area as a whole.

B. General Provisions

Only those temporary uses as defined in Section 15 (Definitions) and as specified below are allowed in Hendersonville and the Hendersonville Planning Region. Every temporary use shall comply with all the requirements listed below.

1. No temporary use shall be permitted that causes, or threatens to cause, an on-site or off-site threat to the public health, safety, comfort, convenience and general welfare.
2. Every temporary use shall be operated in accordance with such restrictions and conditions as the Fire, Police and Codes Departments may require. If required by the City, the operator of the temporary use shall employ appropriate security personnel.
3. No temporary use shall be permitted if the additional vehicular traffic reasonably expected to be generated by such would have undue detrimental effects on surrounding streets and uses.
4. No Temporary Use shall be permitted on any site without adequate all-weather, dust-free, off-street parking sufficient to meet the demands of the temporary use. No temporary use shall be authorized that would unreasonably reduce the amount of parking spaces available for use in connection with permanent uses located on the lot in question. Adequate drive aisles and fire lanes shall be provided. The Planning Department may make an assessment of the total number of parking spaces that will be reasonably required in connection with a proposed temporary use, on the basis of the particular use, its intensity and the availability of other parking facilities in the area. The Planning Department shall approve such temporary use only if such parking spaces are provided.
5. No temporary use shall be permitted if such use would conflict with another previously authorized temporary use.
6. Signs shall be permitted only in accordance with Section 13 (Sign Standards).
7. Temporary structures, including tents, vendor carts and kiosks, portable buildings, trailers, over-the-road trailers, freight containers, recreational vehicles and mobile homes, used in conjunction with the temporary uses listed below are permitted as stated below, otherwise they are prohibited. All temporary structures are subject to being inspected for compliance with all applicable fire, life safety, building, electrical and related codes.
8. The operation of all temporary uses shall be subject to the Hendersonville Noise Ordinance (Title 11, Chapter 4 of the Hendersonville Municipal Code).

9. All temporary uses shall comply with all applicable local, county and state environmental, solid waste disposal and sanitary waste disposal regulations. Any required Health Department certificate shall be plainly displayed.
10. Temporary uses which require use of public right-of-way, parks or other public property shall first secure approval of the appropriate City representative. All such uses shall be coordinated with the appropriate City, County and State officials.
11. Trash generated by the temporary use shall be removed daily.
12. Any required business license shall be obtained.

C. Permitted Temporary Uses

1. Carnivals, Circuses and Haunted Houses

Carnivals, circuses and haunted houses are allowed in all commercial zoning districts, except O, OTC and NC, and in all industrial districts. Carnivals include pony rides. These uses shall be evaluated on the basis of the adequacy of the parcel size, parking provisions, traffic, access, and the absence of undue adverse impact, including noise, on other properties. Temporary structures may be used, provided they conform to all applicable laws. These uses need not comply with the yard requirements and the maximum height requirements of this Ordinance. The concessionaire responsible for the operation of any such use shall:

- a. Submit, in advance of the event, a site layout displaying adequate ingress and egress routes for emergency vehicles, with no dead-end aisles.
- b. Comply with all local regulations.
- c. Provide refuse containers in the number and locations required by the City. All containers shall be properly serviced.
- d. Provide for thorough clean-up of the site at the completion of the event.
- e. Provide proof that all amusement devices have been State inspected, if required.
- f. Upon written notice from the City, immediately stop the use of any amusement device or structure found by the City to pose a threat to the public safety.
- g. Provide a \$5,000 surety conforming to the requirements of Section 4.10G of this Ordinance. Pony rides are exempt from this requirement.

- h. Carnivals and circuses must cease operation and completely clear and clean the site within fifteen (15) days of first occupying the site. Haunted houses have forty-five (45) days.
- i. Not operate but one such event per zone lot per 12-month period, except pony rides which may operate up to 4 times per parcel per 12-month period.
- j. Limit operation of the event to between the hours of 8 a.m. and midnight.

2. Christmas Tree, Pumpkin and Plant Sales

Christmas tree, pumpkin and plant sales are allowed in commercial zoning districts. Plants include seasonal flowers and potted plants, not shrubs and trees. These uses shall be evaluated based on the adequacy of the parcel size, parking provisions, traffic, access, and the absence of undue adverse impact on other properties. Tents, trailers and recreational vehicles may be used, provided they conform to all applicable laws. Each sale shall be limited to a period not to exceed forty-five (45) consecutive days. There shall be no more than 2 such sales per parcel per 12-month period.

3. Fireworks

As per Title 7, Chapter 4 of the Hendersonville Municipal Code, as amended, fireworks sales are prohibited in the City except at two “grand-fathered” sites (Caldwell at Center Point and Saundersville at East Main). Such sales are limited to 45 days prior to Christmas and July 4th. Tents, over-the-road trailers, freight containers, and recreational vehicles may be used, provided they conform to all applicable laws. Signs must conform to Section 13 (Signs).

4. Civic, Non-Profit and Religious Events and Festivals

Civic, non-profit and religious events, festivals, bazaars, bands, arts and crafts sales, fundraisers, car shows, farmers markets and the like are allowed in commercial and industrial districts, property in residential districts in use as government and educational uses, religious uses, cultural uses and recreation and entertainment uses. These uses shall be evaluated based on the adequacy of the parcel size, parking provisions, traffic, access, and adverse impact on other properties. Tents and vendor carts and trailers may be used provided they conform to all applicable laws. Such events conducted in a residential zone are limited to a maximum of three (3) consecutive days per event and not more than four (4) such events per calendar year per parcel and the hours of operation are limited to 8 am to 11 pm. Such events conducted in non-residential zones are limited to a maximum of ten (10) consecutive days per event.

5. Sidewalk and Other Outdoor Sales

Sidewalk and other outdoor sales for special sales events or other purposes are permitted in all commercial and industrial zones. They shall be in conjunction with, and clearly incidental to, an existing permanent on-site use and are permitted to display and sell only merchandise that is found in the on-site store. Tents and vendor carts and trailers may be used provided they are at least 20 ft. from the street and otherwise conform to all applicable laws. No sidewalk/outdoor sale shall be permitted for a period of more than seven (7) successive days and no more than six (6) sales shall be permitted in any twelve (12) month period. The above provisions do not preclude the outdoor storage and display of merchandise as permitted/regulated by Sections 10.4M and 10.4N of this ordinance.

6. Mobile Vendors

Mobile vendors, including the sale of prepared food, produce, and new merchandise from a cart, kiosk, or tent, which conform to all applicable laws, are permitted in all commercial districts. Mobile vendors operating in conjunction with other permitted temporary uses, i.e. carnivals, circuses, and civic, non-profit and religious events and festivals, shall abide by the standards of such other temporary use rather than the standards of this sub-section. Furthermore, food trucks which do not remain on any lot for more than one (1) hour shall abide by the requirements of the Peddlers Ordinance contained in the Municipal Code, Title 9, Chapter 1 rather than the standards of this sub-section. Applications for mobile vendors shall be evaluated by the Planning Department based on the adequacy of the parking provisions, traffic, access, and impact on the neighborhood and compliance with the following required standards.

- a. The lot on which they are located must contain a minimum of three (3) acres.
- b. The mobile vendor shall be a minimum of 300 ft. from any public street.
- c. Must be at least 1,000 ft. from any other mobile vendor, except that a group of not more than three (3) mobile vendors located within fifty (50) feet of each other shall be considered a single vendor in regard to the 1000-ft. separation requirement.
- d. Must be at least 1,000 ft. from a permanent business which sells the same items.
- e. No lot or parcel may be occupied by a mobile vendor or group of three (3) vendors for more than six (6) 1-week periods during the calendar year. Periods may be consecutive. This time limitation shall not apply to a single vendor located within twenty (20) feet of the principal building on the lot or parcel.

- f. Tables seating no more than eight (8) persons may be provided for food vendors, provided trash receptacles are also provided and emptied as necessary to maintain a clean and sanitary site. All tables, chairs and trash receptacles and other items associated with the operation shall be removed by the end of the period(s) specified in Section 10.6C6e.
- g. Business license must be prominently displayed. Food vendors must also display the required Health Department Food Service Permit.

7. Temporary Portable Classrooms

Temporary portable classrooms are permitted at public and private primary and secondary schools. These classrooms shall not contain any sleeping or cooking accommodations. No portable building shall be used as an office. Site Plan approval is required.

8. Temporary Construction Offices

In any district, a temporary use permit may be issued for a trailer for a contractor's temporary office and equipment sheds incidental to a construction project. Such permit shall not be valid for more than one (1) year but may be renewed for six (6) month extensions for a particular use granted. Such use shall be removed immediately upon expiration of the temporary use permit, whichever occurs sooner. These uses shall not contain any sleeping or cooking accommodations, except those located in a model unit for demonstration purposes only. No trailer, unit or office shall be used as the general office or headquarters of any firm.

9. Temporary Offices

In any commercial or industrial district, a temporary use permit may be issued for a modular or manufactured building for temporary office use, such as hiring and pre-sales. This building must be placed on or adjacent to the site where the permanent building for this business or industry is being constructed. The permanent building must be substantially complete. Vehicular and emergency vehicle access to the office must be complete as well as adequate parking. The permit shall not exceed 90 days.

10. Temporary Storage Within Over the Road Trailers or Freight Containers

- a. Storage within over-the-road trailers or freight containers shall not exceed ninety (90) days within a 12 month period in all commercial districts and Industrial districts. At the end of the ninety (90) days any trailers shall be totally removed from the premises or location where the storage occurred. Storage is not allowed within visibility of a Public Street or residential neighborhood. A temporary use permit is required.

- b. The temporary storage of two (2) portable containers, not exceeding a total of 2,000 cubic feet, are permitted within all residential zoning districts for a maximum of 120 days in a one year period. An extension of an additional 120 days may be granted by the Planning Director. Requests for longer periods of time shall require the approval of a Conditional Use Permit by the Board of Zoning Appeals.

11. Model Homes and Subdivision/Builder Information and Sales Offices

In any residential district, a temporary use permit may be issued by the Planning Department to allow the use of a dwelling unit or club house as a model home and/or Subdivision and/or building information and sales office. This permit may be modified to reflect moving the model home or information and sales office to a new location in the same subdivision. Said use shall be discontinued when all homes in the subdivision, except the model, have been sold. All regulations pertaining to signs as contained in Section 13 (Signs) shall apply. Any parking lots or other parking areas, other than driveways and parking which are accessory to the dwelling, shall require the submittal of a site plan for review and approval of the Planning Department staff.

A modular or manufactured building may be approved by the Planning Department until a dwelling or the club house is complete.

12. Garage Sales

Garage, yard, estate and home sales are allowed in any yard, garage, carport, driveway, or in the home in any district operated by the owner or occupant of the dwelling unit where the sale is being conducted. These uses shall be limited to a period not to exceed three (3) consecutive days and no more than three (3) sales shall be conducted from the same residence in any twelve (12) month period. Such sales are exempt from permit and parking requirements. All items associated with a sale must be removed from all yards, carports and other areas visible from any property line within three (3) days of conclusion of each sale.