

# 214 CITY OF HENDERSON – ORDINANCE BOOK

## *Record of Ordinances of Meetings in 2024*

### ORDINANCE NO. 31-24

ORDINANCE AMENDING APPENDIX A-ZONING RELATING TO MEDICAL CANNABIS

**SUMMARY:** ORDINANCE AMENDING ARTICLE II-DEFINITIONS, SEC. 2.01-DEFINITIONS; ARTICLE XXI-H-C, HIGHWAY COMMERCIAL DISTRICT, SEC. 21.02-PERMITTED USES; ARTICLE XXIII-M-1, LIGHT INDUSTRIAL DISTRICT, SEC. 23.02 PERMITTED USES; AND ARTICLE XXV-AG, AGRICULTURE DISTRICT, SEC. 25.02-PERMITTED USES; OF APPENDIX A-ZONING, OF THE CODE OF ORDINANCES OF THE CITY OF HENDERSON, RELATING TO MEDICAL CANNABIS

WHEREAS, the 2023 Kentucky General Assembly passed Senate Bill 47 (2023 Ky. Acts Ch. 146) legalizing the use of medical cannabis and establishing a framework for state licensure of cannabis businesses such as dispensaries, cultivators, processors, producers and safety compliance facilities in the Commonwealth effective Jan. 1, 2025.; and

WHEREAS, on the final day of the 2024 session, the legislature passed House Bill 829 amending the medical cannabis law to expedite the process of licensing cannabis businesses. This change allows the Cabinet for Health and Family Services (Cabinet) Medical Cannabis Program to begin issuing licenses to those businesses July 1, 2024 rather than waiting until January so that operations and products can be developed. Cannabis dispensaries will still not be allowed to open to the public or dispense cannabis until Jan. 1, 2025; and

WHEREAS, the city of Henderson desires to allow the operation of medical cannabis businesses within its limits; and

WHEREAS, the City believes it is necessary to place reasonable limitations on geographic locations and advertisements of cannabis businesses to protect children; and

WHEREAS, it is necessary to establish general provisions and determine zoning requirements of cannabis businesses by June 30, 2024, prior to the Cabinet issuing any cannabis business license; and

WHEREAS, the Henderson City-County Planning Commission held a public hearing on Tuesday, June 4, 2024, to consider amending Article II-Definitions, Sec. 2.01-Definitions; Article XXI-H-C, Highway Commercial District, Sec. 21.02-Permitted Uses; Article XXIII-M-1, Light Industrial District, Sec. 23.02 Permitted Uses; And Article XXV-AG, Agriculture District, Sec. 25.02-Permitted Uses of Appendix A-Zoning, relating medical cannabis, and voted to recommend approval of the amendments.

NOW, THEREFORE, BE IT ORDAINED by the City of Henderson, Kentucky, that Article II-Definitions, Sec. 2.01-Definitions (attached as Exhibit “A”); Article XXI-H-C, Highway Commercial District, Sec. 21.02-Permitted Uses (attached as Exhibit “B”); Article XXIII-M-1-Light Industrial District, Sec. 23.02 Permitted Uses (attached as Exhibit “C”); and Article XXV-AG, Agriculture District, Sec. 25.02-Permitted Uses (attached as Exhibit “D”) of Appendix A-Zoning, of the Code of Ordinances of the City of Henderson are hereby amended, copies of which are attached, and can be found in the office of the city clerk.

PUBLICATION DATE:

FIRST READ: 06/11/2024  
SECOND READ: 06/25/2024

ORDINANCE NO. 31-24

# CITY OF HENDERSON – ORDINANCE BOOK 215

## Record of Ordinances of Meetings in 2024

ORDINANCE NO. 31-24 CONT.)

This Ordinance shall be effective as of July 1, 2024.

On first reading of the foregoing ordinance, it was moved by Commissioner Vowels, seconded by Commissioner Whitt, that the ordinance be adopted on its first reading.

On roll call the vote stood:

Commissioner Thomas:	<u>AYE</u>	Commissioner Vowels:	<u>AYE</u>
Commissioner Pruitt:	<u>AYE</u>	Mayor Staton:	<u>AYE</u>
Commissioner Whitt:	<u>AYE</u>		

WHEREUPON, Mayor Staton declared the ordinance adopted on first reading and ordered that it be presented for second reading at a regular meeting of the Board of Commissioners.

On second reading of the foregoing ordinance, it was moved by Commissioner Whitt, seconded by Commissioner Thomas, that the ordinance be adopted.

WHEREUPON, the vote was called, on roll call the vote stood:

Commissioner Thomas:	<u>AYE</u>	Commissioner Vowels:	<u>AYE</u>
Commissioner Pruitt:	<u>AYE</u>	Mayor Staton:	<u>AYE</u>
Commissioner Whitt:	<u>AYE</u>		

WHEREUPON, Mayor Staton declared the ordinance adopted, affixed his signature and the date and ordered it be recorded.



Bradley S. Staton, Mayor  
Date: June 25, 2024

ATTEST:

Maree Collins  
Maree Collins, CKMC  
City Clerk

**APPROVED AS TO FORM AND  
LEGALITY THIS 5<sup>TH</sup> DAY  
OF JUNE 2024.**

By: Dawn Kelsey  
Dawn Kelsey,  
City Attorney

ARTICLE II. – DEFINITIONS

Sec. 2.01. – Definitions.

For the purpose of these regulations, certain terms and words shall be used and interpreted as defined hereinafter. Words used in the present tense include the future. The singular number includes the plural, and the plural the singular. The word "shall" is mandatory, not merely directive; the word "may" is permissive.

*Accessory structure or use.* Any structure or use, other than the principal structure or use, and detached therefrom by a reasonable distance, directly incidental to or required for the enjoyment of the permitted use of any premises; also as specifically designated under the zoning district regulations of this chapter.

*Administrative official.* Any department, employee, or advisory, elected or appointed body which is authorized to administer any provision of the zoning regulation, subdivision regulations, and if delegated, any provision of any housing or building regulation or any other land use control regulation.

*Agricultural use.* The use of a tract of at least five (5) contiguous acres for the production of agricultural or horticultural crops, including but not limited to livestock, livestock products, poultry, poultry products, grain, hay, pastures, soybeans, tobacco, timber, orchard fruits, vegetable, flowers or ornamental plants, including provision for dwellings for persons and their families who are engaged in the above agricultural use on the tract, but not including residential building development for sale or lease to the public.

*Alley.* Any public or private way which affords only a secondary means of access to abutting property and which does not constitute a public maintained street upon which property may front.

*Alteration.* Any change, addition or modification in construction or type of occupancy; any change in the structural members of a building, such as walls, partition, columns, beams, "altered or reconstructed."

*Animal café.* Any retail café that collaborates with any animal shelter as defined in KRS 258.095 to provide space to showcase cats or rabbits owned by the entities for the purpose of adoption.

*Apartment.* A dwelling unit as defined by this article, not to be construed as an apartment house.

*Applicant.* The owner of land and/or property proposed to be zoned or his representative.

*Basement.* That portion of a building the average height of which is at least half below grade, which is ordinarily used for purposes such as storage, laundry facilities, household tool shops, and installation and operation of heating, cooling, ventilating facilities, but which is not ordinarily used for the purpose of general household habitation.

*Bed and breakfast inn.* A single-family, owner occupied dwelling which has been designated by the State of Kentucky as a Kentucky Landmark and is arranged in order for the owner-occupant to let no more than four (4) separate bedrooms and serve breakfast to overnight guests. The following applies to signs advertising the bed and breakfast inn:

# CITY OF HENDERSON – ORDINANCE BOOK 217

## Record of Ordinances of Meetings in 2024

ORDINANCE NO. 31-24 (CONT.)  
Exhibit "A"

- (1) There shall be no evidence of the conduct of the bed and breakfast business from the exterior of the dwelling, other than one (1) sign not exceeding four (4) square feet in area, unlighted, and mounted flat against the wall of the dwelling. In the case of a corner lot, one (1) sign may be placed on each street side of the dwelling.

*Block.* The property abutting one (1) side of a street and lying between the two (2) nearest intersecting streets, or between the nearest such street and railroad right-of-way, unsubdivided acreage, river or live stream, or between any of the foregoing and any other barriers, to the continuity of development.

*Board.* The word "board" shall mean the board of zoning adjustment as established in Article V of this ordinance.

*Boardinghouse.* A building arranged or used for lodging with or without meals for compensation, by more than five (5) and not more than twenty (20) individuals.

*Buffer.* An area meeting specified widths and depths on the side(s) abutting, facing, or fronting between differing land uses. A buffer area serves as a physical and/or visual means of separating differing land uses. Where required under the provisions of these regulations, a buffer area shall be provided as specified herein.

*Buildable area.* The portion of a building site remaining after required yards have been provided.

*Building.* Any structure for the shelter or enclosure of persons, animals or property.

*Building height.* The vertical distance measured from the average finished grade at the front building line to the highest point of the structure.

*Building, principal.* A building, including covered porches, carports, and attached garages in which is conducted the principal use of the lot on which it is situated. In any residential district any dwelling shall be deemed to be the principal building on the lot on which the same is situated.

*Building, separate.* Any portion of any structure completely separated from every other portion by masonry or a fire wall without any window, which wall extends from the ground to the roof.

*Building inspector.* The Building Inspector of the City of Henderson, or his authorized representative.

*Building site.* The land occupied or to be occupied by a principal building and its accessory buildings and including such open spaces, yards, minimum area, off-street parking facilities, and off-street truck loading facilities as are required by this ordinance; every building site shall abut upon a dedicated street. Any building site established after the effective date of this ordinance which occupies only a portion of a lot of record may be established only in accordance with the requirements of the subdivision regulations [Appendix A of this Code] and this ordinance, whichever is more restrictive.

*Building line.* A line established in general, parallel to the front street line between which line and the front street line, no part of a building shall project, except as otherwise provided by these regulations.

# 218 CITY OF HENDERSON – ORDINANCE BOOK

## Record of Ordinances of Meetings in 2024

ORDINANCE NO. 31-24 (CONT.)  
Exhibit "A"

*Carport.* A shelter for one (1) or more vehicles which is not fully enclosed by walls and one (1) or more doors.

*Cannabis cultivator.* An entity licensed by the State of Kentucky pursuant to the Kentucky Revised Statute and 915 KAR 1:030 to plant, grow, cultivate, raise, harvest, trim, store, test, package, label, transfer, transport, sell medicinal cannabis seed, seedlings, medicinal plant, medicinal cannabis, or medicinal cannabis product to other license cannabis business in the state.

*Cannabis dispensary.* An entity licensed by the State of Kentucky pursuant to Kentucky Revised Statutes and 915 KAR 1.070 to perform retail sales of Medicinal cannabis to registered qualified patient or visiting qualified patient as defined by the Kentucky Revised Statutes and corresponding regulations.

*Cannabis processor.* An entity licensed by the State of Kentucky pursuant to the Kentucky Revised Statute and 915 KAR 1:040 to process and/or packages raw medicinal cannabis plants material or plants into approved forms of medical cannabis under Kentucky Revised Statutes and regulations.

*Cannabis producer.* An entity licensed by the State of Kentucky pursuant to the Kentucky Revised Statutes and 915 KAR 1.050 which operates as both a cannabis cultivator and processor.

*Condominium.* Real estate, portions of which are designated for separate ownership and the remainder of which is designated for common ownership solely by the owners of those portions. Real estate is not a condominium unless the undivided interests in the common elements are vested in the unit owners.

*Consumer fireworks.* Those fireworks that are described in KRS 227.702.

*Convalescent home.* A convalescent home is a home for the care of the aged or infirm, or a place of rest for those suffering bodily disorders wherein two (2) or more persons are cared for. Said home shall conform and qualify for license under state law.

*County.* The word "county" shall mean the Fiscal Court of Henderson County, Kentucky.

*Court.* An open, unoccupied space, other than a yard on the same lot as a building.

*Craft distillery.* A facility as defined by KRS 243.120(2)b, which produces in quantities not to exceed fifty thousand (50,000) gallons of distilled spirits per calendar year.

*Day care facility.* A day care facility is designed to offer care and/or training to children or adults unrelated to the owner or director for any part of a day on some kind of regular basis. Such facility may or may not be operated for profit. For the purposes of the zoning regulations, a sitting service that is used at the convenience of parents or other relatives at irregular intervals is not to be considered a day care facility.

Type of day care facilities: The services offered and ages of persons enrolled in a day care facility determine the classification of the facility. The name of the facility should be descriptive of its purpose.

- (a) *Group care center (day nursery, day care center)* is defined as a facility for six (6) or more children, regardless of age, whose primary purpose is the care of the child for part of a day.

# CITY OF HENDERSON – ORDINANCE BOOK 219

## Record of Ordinances of Meetings in 2024

ORDINANCE NO. 31-24 (CONT.)  
Exhibit "A"

- (b) *Nursery school* is defined as a school for two-, three- and four-year-old children which operates for periods generally not to exceed four (4) hours per day and whose primary purpose is education and guidance
- (c) *Kindergarten* is defined as a school for four- and five-year-olds which operates for periods not to exceed four (4) hours per day and whose primary purpose is education and guidance for health, emotional and social development of the children.
- (d) *Foster family day care* is defined as a service in a private home offering care in a family setting to a maximum of five (5) children, including the foster families own children during part of the day. Because of the special needs of the very young child, there should be no more than two (2) children under the age of two (2) years in a foster family day care home.
- (e) *Adult day care* is defined as personal care and supervision in a protective setting for adults outside their own home for less than twenty-four (24) hours per day. The program may include the provisions of daily medical supervision, nursing and other health care support, psycho-social assistance, or appropriate socialization stimuli or a combination of these. Adult day care is available for those persons who do not require twenty-four-hour per day institutional care, but who, because of physical and/or mental disability, are not capable of full-time independent living.

*Density.* The number of families residing on, or dwelling units developed on an acre of land. As used in these regulations, all densities are stated in families per acre.

*Development plan.* Written and graphic material for the provision of a development, including any or all of the following: Location and bulk of buildings and other structures, intensity of use, density of development, streets, ways, parking facilities, signs, drainage of surface water, access points, a plan for screening or buffering, utilities, existing manmade and natural conditions and all other conditions agreed to by the applicant.

*District.* A portion of the jurisdiction of the governing body within which on a uniform basis, certain uses of land and buildings are permitted and within which certain yards, open spaces, lot acres and other requirements are established, i.e., residential district, commercial district, etc.

*Drive-in establishment.* A business establishment, other than a drive-in restaurant, so developed that its retail or service character is dependent on providing a driveway approach or parking spaces for motor vehicles so as to serve patrons while in the motor vehicle, and may include drive-in banks, drive-in cleaners and drive-in laundries.

*Drive-in restaurant.* Any place or premises used for the sale, dispensing or serving of food, refreshments, or beverages in automobiles, including establishments where customers may serve themselves and may eat or drink the food, refreshments, or beverages in automobiles on the premises.

*Dwelling, group.* A group of two (2) or more single-family semi-detached or multiple dwellings occupying a parcel of land in common ownership and having yard or courts in common.

*Dwelling, multifamily.* A residential dwelling designed for or occupied by three (3) or more families, with the number of families in residence not exceeding the number of dwelling units provided.

# 220 CITY OF HENDERSON – ORDINANCE BOOK

## *Record of Ordinances of Meetings in 2024*

ORDINANCE NO. 31-24 (CONT.)  
Exhibit "A"

*Dwelling, row or townhouses.* A row of three (3) or more attached single-family dwellings, not more than two and one-half (2½) stories in height, in which each dwelling has its own front and rear entrances.

*Dwelling, two-family.* A building designed exclusively for occupancy by two (2) families independent of each other, such as a duplex dwelling unit.

*Dwelling unit.* A single unit providing complete, independent living facilities for one (1) or more persons including permanent provisions for living, sleeping, eating, cooking and sanitation.

*Dwelling unit, single-family.*

- (a) A building or structure designed and intended for occupancy by a single family constructed on site on a permanent foundation in compliance with all standards contained in the Kentucky Building Code; or
- (b) A building or structure designed and intended for occupancy by a single family and fabricated in whole or part in an off-site manufacturing facility and transported by truck for installation or assembly at the building site as a permanent structure with installation required to be moored to a permanent foundation in compliance with all the standards contained in the Kentucky Building Code and once installed can only be moved as a conventional home.

*Efficiency unit.* An efficiency unit is a dwelling unit consisting of one (1) room, exclusive of bathroom, kitchen, hallway, closets or dining alcove directly off the room, providing not less than three hundred fifty (350) square feet of floor area.

*Erected.* The word "erected" includes built, constructed, reconstructed, moved upon, or any physical operation on the premises required for the building. Excavations, fill, drainage, and the like, shall be considered a part of "erected."

*Facade.* Facade is the visual portion of a property with frontage along a public right-of-way, not including a public alleyway, including all architectural and construction features including and without limitation to: structural materials, facing materials, windows, doors, trim, sill, steps, railing, cornices, molding, and fences.

*Family.* One (1) person living alone, or two (2) or more persons living together as a single nonprofit, housekeeping unit, provided that unless all members are related by blood, marriage, or legal adoption, no such family shall contain over three (3) unrelated persons. The term "family" shall be deemed to include domestic servants, gratuitous guests, and foster or boarded children whose room and board is paid by a recognized child care agency. Further provided that the term "family" shall not include a group occupying a hotel, club, boarding house or fraternity or sorority house.

*Family child-care home.* A private residence that provides for the temporary care of children who are unrelated to the care provider.

*Fast food restaurant.* A fast food restaurant is defined to be a restaurant that has the following characteristics:

- (a) Its principal business is the sale of food items and beverages of the kind which can readily be taken out of the restaurant for consumption off the premises.

# CITY OF HENDERSON – ORDINANCE BOOK 221

## *Record of Ordinances of Meetings in 2024*

ORDINANCE NO. 31-24 (CONT.)  
Exhibit "A"

- (b) Service is not customarily provided to customers at their tables by employees of the restaurant.

*Filling.* Shall mean the depositing or dumping of any matter on or into the ground, except deposits resulting from common household gardening and general farm care.

*Floor area ratio.* The ratio between the maximum allowable amount of floor space on all floors in a building and the total area of the lot on which the building is located. Example. A FAR of 2.0 would allow floor space of twice the area, or a four-story building covering one-half ( $\frac{1}{2}$ ) of the lot. A FAR of 0.5 would allow floor space of one-half ( $\frac{1}{2}$ ) of the lot area, or a two-story building covering one-quarter ( $\frac{1}{4}$ ) of the lot area, or a two-story building covering one-quarter ( $\frac{1}{4}$ ) of the lot.

*Floor area, total.* The area of all floors of building including finished basements and covered porches.

*Floor area, usable.* Any floor area within outside walls of a building, exclusive of areas in cellars, unfinished basements, utility area, unfinished attics, garages, open porches and accessory buildings.

*Foster child.* A person who has not reached his eighteenth birthday, unrelated to a family by blood or adoption with whom he or she lives for the purpose of care and/or education.

*Garage, private.* An accessory building designed or used for the storage of motor-driven vehicles owned and used by the occupants of the building to which it is accessory, for personal use only.

*Garage, public.* Any premises used for the storage or care of motor-driven vehicles, or place where any such vehicles are equipped for operation, repaired, or kept for re-numeration, hire or sale.

*Home occupation.* Professional offices and personal services maintained or conducted within a dwelling or conducted as a conditional use in a detached existing garage. (See reference [section] 4.38).

*Hospital.* Any institution providing health services, primarily for inpatients and medical or surgical care of the sick or injured, including as an integral part of the institution, such related facilities as laboratories, outpatient department, training facilities, central service facilities and staff offices, as licensed by the Commonwealth of Kentucky.

*Hotel.* A building or group of buildings containing individual sleeping or living units designed for the temporary occupancy of transient guests and including hotels, tourist courts, motor lodges, motor hotels, or auto courts, but not including boarding houses or lodging houses.

*Junk.* The term "junk" means any motor vehicle, machine, appliance, scrap material that is in a condition which prevents its use for the purpose for which it was originally manufactured.

*Junkyards, used auto parts yards, salvage yards.* The use of an area of any lot for the storage, keeping or abandonment of junk, including scrap metals or other scrap materials, or for the dismantling, demolition, abandonment of automobiles, or other vehicles or machines or parts thereof.



## *Record of Ordinances of Meetings in 2024*

ORDINANCE NO. 31-24 (CONT.)  
Exhibit "A"

*kennel.* Any lot or premises on which three (3) or more dogs, four (4) months old or older, are kept either permanently or temporarily for commercial or breeding purposes.

*Laboratory.* A place devoted to experimental study, such as testing and analyzing. Manufacturing of product or products is not permitted within this definition.

*Loading space.* An off-street space on the same parcel of property with a building or group of buildings, for temporary parking of a commercial vehicle while loading and unloading merchandise or materials.

*Lot.* A parcel of land occupied or intended for occupancy by a use permitted in these regulations, including one (1) principal building together with the accessory buildings, yard area, and parking spaces required by these regulations, and having its principal frontage upon a publicly maintained street.

*Lot area.* The total horizontal area within the lot lines of a lot.

*Lot, corner.* A corner lot of which at least two (2) adjacent sides abut for their full length upon a street, provided that such two (2) sides intersect at an interior angle of not more than one hundred thirty-five (135) degrees. Where a lot is on a curve, if tangents through the extreme point of the street line of such lot make an interior angle of not more than one hundred thirty-five (135) degrees, it is a corner lot. In the case of a corner lot with curved street line, the corner is that point on the street lot line nearest to the point of intersection of the tangents described above.

*Lot, coverage.* That part or percent of the lot occupied by the buildings, including accessory buildings.

*Lot depth.* The mean horizontal distance from the front lot line to the rear lot line.

*Lot, double frontage.* An interior lot having frontages on two (2) more or less parallel streets as distinguished from a corner lot. In the case of a row of double frontage lots, one (1) street will be designated as the front street in the plat and the request for a building permit will indicate which street is the designated front street.

*Lot, interior.* A lot other than a corner lot.

*Lot line.* The property line abounding the lot.

*Lot line, front.* In the case of an interior lot, that line separating said lot from the street. In the case of a corner lot, or double frontage lot, "front lot line" shall mean that line separating said lot from that street which is designated as the front street in the plat and in the application for a building permit.

*Lot line, rear.* That lot line opposite the front lot line. In the case of a lot pointed at the rear, the rear lot line shall be an imaginary line parallel to the front lot line not less than ten (10) feet long farthest from the front lot line and wholly within the lot.

*Lot line, side.* Any lot line other than the front lot line or rear lot line. A side lot line separating a lot from a street is a side street lot line. A side lot line separating a lot from another lot or lots is an interior side lot line.

*Lot line, street or alley.* A lot line separating the lot from the right-of-way of a street or alley.

*Record of Ordinances of Meetings in 2024*

ORDINANCE NO. 31-24 (CONT.)  
Exhibit "A"

*Lot of record.* A lot which is part of a subdivision recorded in the office of the county court clerk, or a lot or parcel surveyed or described by metes and bounds, by description of which has been so recorded.

*Lot width.* The mean horizontal distance between the side lines at the building line measured along the building line.

*Maintenance.* General property maintenance and/or repair of any water, sewer, HVAC, or electrical expenditures incurred in updating an existing structure where no new expansion will occur.

*Major thoroughfare.* The major streets which carry a relatively large amount of vehicular traffic and may connect to secondary or regional thoroughfares. The major thoroughfares are as delineated on the comprehensive land use plan as adopted by the governing body.

*Manufactured housing.* A manufactured building designed for long-term residential use. Manufactured housing includes that housing built on a chassis and is commonly referred to as "mobile homes"; however, manufactured housing does not include recreational vehicle, as defined herein at "Article II, Definitions, Section 2.01, Definitions." For the purpose of these regulations, manufactured housing is divided into four (4) classifications.

- (1) *Class A manufactured housing.* Manufactured housing certified by the Department of Housing and Urban Development as meeting all federal manufactured home construction and safety standards and approved by the zoning administrator as meeting all the "acceptable installation standards" and all "acceptable appearance standards" herein below.

a. *Acceptable installation standards.*

1. The home shall be permanently attached and installed on a permanent foundation with the manufacturer's installation specifications as approved by the U.S. Department of Housing and Urban Development.
2. The home shall be anchored to the ground in accordance with manufacturer's specifications.
3. All wheel, trailer tongue and hitch assemblies shall be removed upon installation.
4. The home shall meet all requirements for lot, yard, building and other requirements for the district in which it is located. Variances may be granted for yard setbacks when manufactured home is approved as a conditional use in R-3 or Audubon Residential District zones.
5. All stairs, porches, entrances, platforms and other means of entrance and exit to the home shall be installed and constructed in conformance to the Kentucky Building Code.
6. All utilities shall be permanently connected to a public utility system in accordance with all City Codes and all public health requirements governing plumbing installations.

b. *Acceptable appearance standards.*

# 224 CITY OF HENDERSON – ORDINANCE BOOK

## *Record of Ordinances of Meetings in 2024*

ORDINANCE NO. 31-24 (CONT.)  
Exhibit "A"

1. A poured concrete or masonry skirting wall shall be constructed beneath and along the entire perimeter of the manufactured home, including the perimeter of the front steps and front porch, even if the wall is not structurally required by manufactured installation specifications. Venting and access requirements shall be in accordance with the Kentucky Building Code.
  2. The home shall be a minimum width of twenty (20) feet as measured across the narrowest portion.
  3. The home shall be placed so that the main egress is parallel to the street. Main egress shall be considered the principal access for the home as constructed off site.
  4. The manufactured home shall either be oriented so that: 1) its long axis is parallel with the street; or 2) if the narrow dimension of the unit is located parallel to the street it shall be no less than fifty (50) percent of the unit's long dimension.
  5. The home shall have a minimum roof pitch of four (4) feet of rise for every twelve (12) feet of horizontal run. The roof shall be covered with material that is residential in appearance including, but not limited to, approved wood, asphalt composition shingles, standing seam metal, or fiberglass, but excluding corrugated aluminum, corrugated fiberglass or other metal roofs.
  6. Exterior siding cannot have a high-gloss finish and must be residential in appearance including, but not limited to, clapboards, simulated clapboards such as conventional vinyl or metal siding, wood shingles, "glossy" shakes, or similar material but excluding smooth, ribbed, or corrugated metal or plastic panels.
  7. An adequate guttering and roof drainage system shall be installed.
  8. The home shall have eaves with a minimum of six (6) inch overhang.
- (2) *Class B manufactured home.* Manufactured housing certified by the Department of Housing and Urban Development as meeting all federal manufactured home construction and safety standards and acceptable installation standards but not meeting all of the acceptable appearance standards described above.
- (3) *Class C manufactured home.* A manufactured/mobile home built before the HUD Code (1976) which is not certified by the Department of Housing and Urban Development as meeting all federal manufactured housing and safety standards and not meeting all of the acceptable installation standards and acceptable appearance standards described above. No class C manufactured homes will be permitted.
- (4) *Class D manufactured home.* A manufactured home having been issued a "class B2 seal", which means the home has been inspected and found not to be in compliance with applicable codes and is a salvage unit unfit for human habitation. No class D manufactured homes will be permitted.

*Manufactured housing park.* A unified development of two (2) or more manufactured housing sites, plots, or stands arranged on a large tract usually under single ownership, meeting the area and yard requirements of this ordinance, and designed to accommodate manufactured housing, for more or less permanent duration, whether or not a charge is made for such accommodations, and includes any service building, structure, enclosure or other facility used as part of the manufactured housing park.

## *Record of Ordinances of Meetings in 2024*

ORDINANCE NO. 31-24 (CONT.)  
Exhibit "A"

*Marina.* A dock or basin with moorings and supplies for yachts and small pleasure craft. A marina differs from a port in that a marina does not handle large passenger ships or commercial vessels.

*Microbrewery.* A facility as defined by KRS 243.157, which engages in the business of a brewery under the terms and conditions of KRS 243.150, which produces in quantities not to exceed twenty-five thousand (25,000) gallons of malt beverages per calendar year, including the sale of malt beverages produced on premises to licensed distributors and the general public.

*Motor vehicle repair.* General repair, engine rebuilding, rebuilding or reconditioning of motor vehicles; collision service such as body, frame or fender straightening and repair; overall painting, completely enclosed spray booth.

*Motor vehicle wash establishments.* A building, or portion thereof, the primary purpose of which is that of washing motor vehicles.

*Nonconforming structures or uses.* A structure or use of any premises which does not conform with applicable provisions of this ordinance, but which existed at the time of its designation as nonconforming by the adoption or amendment of this ordinance.

*Nursery, trees and shrubs.* An area or establishment devoted to the raising and care of trees, shrubs, or similar plant materials.

*Off-street parking lot.* A facility providing vehicular parking spaces, along with adequate drives and aisles for maneuvering, so as to provide access for entrance and exit for the parking of more than two (2) automobiles.

*Open air business uses.* Open air business uses shall include the following:

- (a) Retail sale of trees, shrubs, plants, flowers, seed, topsoil, humus, fertilizer, trellises, lawn furniture, playground equipment and other home garden supplies and equipment.
- (b) Retail sale of fruit and vegetables.
- (c) Tennis courts, archery courts, shuffleboard, horseshoe courts, miniature golf, golf driving ranges, children's amusement parks or similar recreational uses.
- (d) Bicycle, trailer, motor vehicle, boats or home equipment sales, service, rental services, farm and construction equipment.
- (e) Outdoor display and sale of garages, swimming pools, monuments, and similar uses.
- (f) Flea markets and similar open air displays.

*Parking spaces.* An area of not less than ten (10) feet wide by eighteen (18) feet long, for each automobile or motor vehicle, such space being exclusive of necessary drives, aisles, entrances or exits and being fully accessible for the storage or parking of permitted vehicles.

*Person with a disability.* A person with a physical, emotional, or mental disability including but not limited to mental retardation, cerebral palsy, epilepsy, autism, deafness or hard of hearing, sight impairments, and orthopedic impairments, but not including convicted felons or misdemeanants on probation or parole or receiving rehabilitation services as a result of their prior conviction, or mentally ill persons who have pled guilty but mentally ill to a crime or not guilty by reason of insanity to a crime. "Person with a disability" does not include persons with current,

## *Record of Ordinances of Meetings in 2024*

ORDINANCE NO. 31-24 (CONT.)  
Exhibit "A"

illegal use of or addiction to alcohol or any controlled substance as regulated under KRS [Ch.] 218A.

*Planned unit development (PUD).* A land development project comprehensively planned as an entity via a unitary site plan which permits flexibility in building siting, mixtures of housing types and land uses, usable open spaces and the preservation of significant natural features.

*Principal use parking lots and garages.* A facility whose principal use is for providing vehicular parking spaces, along with adequate drives and aisles for maneuvering, so as to provide access for entrance and exit for the parking of more than two (2) automobiles. All principal use parking lots and garages shall meet the regulations set forth in Sec. 9.01 – *Off-street parking requirements*. Any principal use parking lot or garage that is to be utilized as required parking for an off-premise establishment shall require a written agreement providing for the use of parking, acceptable to the codes administrator, and shall be executed by the appropriate parties and filed with the Henderson County Court Clerk's Office, and copies shall be provided to the city codes and planning offices. Privileges will continue in effect only as long as the agreement, binding upon both parties, remains in force.

*Public street.* a publicly maintained thoroughfare providing the principal means of access to abutting property and listed on the city, county, state, or federal road system.

*Recreational vehicle:*

- (1) *Travel trailer* means a vehicular, portable structure built on a chassis, designed to be used as a temporary dwelling for travel, recreation or vacation.
- (2) *Pick-up coach* means a structure designed to be mounted on a truck for use as a temporary dwelling for travel, recreation or vacation.
- (3) *Motor home* means a portable temporary dwelling to be used for travel, recreation or vacation, constructed as an integral part of a self-propelled vehicle.
- (4) *Camping trailer* means a canvas or other collapsible folding structure, mounted on wheels and designed for travel, recreation or vacation use.
- (5) *Dependent recreational vehicle* means a recreational vehicle which does not have toilet, lavatory or bathing facilities.
- (6) *Self-contained recreational vehicle* means a recreational vehicle which can operate independent of connections to sewer, water and electric systems. It contains a water-flushed toilet, lavatory, shower or bath, [and] kitchen sink, all of which are connected to water-storage and sewage-holding tanks located within the recreational vehicle.
- (7) Recreational vehicles shall not have connections to residential sewer systems or any permanent connections to other residential utilities.
- (8) Recreational vehicles shall not be used as a residence and shall not be occupied for temporary use, except as may be provided in recreational vehicle communities or campgrounds.
- (9) Recreational vehicles shall not be used as an accessory structure to a residence, nor to accommodate a residential accessory use.

*Record of Ordinances of Meetings in 2024*

ORDINANCE NO. 31-24 (CONT.)  
Exhibit "A"

*Recreational vehicle community* means a parcel of land available to the public in which two (2) or more recreational vehicle spaces are occupied or intended for occupancy by recreational vehicles for transient dwelling purposes and includes any service building, structure, enclosure, or other facility used as a part of the community.

*Recreational vehicle space* means a parcel of land in a recreational vehicle community for the placement of a single recreational vehicle.

*Residential care facility*. A residence operated and maintained by a sponsoring private or governmental agency to provide services in a homelike setting for persons with disability.

*Residential care services*. Services include but are not limited to supervision, shelter, protection, rehabilitation, personal development and attendant care.

*Rubbish*. Means the miscellaneous waste materials resulting from housekeeping, mercantile enterprises, trades, manufacturing and offices, including other waste matter such as slag, stone, broken concrete, fly ash, ashes, tin cans, glass, scrap metal, rubber, paper, rags, chemicals or any similar or related combinations thereof.

*Salvage*. Refers to any motor vehicle, machine or appliance having sufficient value to justify its sale for repair or recovery of parts.

*Self storage* (a shorthand for "self-service storage", and also known as "mini storage") is an industry in which storage space (such as rooms, lockers, containers, and/or outdoor space), also known as "storage units" is rented to tenants, usually on a short-term basis.

*Setback*. The required distance between every structure and any lot line on the lot on which it is located.

*Setback, front*. The minimum distance between the street right-of-way and the building line.

*Service station*. A building or structure designed or used for the retail sale or supply of fuels, lubricants, air, water and other operating commodities for motor vehicles, aircraft or boats, and including the customary space and facilities for the installation of such commodities on or in vehicles and including space for facilities for the temporary storage of vehicles, minor repair or servicing.

*Shooting range, indoors*. A facility designed or used for shooting at targets with bows and arrows, rifles, pistols, or shotguns and which is completely enclosed within a building or structure for the purposes of target practice or temporary competitions.

*Shopping center*. A group of three (3) adjoining or adjacent retail stores, and more than twenty thousand (20,000) square feet, or service establishments to be planned, constructed and developed as a single unit, and including any additional such stores or establishments subsequently adjoining or adjacent thereto.

*Sign*. Any fabricated sign or outdoor display structure including its structure, consisting of any letter, figure, character, mark, point, plane, marquee sign, design, poster, pictorial picture stroke, stripe, line, trademark, reading matter, or illuminating device, constructed, attached, erected, fastened, or manufactured in any manner whatsoever so that the same shall be used for the attraction of the public to any place, subject, person, firm, corporation, public performance, article, machine, or merchandise whatsoever, and displayed in any manner out of doors for recognized advertising purposes.

# 228 CITY OF HENDERSON – ORDINANCE BOOK

## *Record of Ordinances of Meetings in 2024*

ORDINANCE NO. 31-24 (CONT.)  
Exhibit "A"

*Site plan.* A graphic plan drawn to scale for all proposed non-single family development or change of uses, or creation of new commercial or multi-family lots, which shows elements of site design in sufficient detail to depict the approved locations of buildings, accessory structures, parking areas, access points, open spaces, drainage facilities, utilities, yard dimensions, easements, screening, erosion control, flood zone boundaries, and all other information required by the enforcement officer or approving body.

*Soil removal.* Shall mean the removal of any kind of soil or earth matter which includes topsoil, sand, gravel, clay or other materials or any combination thereof, except common household gardening and general farm care.

*Story.* That part of a building comprised between a floor and the floor or roof next above which is not a basement or an attic.

- (1) *First story.* The lowermost story entirely above the grade plane.
- (2) *Mezzanine.* An intermediate level between the floor and the ceiling of any story, and covering not more than thirty-three (33) percent of the floor area of the room in which it is located.

*Street.* Any public or private vehicular way which affords the principal means of access to abutting property. The term shall include "road," "highway," or "thoroughfare." A public street is a street accepted according to the subdivision regulations and maintained by the governing body. A private street is not so accepted and maintained.

*Structure.* Anything constructed or erected, the use of which requires fixed location on the ground or attachment to something having a fixed location on the ground, including buildings, radio towers, swimming pools, and walls or fences exceeding three and one-half (3½) feet in height, billboards, and poster panels; reference to buildings includes structures and vice versa.

*Structural alteration.* Any change in the supporting members of a building or structure, each as bearing walls or partitions, columns, beams or girders or any change in the width or number of exits, or any structural change in the roof.

*Subdivision regulations.* Regulations as adopted by the city for the subdivision of land.

*Swimming pool.* The term "swimming pool" shall mean any structure or container intended for swimming or bathing located either above or below grade designed to hold water to a depth greater than twenty-four (24) inches.

*Townhouse.* An attached, privately owned, single-family dwelling, which is designed and erected as an independent unit on a separate lot and separated from all other such units by a properly rated common party wall having no doors, windows, or other provisions for human passage or visibility. (See Article IV, Section 4.05)

*Travel trailer.* A vehicular portable structure built on a chassis, designed to be used as a temporary dwelling for travel and recreational purposes, with a body width not exceeding eight (8) feet and constructed in such a manner as will permit occupancy thereof as a dwelling or sleeping place for one (1) or more persons. For the purposes of these regulations, the term includes recreational vehicle, pickup campers, camping trailers, and motorized homes (living facilities constructed as integral parts of self-propelled vehicles).

## *Record of Ordinances of Meetings in 2024*

ORDINANCE NO. 31-24 (CONT.)  
Exhibit "A"

*Truck gardening.* Truck gardening is the use of land for growing edible vegetables, fruits, and other crops for resale and commercial purposes. Household gardening by a property owner for a hobby or purely local consumption by himself and his family residing on the same premises shall not be construed to be truck gardening.

*Use.* The purpose for which land or premises or a building thereon is designed, arranged, or intended, or for which it is occupied or maintained, let or leased.

*Utility room.* A room or space, located other than in the basement, specifically designed and constructed to house any home appliances (furnace, water heater, pump).

*Variance.* A departure from dimensional terms of the zoning regulation pertaining to the height, width, or location of structures, and the size of yards and open spaces where such departure meets the requirements of KRS 100.241 and 100.247.

*Vehicular use area (VUA).* Any area used by vehicles of any type, whether moving or at rest, including but not limited to parking lots or areas, loading and unloading areas, mobile home yards, sales and service areas, and driveways.

*Yard.* An open space on the same lot with a building, unoccupied and unobstructed from the ground upward, except as otherwise provided herein. The measurement of a yard is the minimum horizontal distance between the lot line and the building or structure.

- (1) *Side yard.* A yard between the side line of the lot and the nearest line of the principal building and extending from the front yard to the rear yard, or in the absence of either such yard, to the front and rear lot lines, as the case may be; except that on a corner lot, the side yard adjacent to a street shall extend the full depth of the lot.
- (2) *Front yard.* A yard extending the full width of the lot; the depth of which is the horizontal distance between the front lot line and the nearest line of the principal building on the lot.
- (3) *Rear yard.* A yard extending the full width of the lot, the depth of which is the horizontal distance between the rear lot line and the rear line or lines of the principal building of the lot.



# 230 CITY OF HENDERSON – ORDINANCE BOOK

## *Record of Ordinances of Meetings in 2024*

ORDINANCE NO. 31-24 (CONT.)  
Exhibit "B"

### ARTICLE XXI. – H-C, HIGHWAY COMMERCIAL DISTRICT

Sec. 21.02 – Permitted uses.

In all H-C districts, no building or land, except as otherwise provided in this ordinance, shall be erected or used except for the following specified uses:

- (a) Any use permitted in the general business districts.
- (b) Animal hospital or veterinary clinic, provided that any such purpose, including pens, or exercise runways shall be at least two hundred (200) feet from any residential district.
- (c) Commercial greenhouses and plant nurseries, including offices and sales yards, provided that no building for any heating plant, ventilation flue or other opening except stationary windows be located within fifty (50) feet of any residential district.
- (d) Drive-in eating and drinking establishments and branch drive-in banks.
- (e) Farm implement or contractor's equipment display, hire or sales establishment, service and repair shops.
- (f) Mobile home and trailer sales lot.
- (g) Drive-in theaters.
- (h) Truck stop.
- (i) Ice storage and vending.
- (j) Motels/hotels.
- (k) Automobile service stations.
- (l) Restaurants.
- (m) Building supplies.
- (n) New and used automobile and truck sales.
- (o) Drinking establishments or package liquor stores.
- (p) Accessory uses permitted. Accessory uses or buildings customarily incidental to the above permitted uses provided all general and special requirements for principal buildings are met.

# CITY OF HENDERSON – ORDINANCE BOOK 231

## *Record of Ordinances of Meetings in 2024*

ORDINANCE NO. 31-24 (CONT.)  
Exhibit “B”

(q) Consumer fireworks, retail sales, storage, and related supplies in accordance with requirements of an ordinance relating to fireworks adopted by the city, and in accordance with the National Fire Protection Association (NFPA 1124).

(r) Principal use parking lots and garages.

(s) Cannabis dispensary (must meet all of the following conditions)

- (i) Shall not be located within one thousand (1,000) feet of any and all existing elementary or secondary school(s) or daycare center(s);
- (ii) Shall not be located within one (1) mile of another cannabis dispensary as measured from the property line;
- (iii) Shall not be placed next to any residential structure;
- (iv) Exterior signage may only, at most, include text that is the licensee’s (1) business or trade name; (2) location and contact information; and (3) business type. Exterior signage cannot include a licensee’s logo, symbol, branded colors or any images, including, but not limited to, depicting cannabis/cannabis products or the imagery or action of smoking/vaping. Exterior signs also cannot include mottos, selling messages, or any other non-essential text. Exterior signs must be on the same parcel as the store and affixed to a building or permanent structure (e.g., signpost). Exterior signage cannot be larger than necessary to reasonably display the information on the sign to individuals within or near the licensed premises and cannot be illuminated by neon lights.

# 232 CITY OF HENDERSON – ORDINANCE BOOK

## *Record of Ordinances of Meetings in 2024*

ORDINANCE NO. 31-24 (CONT.)  
Exhibit "C"

### **ARTICLE XXIII. - M-1, LIGHT INDUSTRIAL DISTRICT**

#### **Sec. 23.02 – Permitted Uses**

Accessory uses and buildings that are subordinate, customary and incidental to the permitted primary uses. Any accessory structure shall meet site and other requirements of this zone.

- (1) Assembly of finished or semi-finished materials.
- (2) Bakeries.
- (3) Book binding.
- (4) Bottling works.
- (5) Building material sales yards.
- (6) Cabinet making.
- (7) Confectionery.
- (8) Contractor's office and accessory storage yards including the storage of general construction equipment.
- (9) Commercial/industrial dry cleaning.
- (10) Greenhouses, wholesale.
- (11) Ice plants.
- (12) Laboratories including Medical Cannabis Safety Compliance facility
- (13) Laundries, commercial.
- (14) Manufacturing of precision instruments, bicycles, business machines, brooms and brushes, cameras and photo equipment, ceramic products, clothing, condensed and powdered milk products, electronics, small appliances, film, furniture, hemp and jute products, jewelry, medical appliances, musical instruments, optical goods, and pharmaceutical products.
- (15) Metal fabrication and assembly.
- (16) Millwork and woodworking.
- (17) Office uses resulting from information processing, industrial training, engineering, drafting or graphic arts service and computer hardware or software development.

# CITY OF HENDERSON – ORDINANCE BOOK 233

## *Record of Ordinances of Meetings in 2024*

ORDINANCE NO. 31-24 (CONT.)  
Exhibit “C”

(18) Plastic molding.

(19) Plating, electrolytic.

(20) Printing or publishing.

(21) Recycling collection facility.

(22) Retail sale of any commodity designed and manufactured in this zone.

(23) Storage facilities and warehousing, including self-storage facilities.

(24) Tool gauge and machine shops.

(25) Truck stop and truck terminal.

(26) Consumer fireworks, retail sales, storage, and related supplies in accordance with requirements of an ordinance relating to fireworks adopted by the city, and in accordance with the National Fire Protection Association (NFPA 1124).

(27) Cannabis Cultivator

(28) Cannabis Processor

(29) Cannabis Producer

# 234 CITY OF HENDERSON – ORDINANCE BOOK

## *Record of Ordinances of Meetings in 2024*

ORDINANCE NO. 31-24 (CONT.)  
Exhibit "D"

### ARTICLE XXV. - AG, AGRICULTURE DISTRICT

#### Sec. 25.02 – Permitted Use

- (a) Churches.
- (b) Nonprofit public and private organizations.
- (c) Farm buildings.
- (d) Farm, including livestock, pork and poultry raising, dairying, horticulture and other similar bona fide agriculture endeavors or use of land. Pens or structures for farm animals of a new farm operation shall not be located closer than two hundred (200) feet to any residential, commercial, or industrial structure.
- (e) Greenhouses and nurseries, both wholesale and retail.
- (f) Home occupations.
- (g) Horse stables and riding schools/academies.
- (h) Libraries, parks and other recreational facilities.
- (i) Monastery, convent or other religious community.
- (j) Public, parochial and private schools designed for children of elementary school, junior high school and senior high school age.
- (k) Temporary assembly, for periods not exceeding thirty (30) days and subject to the building and electrical codes of the governing body and regulations of the Henderson County Public Health Department.
- (l) Veterinary clinics and hospitals, commercial dog kennels, provided that any structure or area used for such purpose, including pens or exercise runways, shall be at least four hundred (400) feet from any residential district.
- (m) Golf courses or country clubs.
- (n) Oil well or gas wells including the drilling thereof.
- (o) Storage of oil or gas drilling equipment necessary for that lease.
- (p) Selling on the premises of agricultural products produced on the premises; provided that the roadside stand should be considered temporary and shall be set back from the road right-of-way at least fifty (50) feet to permit parking, ingress and egress and shall not be constructed in such a location as to create an undue traffic hazard.

# CITY OF HENDERSON – ORDINANCE BOOK 235

## *Record of Ordinances of Meetings in 2024*

ORDINANCE NO. 31-24 (CONT.)  
Exhibit “D”

(q) Single-family dwellings occupied by the owner or operator of the farm and such additional single family dwellings as are necessary for occupancy by the farm operation.

(r) Accessory uses.

(s) Winery/vineyards.

(t) Cannabis Cultivator