City of Henderson, Kentucky
Board of Commissioners Video Teleconference Meeting
Tuesday, October 27, 2020, 3:00 P.M.

This meeting will be conducted as a video teleconference meeting as allowed under KRS61.826. Any interruption in the video or audio broadcast at any location shall result in the suspension of the meeting until the broadcast is restored. As a result of the state of emergency declared by the President of the United States and the Governor of Kentucky due to the global COVID-19 pandemic, and in accordance with recommended and mandated precautions related to COVID-19, Kentucky Opinion of the Attorney General 20-05, and SB 150 the following Meeting Notice is issued:

Please take notice that as Mayor of the City of Henderson, Kentucky, I hereby call a special called meeting of the Board of Commissioners to be held on Tuesday, October 27, 2020, at 3:00 p.m., in the third floor assembly room, 222 First Street, Henderson, Kentucky. One or more members of the Board of Commissioners may participate via Zoom Webinar or similar video teleconferencing system and the meeting will be broadcast to the public. Due to the highly contagious nature of COVID-19 LIMITED public attendance will be permitted at this meeting in accordance with recommended and mandated precautions. The meeting will be broadcast on Zoom (call in number/webinar ID – 1 312 626 6799 / 81050532356 Password: 8311200) or https://us02web.zoom.us/j/81050532356 Password: 8311200; will be broadcast on cable Spectrum Channel 200; and live streamed on the city’s website: https://www.cityofhendersonky.org/CivicMedia. The purpose of this called meeting is for the following:

AGENDA

1. Roll Call:

2. Appearance of Citizens:

3. Presentations:

4. Public Hearing: Electric Rate Adjustment for Distributed Generation for Certain Customer Classes

5. Consent Agenda:
   Minutes: August 11, 2020, Called Meeting
   Resolution: Resolution Authorizing Mutual Termination of Lease Between Community United Methodist Hospital, Inc. and City of Henderson at Starlight Fire Station

6. Ord. -2nd Reading: Ordinance Amending Appendix A-Zoning – Manufactured Homes & Electronic Signs
   Ordinance Amending Chapter 23, Natural Gas- Theft of Service

7. Ord. 1st Reading: Ordinance Amending Schedule of Distributed Generation Electric Rates and Services for Electric Power and Energy Furnished by
Henderson Municipal Power & Light to Its Housing Authority, Church, and Public School Customers and Consumers to Become Effective for All Services Billed on and After December 1, 2020

An Ordinance Authorizing the Issuance of General Obligation Bonds, Series 2020A in the Approximate Aggregate Principal Amount of $10,000,000.00 for the Purposes of Financing All or a Portion of the Costs for the Acquisition, Construction, Equipping, and Installation of (1) New Municipal Water, Sanitary Sewer, and Storm Sewer Improvements and Additions; (2) New Municipal Fire Station; (3) New Sports Complex; and (4) Stormwater System in Countryview Subdivision; and General Refunding Bonds, Taxable Series 2020B in the Approximate Aggregate Principal Amount of $1,305,000.00 for the Purpose of Refunding in Advance of Maturity the City's General Obligation Bonds, Series 2011A

8. Miscellaneous:

9. Executive Session: Executive Session Pursuant to KRS 61.810(1)(b) for the Purpose of Deliberation on a Possible Future Purchase of Real Property and Pursuant to KRS 61.810(1)(c) Relating to Pending Litigation

10. Adjournment:

Respectfully,

Steve Austin, Mayor

A copy of the foregoing notice received and service thereof waived this 27th day of October, 2020.

__________________________
Commissioner Patti Bugg

__________________________
Commissioner X R. Royster, III

__________________________
Commissioner Bradley S. Staton

__________________________
Commissioner Austin P. Vowels

This meeting will be conducted as a video teleconference meeting as allowed under KRS61.826. Any interruption in the video or audio broadcast at any location shall result in the suspension of the meeting until the broadcast is restored.
City Commission Memorandum
20-164

October 21, 2020

TO: Mayor Steve Austin and the Board of Commissioners
FROM: William L. “Buzzy” Newman, Jr., City Manager
SUBJECT: Proposed Adjustment of Schedules of Energy Rates and Services
Public Hearing

An item under the Public Hearings section of the agenda is a public hearing regarding the proposed Schedule of Energy Rates and Services for Distributed Generation for the Housing Authority, Church, and Public School customer class.

Mr. Chris Heimgartner, General Manager, Henderson Municipal Power and Light, will make a brief statement prior to hearing public comments received. Due to the State of Emergency for COVID-19, limited in-person comments will be allowed. All interested persons are invited to submit oral (call 270-831-4902 to leave a message) or written comments (email: mcollins@cityofhendersonky.org or mail: P.O. Box 716, Henderson, KY 42419-0716) not later than 2:00 p.m., Tuesday, October 27, 2020.

The ordinance may be found under the First Readings section of the agenda.

c: Chris Heimgartner
    Robert Gunter
    Greg Nunn
City Commission Memorandum
20-165

October 21, 2020

TO: Mayor Steve Austin and the Board of Commissioners
FROM: William L. “Buzzy” Newman, Jr., City Manager
SUBJECT: Consent Agenda

The Consent Agenda for the meeting of October 27, 2020, contains the following:

Minutes: August 11, 2020, Called Meeting

Resolutions: Resolution Relating to the Mutual Termination of Lease Between the City of Henderson and Methodist Health, Inc., F/K/A Community United Methodist Hospital, Inc. for Office Space, Garaging Capabilities and Necessary Space in the Starlight Fire Station Facility
A special called meeting of the Board of Commissioners of the City of Henderson, Kentucky, was held on Tuesday, August 11, 2020, at 3:00 p.m., prevailing time, with no primary location designated for this video teleconference meeting as the result of the state of emergency declared by the President of the United States and the Governor of Kentucky due to the global COVID-19 pandemic, and in accordance with recommended and mandated precautions related to COVID-19 per the Kentucky Attorney General Opinion 20-05, limited public attendance was permitted at this meeting due to the highly contagious nature of COVID-19. It is not feasible for the City to maintain order and abide by recommended and mandated precautions while providing a central physical location for public viewing. The meeting was conducted in accordance with KRS 61.826.

There were present Mayor Steve Austin presiding.

PRESENT:
Commissioner Patti Bugg (via Zoom video panelist)
Commissioner X R. Royster, III
Commissioner Bradley S. Staton (via Zoom video panelist)
Commissioner Austin P. Vowels

ALSO PRESENT:
Mr. William L. "Buzzy" Newman, Jr., City Manager
Mr. Eric Shappell, Acting City Attorney
Ms. Maree Collins, City Clerk
Mrs. Donna Stinnett, Community Relations Manager/Public Information Officer
Mr. Robert Gunter, Finance Director (via Zoom)
Mr. Scott Foreman, Fire Chief
Mr. Christopher Connell, Firefighter
Mrs. Jennifer Connell
Mr. Heath Cox, Police Chief
Mrs. Jordan Webb, Emergency Communications Director
Mr. Charles Abbott, Fire Lieutenant
Mr. Nicolas Mangarella, Fire Lieutenant
Mr. Paul Goetz, Fire Driver/Engineer
Ms. Kayla Hammel, Firefighter
Mrs. Connie Galloway, Human Resources Director
Ms. Karla Beckgerd, Human Resources Specialist
Ms. Regenia Bender, Benefits Coordinator (via Zoom)
Mr. Ray Nix, Code Administrator
Ms. Tammy Willett, Community Development Specialist
Mr. Doug Boom, Engineer (via Zoom)
Mr. David Wright, IT Network Administrator II
Mr. Victor Carson, IT Network Administrator
Mr. Tom Williams, HWU General Manager
Ms. Missy Vanderpool, Henderson Economic Development Executive Director
Ms. Whitney Risley, Henderson Economic Development
Ms. Lindsay Locasto, Henderson Downtown Partnership Executive Director
Mr. Kevin Patton, the Gleaner (via Zoom)

PRESENTATION: "20-Year Service Award"

MAYOR AUSTIN expressed appreciation to Firefighter Christopher Connell for his 20 years of service and dedication to the City of Henderson.

CHRISTOPHER CONNELL, Firefighter, thanked his wife Jennifer for being his rock through the years, and fire department family for their support throughout all these years.
PRESENTATION: "Henderson Economic Development Report"

MISSY VANDERPOOL, Henderson Economic Development Executive Director, thanked the Commission for their continued support and gave a brief overview of activities during the fiscal year ending June 30, 2020. She reported that their main focus is on 1) Business Retention & Expansion; 2) Business Attraction; 3) Workforce Development; and 4) Entrepreneurship. She indicated that there are 3007 counties in the United States all competing for the same thing! — attracting businesses. She indicated that Henderson has an advantage in that we are within a day’s drive of 2/3rds of the population of the U.S. She reported that they currently have five active projects and have submitted the City’s Borax Drive property three times. Ms. Vanderpool further reported that the HEAT Lab continues to grow and was utilized for a couple of students through the Governor’s School of Entrepreneurs. Several member bootcamp type events are being planned for the near future. Missy reported that they currently have three sites and are the administrators of the 4-Star Industrial Park.

WHITNEY RISLEY, Director of Existing Industry & Workforce Development, reported that they act as a connector of resources to existing manufacturing and logistics and distribution companies. They have approximately 75 targeted businesses that they visit annually. Over this past fiscal year they have handled six expansions equating to $62 million in investments and 114 new jobs. October is Manufacturing Day where manufacturers open their doors to high school juniors and seniors so they can explore various positions in local companies. Over the three years of this program 226 students have toured eleven manufacturing locations. Also, the Henderson Community College FAME Program will start six students in August for on-the-job experience. The Program has graduated 10 students with nine transitioning to full-time positions. 

MAYOR AUSTIN expressed appreciation for the work they do and indicated that the City wants to continue to support them in future projects.

PRESENTATION: “Vision Plan Update/Request”

DONNA STINNETT, Community Relations Manager/Public Information Officer, explained that the Vision Plan was finalized in 2015 and is revisited for updates every two years. Issues from the last update focused on the downtown area and it will be time for a full review in about six months.

LINDSAY LOCASTO, Downtown Henderson Partnership Executive Director, indicated that the Downtown Master Plan is a part of the Vision Plan and most recently is focused on new holiday décor for the downtown. DHP has raised approximately $13,000.00 toward the purchase of the new classic look Christmas décor and light installation on Second Street to draw people to downtown. The Vision Committee recommends moving forward with these projects.

MAYOR AUSTIN polled the Commissioners and without objection, asked staff to move forward with utilizing Vision Plan budgeted funds for these two projects. He thanked the Vision Plan Committee for all their work and this presentation on these projects and indicated that he believes the spirit of collaboration and partnerships between groups and organizations has never been better than it is right now in Henderson.

PRESENTATION: “20-Year Service Award”

MAYOR AUSTIN expressed appreciation to Parking Enforcement Officer Nancy Stone for her 20 years of service and dedication to the City of Henderson.
CITY OF HENDERSON – RECORD BOOK

Record of Minutes of A Special Called Meeting on August 11, 2020

APPROVAL OF CONSENT AGENDA:

MAYOR AUSTIN asked the City Clerk to read the Consent Agenda.

Minutes: May 26, 2020, Called Meeting

Resolutions: 37-20: Resolution Approving the Second Amendment to the 2006 Gas Sale Contract Between the Public Energy Authority of Kentucky and City of Henderson

38-20: Resolution Approving Memorandum of Understanding Between Henderson Community College, KCTCS and the City of Henderson, Kentucky (Police Department)


Municipal Order: 31-20: Municipal Order Authorizing Submittal of Grant Application to Firehouse Subs Public Safety Foundation in the Amount of $25,000.00, and Acceptance if Awarded

MOTION by Commissioner Royster, seconded by Commissioner Vowels, to approve the items on the Consent Agenda as presented.

The vote was called. On roll call, the vote stood:

Commissioner Bugg ----- Aye:
Commissioner Royster -- Aye:
Commissioner Staton ---- Aye:
Commissioner Vowels --- Aye:
Mayor Austin ------------- Aye:

WHEREUPON, Mayor Austin declared the consent agenda items approved.

/s/ Steve Austin
Steve Austin, Mayor

ATTEST:
Maree Collins, CKMC, City Clerk

ORDINANCE NO. 16-20: FIRST READ
ORDINANCE AMENDING CODE OF ORDINANCES CHAPTER 2 ADMINISTRATION ARTICLE VI PERSONNEL DIVISION 2 CIVIL SERVICE FOR GENERAL EMPLOYEES

AN ORDINANCE AMENDING CHAPTER 2 ADMINISTRATION, ARTICLE VI PERSONNEL, DIVISION 2 CIVIL SERVICE FOR GENERAL EMPLOYEES OF THE CODE OF ORDINANCES OF THE CITY OF HENDERSON BY AMENDING SECTION 2-223 CIVIL SERVICE SYSTEM ESTABLISHED; SECTION 2-225 CIVIL SERVICE COMMISSION; SECTION 2-232 - MEMBERSHIP OF BOARD; ASSESSMENTS AGAINST SALARIES AND PROPERTY; APPLICATIONS FOR RELIEF; ALLOWANCES; SECTION 2-249 - PAY OF ASSESSMENT CONSTITUTES INVIOABLE CONTRACT WITH CITY; SECTION 2-250 - ROSTERS TO BE SUBMITTED; AND DELETING SECTION 2-226.5 - DEPARTMENT HEADS DEEMED AS EMPLOYEES; SECTION 2-227 - PROBATIONAL APPOINTMENTS; DURATION; PREREQUISITE TO PERMANENT STATUS; SECTION 2-228 - PREREQUISITE TO PERMANENT TENURE FOLLOWING PROMOTION TO HIGHER GRADE; SECTION 2-229 - ASSESSMENT AGAINST SALARY FOR PENSION FUND; SECTION 2-230 - EXAMINATION; QUALIFICATIONS; SECTION 2-233 - INVESTMENT OF PENSION FUNDS; SECTION 2-252 - VACANCIES; AND SECTION 2-253 - PROBATIONARY APPOINTMENT OF RECLASSIFIED EMPLOYEE

MOTION by Commissioner Royster, seconded by Commissioner Vowels, that the ordinance be adopted.
The vote was called. On roll call, the vote stood:

- Commissioner Bugg ----- Aye:
- Commissioner Royster -- Aye:
- Commissioner Staton ---- Nay:
- Commissioner Vowels --- Aye:
- Mayor Austin ------------- Aye:

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

ORDINANCE NO. 17-20: FIRST READ
ORDINANCE AMENDING CODE OF ORDINANCES CHAPTER 23 UTILITIES, ARTICLE II WATER AND SEWER SERVICE
AN ORDINANCE AMENDING CODE OF ORDINANCES CHAPTER 23 UTILITIES, ARTICLE II WATER AND SEWER SERVICE, SECTION 23-43 EMPLOYMENT OF GENERAL MANAGER AND MANAGEMENT EMPLOYEES

MOTION by Commissioner Royster, seconded by Commissioner Vowels, that the ordinance be adopted.

The vote was called. On roll call, the vote stood:

- Commissioner Bugg ----- Aye:
- Commissioner Royster -- Aye:
- Commissioner Staton ---- Nay:
- Commissioner Vowels --- Aye:
- Mayor Austin ------------- Aye:

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

ORDINANCE NO. 18-20: FIRST READ
ORDINANCE AMENDING SECTION 2-212 OF ARTICLE VI. PERSONNEL; BY ADOPTING REVISED RULES AND REGULATIONS FOR EMPLOYEES OF THE CITY OF HENDERSON

MOTION by Commissioner Royster, seconded by Commissioner Vowels, that the ordinance be adopted.

The vote was called. On roll call, the vote stood:

- Commissioner Bugg ----- Aye:
- Commissioner Royster -- Aye:
- Commissioner Staton ---- Nay:
- Commissioner Vowels --- Aye:
- Mayor Austin ------------- Aye:

WHEREUPON, Mayor Austin declared the ordinance adopted on its first reading and ordered that it be presented for a second reading at a meeting of the Board of Commissioners.
ORDINANCE NO. 19-20: FIRST READ
ORDINANCE AMENDING APPENDIX A - ZONING
AN ORDINANCE AMENDING APPENDIX A - ZONING, ARTICLE II, SECTION 2.01, DEFINITIONS TO ADD DEFINITION OF ANIMAL CAFÉ; ARTICLE XIX, GB, GENERAL BUSINESS DISTRICT, SECTION 19.03 CONDITIONAL USES; ARTICLE XX, CBD, CENTRAL BUSINESS DISTRICT, SECTION 20.03 CONDITIONAL USES; ARTICLE XXI, H-C HIGHWAY COMMERCIAL DISTRICT, SECTION 21.03 CONDITIONAL USES; AND ARTICLE XXX, RIVERFRONT ZONES, SECTION 30.03 RF-2 LIGHT COMMERCIAL; ARTICLE XXXIII GATEWAY ZONE DISTRICT, SECTION 33.06 PERMITTED USES; ARTICLE XXXIV HENDERSON INNOVATIVE PLANNING DISTRICT SECTION 34.02 PERMITTED USES TO ADD ANIMAL CAFÉS AS CONDITIONAL USES

MOTION by Commissioner Bugg, seconded by Commissioner Royster, that the ordinance be adopted.

The vote was called. On roll call, the vote stood:

Commissioner Bugg ----- Aye:
Commissioner Royster -- Aye:
Commissioner Staton ---- Aye:
Commissioner Vowels --- Aye:
Mayor Austin ------------- Aye:

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

REPORT: "Rezoning #1103 with Revised Development Plan, Cosby Drive"

WILLIAM L. "BUZZY" NEWMAN, Jr., City Manager, reported that the Planning Commission staff had requested that the property at Cosby Drive and U.S. 60 be rezoned due to a revised development plan to change from use as a strip mall/shopping center to an eight unit apartment complex. This is informational only as the Revised Development Plan shall become final on Wednesday, August 26, 2020 unless an aggrieved party or the Board of Commissioners files written notice to the Planning Commission within the allotted twenty-one day time period to have the Board of Commissioners make the final decision.

APPOINTMENT: Utility Commission:
Mr. Russell R. Sights – Term to Expire April 25, 2023

Motion by Commissioner Vowels, seconded by Commissioner Bugg, upon recommendation of Mayor Steve Austin, to appoint Mr. Russell R. Sights to fill the term of Jud Royster on the Utility Commission. Said term to expire April 25, 2023.

The vote was called. On roll call, the vote stood:

Commissioner Bugg ----- Aye:
Commissioner Royster -- Aye:
Commissioner Staton ---- Aye:
Commissioner Vowels --- Aye:
Mayor Austin ------------- Aye:

MEETING ADJOURN:

MOTION by Commissioner Royster, seconded by Commissioner Vowels, to adjourn the meeting.
The vote was called. On roll call, the vote stood:

- Commissioner Bugg: Aye
- Commissioner Royster: Aye
- Commissioner Staton: Aye
- Commissioner Vowels: Aye
- Mayor Austin: Aye

WITHOUT OBJECTION, Mayor Austin declared the Meeting adjourned at approximately 3:45 p.m.

ATTEST:

Maree Collins, CKMC
City Clerk

Steve Austin, Mayor
October 27, 2020
City Commission Memorandum
20-170

October 22, 2020

TO: Mayor Steve Austin and the Board of Commissioners

FROM: William L. “Buzzy” Newman, Jr., City Manager

SUBJECT: Starlite Fire Station – Ambulance Service Lease Termination

The accompanying resolution authorizes the Mayor to execute a Mutual Termination of Lease agreement with Community United Methodist Hospital that was for office space, garaging capabilities and necessary space from which to operate the Ambulance Service in the Starlite Fire Station facility.

The parties mutually agreed that the Lease is terminated and canceled as of September 30, 2020. This change is precipitated by Methodist Hospital joining Deaconess Health Systems and subsequent changes in operations of the Ambulance Service.

c: Dawn Kelsey
   Scott Foreman
   Robert Gunter
   Brian Williams
RESOLUTION NO. 

RESOLUTION RELATING TO THE MUTUAL TERMINATION OF LEASE BETWEEN THE CITY OF HENDERSON AND METHODIST HEALTH, INC., F/K/A COMMUNITY UNITED METHODIST HOSPITAL, INC. FOR OFFICE SPACE, GARAGING CAPABILITIES AND NECESSARY OFFICE SPACE IN THE STARLITE FIRE STATION FACILITY

WHEREAS, the City has previously entered into a certain Lease Agreement with Hospital on or about March 31, 2011 (the “Lease”), for office space, garaging capabilities and necessary space from which to operate the Ambulance Service in the Starlite Fire Station facility; and

WHEREAS, the parties mutually agree that the Lease is hereby terminated and canceled as of September 30, 2020, as set forth in the attached Mutual Termination of Lease marked Exhibit “A”.

NOW THEREFORE, BE IT RESOLVED, by the City of Henderson that the Mutual Termination Lease between the City of Henderson and Methodist Health, Inc., f/k/a Community United Methodist Hospital, Inc. is hereby approved.

On motion of Commissioner ________________, seconded by Commissioner ________________, that the foregoing Resolution be adopted, the vote was called. On roll call the vote stood:

Commissioner Royster: _______ Commissioner Bugg: _______
Commissioner Staton: _______ Mayor Austin: _______
Commissioner Vowels: _______

WHEREUPON, Mayor Austin declared the Resolution adopted, affixed his signature and the date thereto and ordered that the same be recorded.

________________________
Steve Austin, Mayor

ATTEST:

________________________
Mare Collins, CKMC,
City Clerk

APPROVED AS TO FORM AND LEGALITY THIS 27 DAY OF OCTOBER, 2020.

By: _______________________
Dawn S. Kelsey
City Attorney
MUTUAL TERMINATION OF LEASE

THIS MUTUAL TERMINATION OF LEASE ("Termination") is made and entered into effective as of the 1st day of October, 2020, by and between THE CITY OF HENDERSON, KENTUCKY (the "City"); and METHODIST HEALTH, INC., f/k/a COMMUNITY UNITED METHODIST HOSPITAL, INC. ("Hospital").

WITNESSETH THAT:

WHEREAS, the City entered into a Lease ("Lease") on March 31, 2011 with Methodist Hospital to provide office space, garaging capabilities and necessary space from which Methodist Hospital to operate the Ambulance Service in the Starlite Fire Station facility located at 343 Starlite Drive, Henderson, Kentucky ("the Premises"); and

WHEREAS, the parties desire to terminate and cancel their respective rights and obligations under the Lease as set forth below

NOW, THEREFORE, in consideration of the foregoing, and other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the parties hereby agree as follows:

1. Termination of Lease. The parties mutually agree that the Lease is hereby terminated and canceled, at midnight on September 30, 2020 (the "Termination Date"), subject to the terms and conditions contained herein. Hospital, for itself, and its assigns and subtenants, if any, does hereby cancel, release, disclaim, relinquish and surrender any and all right, title, and interest in and to the Premises described under the Lease. Except as provided below, the parties acknowledge and agree that neither party has any further rights, liabilities or obligations to the other party, its successors, subsidiaries, officers, directors, employees or agents, pursuant to the Lease arising after the Termination Date.

2. Survival of Rights. Notwithstanding anything contained herein to the contrary, this Termination shall not affect any of the parties' rights and responsibilities accruing under the Lease prior to the Effective Date of this Termination, and shall not relieve any party from any obligations, or cause any party to relinquish any rights, that extend beyond the termination of the Lease pursuant to the express written terms of the Lease.

3. Interpretation. This instrument contains the entire agreement between the parties concerning the termination of the Lease, and supersedes all prior oral or written understandings, agreements, or contracts, formal or informal, between the parties hereto. This Termination shall be construed under, and governed by, the laws of the Commonwealth of Kentucky. This Termination shall inure to the benefit of, and be binding upon, the parties and their respective heirs, successors and assigns. This Termination may be executed simultaneously in several counterparts, each of which shall be deemed an original, and all which together shall constitute one and the same instrument.
IN WITNESS WHEREOF, the parties, by their duly authorized representatives, have entered into this Termination as of the day and year first written above.

CITY OF HENDERSON, KENTUCKY

By: ____________________________
Printed Name: ____________________
Title: ____________________________

“City”

METHODIST HEALTH, INC. f/k/a COMMUNITY UNITED METHODIST HOSPITAL, INC.

By: ____________________________
Printed Name: ____________________
Title: ____________________________

“Hospital”
City Commission Memorandum
20-166

October 21, 2020

TO: Mayor Steve Austin and the Board of Commissioners

FROM: William L. "Buzzy" Newman, Jr., City Manager

SUBJECT: Amending Appendix “A” Zoning – Manufactured Housing and Signage

Enclosed for the agenda of Tuesday, October 27, 2020, is final reading of an ordinance amending Appendix “A” Zoning relating to Manufactured Housing and Electronic Signage.

The proposed amendments to Appendix A-Zoning relate to manufactured housing and electronic signage in the City of Henderson. At the September 22, 2020, meeting of the Board of Commissioners, a review of the draft ordinance was presented by City Attorney Dawn Kelsey and a motion was passed to request the Planning Commission to initiate a review of the zoning ordinance to determine the appropriateness of amending the ordinance and hold any necessary formal hearing for recommended changes to these sections.

The Planning Commission held a public hearing on October 6, 2020 where unanimous approval was given to approve the amendments to Sections 2.01, Definitions-(1) Class A Manufactured Housing (A)(4); 5.01, Powers and Duties (q); 13.02, Permitted Uses; 13.03, Conditional Uses; 31.03 (1), Permitted Uses; 31.03 (2), Conditional Uses; and 33.14, Signage.

Your approval of the attached ordinance is requested.

c: Brian Bishop
Ray Nix
October 7, 2020

Mayor Steve Austin
City Commissioners
Henderson Municipal Center
Henderson, KY 42420

ATTN: Buzzy Newman, City Manager

RE: Amendments to Henderson City Zoning Ordinance, Appendix A Zoning, - The Planning Commission will consider adding changes to the following Articles below.

Please be advised on Tuesday, October 6, 2020 the Henderson City-County Planning Commission held a Public Hearing to consider the following:

- Article II, Section 2.01, Definitions- (1) Class A Manufactured Housing (a)(4);
- Article V, Section 5.01. – Powers and duties; (q)
- Article XIII- R-3, Medium to High Density Residential District, Section 13.02, Permitted uses;
- Article XIII- R-3, Medium to High Density Residential District, Section 13.03, Conditional uses;
- Article XXXI, Audubon Residential District, Section 31.03-Permitted uses;
- Article XXXI, Audubon Residential District, Section 31.03-Conditional uses;
- Article XXXIII, Gateway Zone District #1, Section 33.14-Signage

PLANNING COMMISSION RECOMMENDATION-
MOTION WAS MADE BY DAVID WILLIAMS, SECONDED BY MAC ARNOLD TO PROPOSE A RECOMMENDATION TO THE CITY COMMISSION THE APPROVAL OF THE AMENDMENTS TO THE HENDERSON CITY ZONING ORDINANCE,
APPENDIX A ZONING. THE PLANNING COMMISSION HAVE CONSIDERED
ADDING CHANGES TO THE FOLLOWING ARTICLES;
ARTICLE II, SECTION 2.01, DEFINITIONS- (1) CLASS A MANUFACTURED
HOUSING (A) (4);
ARTICLE V, SECTION 5.01- POWERS AND DUTIES; (Q)
ARTICLE XIII- R-3, MEDIUM TO HIGH DENSITY RESIDENTIAL DISTRICT, SECTION
13.02, PERMITTED USES;
ARTICLE XIII- R-3, MEDIUM TO HIGH DENSITY RESIDENTIAL DISTRICT, SECTION
13.02, CONDITIONAL USES;
ARTICLE XXXI, AUDUBON RESIDENTIAL DISTRICT, SECTION 31.03-PERMITTED
USES;
ARTICLE XXXI, AUDUBON RESIDENTIAL DISTRICT, SECTION 31.03-
CONDITIONAL USES;
ARTICLE XXXIII, GATEWAY ZONE DISTRICT #1, SECTION 33.14-SIGNAGE.

Attached is a copy of the transcript of the public hearing, and documents related to the
text amendments.

Respectfully submitted,

Brian Bishop
Executive Director, AICP
Henderson City-County Planning Commission
BB/tgc
Cc: Dawn Kelsey
Henderson City-County
Planning Commission
October 6, 2020

The Henderson City-County Planning Commission held a meeting October 7, 2020 at 6:00 p.m., at the Peabody Building, 1990 Barret Ct, Suite F, via teleconference. Members present via teleconference: Chairman David Dixon, Vice-Chairman David Williams, Bobbie Jarrett, Gary Gibson, Rodney Thomas, Dickie Johnson, Gray Hodge, Kevin Richard, Mac Arnold, Kevin Herron, and Tommy Joe Fridy. Stacy Denton and Doug Bell were absent. Staff present: Director Brian Bishop, Jennifer Marks, Heather Lauderdale and Chris Raymer. Theresa Curtis was absent.

Chairman Dixon: The next items are some amendments to the Henderson City Zoning Ordinance.

I think Mr. Ray Nix is going to lead that discussion.

Ray Nix: Yes. The first amendments relate to manufactured housing. Currently, manufactured housing is permitted in R-3 and ARD, the Audubon Residential District. Just for your information, R-3 has a segment roughly from Fifth Street north to Twelfth, and east of Green Street to just east of North Adams Street; for a geographical area.

Another geographical area of R-3 is from Sand Lane north to Pringle, and from the cemetery east to Atkinson Street.

The ARD zone covers an area from Pringle north to Clay, and Ingram east to Atkinson Street. So, that gives you a geographical area of what we’re discussing here.

The nature of the sizes of some of the lots in some of those districts end up actually preventing the placement of a manufactured home because the ordinance states that the home shall meet all requirements for lot, yard, building and other requirements for the district.
In essence, no variances.

Regular stick built constructed homes are allowed variances but not to manufactured homes as described. With current manufactured home designs and our current ordinance definition and requirement standards, manufactured homes should have the variance opportunities to help meet a long-term goal of the City of providing affordable housing.

So, the amendments for manufactured housing are as follows;

Section 2.01, in definitions of manufactured housing the following is added: variances may be granted for yard setbacks when the manufactured home is approved as a conditional use in R-3 or ARD districts.

Going into the actual zoning segment itself; Section 13.02, R-3 Zoning District; the permitted use of Class A manufactured homes has been deleted but in 13.03, R-3 Zoning district conditional uses, Class A manufactured homes has been added to include it’s definition in addition to the just stated section I just mentioned about Section 2.01.

As well as the additional limitations that are described in the definitions of Class A manufactured homes.

Some of those additional limitations relate to acceptable installation and appearances as well as set-back limitations. There’s a contextual set back requirements that are similar to what is described in our HIP and also our Gateway Zoning District. So, we utilize those for reference.

In Section 31.03 is the ARD Zoning District permitted use of Class A manufactured homes, that has been deleted from that segment. However, again, in Section 31.03 ARD Zoning District, conditional uses of Class A manufactured homes has been added similar to what we did in the R-3 zoning segment.

We have also added in both the R-3 and ARD zoning district language, the statement that in the granting of the variance, in no instance shall any
permanent structure be permitted to be placed in a public utility or drainage easement.

This is the same statement language that has been added as an amendment to Section 5.01, 7(q) to the powers and duties of the Board of Zoning Adjustment regarding to the hearing and decisions of the board on applications for variances. That pretty much covers the amendments that are regarding the manufactured housing.

The final amendment is regarding signage in the Gateway Zoning District. When the Gateway zone was instituted back in 2014, there was flashing, traveling, animated signs were prohibited.

We have observed the following over the past several years; 1.) The signage industry has evolved and animated signs are becoming the method of choice to provide a method of messages on one sign board. 2.) The improvement of technology has been significant which has allowed for the dialing in of electronics to meet motion and light sensitivity and requirements. Animated signs are currently permitted in Highway Commercial, and by Conditional Use in General Business, Central Business District, as well as Light and Heavy Industrial.

Some recent examples of Conditional Use permits for these animated signs in the General Business zone which is typically up and down Green Street are the; convenient care, Independence Bank, German American Bank, Cancun Restaurant, and more recently the Beverage Barn and just last month the Race Creek Baptist Church, which is across from Jefferson Elementary School.

The City is requesting the addition of animated signs as a Conditional Use permit for the Gateway Zone, which includes all the definitions and specifications requirements currently listed for the signs.

It also includes limitations that the sign be a part of a monument-type sign with the monument part to be no taller than eight (8) feet in height and width with the actual site itself limited to four (4) feet in height and
six (6) feet in width. The materials used shall be consistent with the current permitted materials list for said signs in the Gateway Zone district and that landscaping is to be established and maintained as part of the sign location.

That was a lot to cover, but that pretty much concludes the presentation and explanations as best as I can give them. If you have any questions, I’ll be glad to answer them.

Chairman Dixon: Let’s make sure we understand. In this case, we would be asked to make a recommendation again?

Brian Bishop: Correct. This text was originated by the City Commission, the board of Commissioners so they sent that to us with the proposed language. We hold the public hearing and recommend back to the Board of Commissioners.

Kevin Richard: Mr. Nix?

Ray Nix: Yes?

Kevin Richard: Being that the verbiage still prohibits a back lit sign, what would be an example of a back lit sign?

Ray Nix: It would basically be a sign case with the light source behind the sign face.

Brian Bishop: Mr. Richards, would you like an example, perhaps?

Kevin Richard: Just for clarity...an LED flashing sign versus a back lit sign; what makes a back lit sign different from the LED sign?

Ray Nix: Quite often, LED is on the front face of the sign, and they can have simple messages as well like open, or closed. I think that’s probably an example of that but a back lit sign is basically the old type signs that are still hanging on some of the business up and down Second Street where they’re basically a plastic sign front and back, and inside is a light source that illuminates it.
Brian Bishop: Those are normally fluorescent bulbs, correct?
Ray Nix: Yes.
Brian Bishop: Does that help Commissioner Richard?
Kevin Richard: Yes, I thought that’s what it meant, I just wanted to clarify it so everyone would make sure what that was, including myself.
Chairman Dixon: Thank you, thank you. Any other questions?
As far as the public hearing, do we have anybody who would like to speak for or against these amendments?
Brian Bishop: We have eight (8) folks watching on Facebook, and no questions at this time.
Chairman Dixon: Anybody watching on Facebook want to ask a question or make a point?
Brian Bishop: We scared one person off, we’re down to seven; still no questions.
Chairman Dixon: Any other questions from the Commission?
I’ll entertain a motion in regards to these amendments to the Henderson City Zoning Ordinance.

*MOTION WAS MADE BY DAVID WILLIAMS, SECONDED BY MAC ARNOLD TO PROPOSE A RECOMMENDATION TO THE CITY COMMISSION THE APPROVAL OF THE AMENDMENTS TO THE HENDERSON CITY ZONING ORDINANCE, APPENDIX A ZONING. THE PLANNING COMMISSION HAVE CONSIDERED ADDING CHANGES TO THE FOLLOWING ARTICLES;

*ARTICLE II, SECTION 2.01, DEFINITIONS- (1) CLASS A MANUFACTURED HOUSING (A) (4);*
ARTICLE V, SECTION 5.01- POWERS AND DUTIES; (Q)
ARTICLE XIII- R-3, MEDIUM TO HIGH DENSITY RESIDENTIAL DISTRICT, SECTION 13.02, PERMITTED USES;
ARTICLE XIII- R-3, MEDIUM TO HIGH DENSITY RESIDENTIAL DISTRICT, SECTION 13.02, CONDITIONAL USES;
ARTICLE XXXI, AUDUBON RESIDENTIAL DISTRICT, SECTION 31.03-PERMITTED USES;
ARTICLE XXXI, AUDUBON RESIDENTIAL DISTRICT, SECTION 31.03-CONDITIONAL USES;
ARTICLE XXXIII, GATEWAY ZONE DISTRICT #1, SECTION 33.14-SIGNAGE.

Chairman Dixon: We have a motion and a second. Madame Secretary, please call the roll.

AYE: ALL
NAY: NONE

Chairman Dixon: The motion passes, thank you folks.
AMENDMENTS TO HENDERSON CITY ZONING
ORDINANCE, APPENDIX “A” ZONING
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."

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:

(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.

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

**Certificate of use and occupancy.** The certificate issued by the building official which permits the use of a building in accordance with the approved plans and specifications and which certifies compliance with the provisions of law for the use and occupancy of the building in its several parts together with any special stipulation or conditions of the building permit.

**City.** The word "city" shall mean the Board of Commissioners of the City of Henderson, Kentucky.

**Clerk.** The clerk of the governing body.

**Club.** An organization of persons for special purposes or for the promulgation of sports, arts, science, literature, politics or the like, but not for profit.

**Commission.** The word "commission" shall mean the Henderson City-County Planning Commission.

**Comprehensive plan.** A comprehensive plan for the development of the local government, prepared and adopted by the planning commission and board of commissioners pursuant to state law, and including any part of such plan separately adopted and any amendment to such plans, or parts thereof.

**Conditional use.** A use which is essential to or would promote the public health, safety, or welfare in one (1) or more zones, but would impair the integrity and character of the zone in which it is located, or in adjoining zones, unless restrictions on location, size, extent, and character of performance are imposed in addition to those imposed in the zoning regulation.

**Conditional use permit.** Legal authorization to undertake a conditional use issued by the administrative official pursuant to authorization by the board of zoning adjustment, consisting of two (2) parts:

1. A statement of the factual determination by the board of zoning adjustment which justifies the issuance of the permit; and

2. A statement of the specific conditions which must be met in order for the use to be permitted.
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.

(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.

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.
(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.

*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.

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.

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.

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, 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.
*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.

**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.

**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).

**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.

(Ord. No. 23-14, Exh. A, 7-8-14; Ord. No. 06-15, Exh. A, 4-14-15; Ord. No. 24-16, Exh. A, 7-12-16; Ord. No. 28-17, 6-13-17; Ord. No. 26-18, 8-28-18)
Sec. 5.01. - Powers and duties.

The board of zoning adjustment established by Ordinance No. 35-66 passed in 1966, and continued by Ordinance No. 3-70 passed in 1970, and Ordinance No. 35-70 passed in 1970, and Ordinance No. 15-82 passed in 1982, is continued by this ordinance. The board is known as the Henderson City Board of Zoning Adjustment. The board has the powers, duties, and responsibilities as set forth in KSA Chapter 100.

(a) Jurisdiction of the board of adjustment for the city shall be within the incorporated limits of the city, as exists or is amended in the future.

(b) The membership, appointment, and term of office of the board of adjustment is as follows: The board shall consist of five (5) citizen members, one (1) of which shall be citizen member of the planning commission and resident of the City of Henderson. The Mayor of Henderson shall appoint the members of the board with the approval of the City of Henderson legislative body. The term of office of members first appointed shall be staggered so that a proportionate number serve one (1), two (2), three (3), and four (4) years respectively, with later appointments or reappointments continuing the staggered pattern.

(c) Reimbursement for expenses lawfully incurred by a member of the board of adjustment in the performance of his duties may be authorized by formal action of the city commission.

(d) The board of adjustment shall have the power to receive, hold, administer and disburse funds which it may lawfully receive from any source. Prior to the beginning of each fiscal year the board may adopt a budget which will be presented to the board of commissioners for the purpose of receiving funds for the cost of its operation.

(e) Expenditures of such appropriations and funds shall be in accordance with the formal action of the board pursuant to the regulations lawfully established. Administration of the board shall be as described in KRS Ch. 100 and may be amended in the future.

(f) Vacancies on the board of adjustment shall be filled within sixty (60) days by the appointing authority. If the appointing authority fails to act within that time, the planning commission shall fill the vacancy. When a vacancy occurs other than through expiration of the term of office, it shall be filled for the remainder of the term. All appointments shall continue until the successors shall have qualified.

(g) All members of the board of adjustment shall, before entering upon their duties, qualify by taking the oath of office prescribed by Section 228 of the Constitution of the Commonwealth of Kentucky before any judge, notary public, clerk of a court or justice of the peace within the district or county in which he/she resides.

(h) Any member of the board of adjustment may be removed by the appropriate appointing authority for inefficiency, neglect of duty, malfeasance or conflict of interest. Any appointing authority who exercises the power to remove a member of the board of adjustments shall submit a written statement to the commission setting forth the reasons for removal, and the statement shall be read at the next meeting of the board of adjustment which shall be open to the general public. The member so removed shall have the right to appeal from the removal to the circuit court of the county in which he/she resides.

(i) The board of adjustment shall annually elect a chairman, vice-chairman and secretary and any other such officers it deems necessary and any officer shall be eligible for reelection at the expiration of his term.

(j) The board of adjustment shall conduct meetings at the call of the chairman who shall give written notice or oral notice to all members of the board at least seven (7) days prior to the meeting, which notice shall contain the date, time and place for the meeting and the subjects which will be discussed.

(k) A simple majority of the total membership of a board of adjustment as established by regulation or agreement shall constitute a quorum. Any member of the board of adjustment who has any
direct or indirect financial interest in the outcome of any question before the body shall disclose the nature of the interest and shall disqualify himself/herself from voting on the questions.

(l) The board of adjustment shall adopt bylaws for the transaction of business and shall keep minutes and records of all proceedings including regulations, transactions, findings, and determinations and the number of votes for and against each question, and if any member is absent or abstains from voting, indicating the fact, all of which shall immediately after adoption, be filed in the office of the board. A transcript of the minutes of the board of adjustment meeting shall be provided if requested by a party, at the expense of the requesting party, and the transcript shall constitute the record.

(m) The board of adjustment may employ or contract with planners or other persons as it deems necessary to accomplish its assigned duties.

(n) The board of adjustment shall have the power to issue subpoena to compel witnesses to attend its meetings and give evidence bearing upon the questions before it. The sheriff shall serve such subpoenas. The circuit court may, upon application by the board, compel obedience to such court or such subpoena by proceedings of contempt.

(o) The chairman of the board of adjustments shall have the power to administer an oath to witnesses prior to their testifying before the board on any issue.

(p) The board shall have the power to hear and decide applications for conditional use permits to allow the proper integration into the community of uses which are specifically named in the zoning regulations which may be suitable only in specific locations in the zone only if certain conditions are met.

(1) The board may approve, modify, or deny any application for a conditional use permit. If it approves such permits it may attach necessary conditions such as time limitations, requirements that one (1) or more things be done before the request can be initiated, or conditions of a continuing nature. Any such conditions shall be recorded in the board's minutes and on the conditional use permit along with a reference to the specific section in the zoning regulation listing the conditional use under consideration. The board shall have the power to revoke conditional use permits or variances for noncompliance with the condition thereof. Furthermore, the board shall have a right of action to compel offending structures or uses removed at the cost of the violator and may have judgment in personam for such cost.

(2) Granting of a conditional use permit does not exempt the applicant from complying with all of the requirements of building, housing and other regulations.

(3) In any case where a conditional use permit has not been exercised within the time limit set by the board, or within one (1) year, if no specific time limit has been set, such conditional use permit shall not revert back to its original designation unless there has been another public hearing. "Exercised" as set forth in this section shall mean that binding contracts for the construction of the main building or other improvements have been met or, in the absence of contracts, that the main building or other improvement is under construction to a substantial degree, or that prerequisite conditions involving substantial investment, under contract, in development are completed. When construction is not a part of the use, "exercised" shall mean that the use is in operation in compliance with the conditions as set forth in the permit.

(4) The administrative official shall review all conditional use permits except those for which all conditions have been permanently satisfied, at least once annually and shall have the power to inspect the land or structure where the conditional use is located in order to ascertain that the landowner is complying with all of the conditions listed on the conditional use permit. If the landowner is not complying with all of the conditions listed on the conditional use permit, the administrative official shall report the fact in writing to the chairman of the board of adjustments. The report shall state specifically the manner in which the landowner is not complying with the conditions on the conditional use permit,
and a copy of the report shall be furnished to the landowner at the same time it is furnished to the chairman of the board of adjustments. The board shall hold a hearing on the report within a reasonable time and notice of the time and place of the hearing shall be furnished to the landowner at least one (1) week prior to the hearing. If the board of adjustments finds that the facts alleged in the report of the administrative official are true and that the landowner has taken no steps to comply with them between the date of the report and the date of the hearing, the board of adjustments may authorize the administrative official to revoke the conditional use permit and take the necessary legal action to cause the termination of the activity on the land which the conditional use permit authorizes.

(5) Once the board of adjustment has completed a conditional use permit and all the conditions required are such type that they can be completely and permanently satisfied, the administrative official upon request of the applicant may, if facts warrant, make a determination that the conditions have been satisfied, and note the conclusion in the margin of the conditional use permit which is on file in the office of the code administrator. Thereafter said use, if it continues to meet the other requirements of the regulations, will be treated as a permitted use.

(6) When an application is made for land located within or abutting any residential zoning district, written notice shall be given at least fourteen (14) days in advance of the public hearing on the application to the applicant, administrative official, the mayor and city clerk, an owner of every parcel of property adjoining the property to which the application applies. Written notice shall be by first class mail with certification by the board's secretary or other officer that the notice was mailed. It shall be the duty of the applicant to furnish to the board the name and address of each parcel of property adjoining the property to which the application applies. Written notice may be mailed to two (2) or more co-owners of an adjoining property who are listed in the property valuation records as having the same address.

(7) When any property within the required notification area for a public hearing upon a conditional use permit application is located within an adjoining city, county, or planning unit, notice of the hearing shall be given at least fourteen (14) days in advance of the hearing by first class mail to that unit's planning commission. If the adjoining property is not part of a planning unit, notice shall be given to the mayor of the city in which the property is located or, if the property is in an unincorporated area, notice shall be given to the judge/executive of the county in which the property is located.

(q) The board shall have the power to hear and decide on applications for variances. The board may impose any reasonable conditions or restrictions on any variance it decides to grant. In the granting of a variance, in no instance shall any permanent structure be permitted to be placed in a public utility or drainage easement.

(r) Before any variance is granted, the board must find that the granting of the variance will not adversely affect the public health, safety or welfare, will not alter the essential character of the general vicinity, will not cause a hazard or a nuisance to the public and will not allow an unreasonable circumvention of the requirements of the zoning regulations. In making these findings the board shall consider whether:

(1) The requested variance arises from special circumstances which do not generally apply to land in the general vicinity, or in the same zone;

(2) The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant; and
(3) The circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.

(s) The board shall deny any request for a variance arising from circumstances that are the result of willful violations of the zoning regulation by the applicant subsequent to the adoption of the zoning regulation from which relief is sought.

(t) The board shall not possess the power to grant a variance to permit a use of any land, building, or structure which is not permitted by the zoning regulation in the zone in question, or to alter density requirements in the zone in question.

(u) A dimensional variance applies to the property for which it is granted, and not to the individual who applied for it. A variance also runs with the land and is transferrable to any future owner of the land, but it cannot be transferred by the application to a different site.

(v) The lawful use of a building or premises existing at the time of adoption of any zoning regulations affecting it may be continued, although such use does not conform to the provisions of such regulations except as otherwise provided herein. The board of adjustment shall not allow the enlargement or extension of a nonconforming use beyond the scope and area of its operation at the time the regulation which makes its use nonconforming was adopted, nor shall the board permit a change from one (1) nonconforming use to another unless the new nonconforming use is in the same or a more restrictive classification provided, however, the board of adjustments may grant approval, effective to maintain nonconforming use status, for enlargements or extensions, made or to be made to the facilities of a nonconforming use where the use consists of the presenting of a major public attraction or attractions such as a sports event or events, which has been presented at the same site over such period of years and has such attributes and public acceptance as to have attained local prestige and to have achieved the status of a public tradition, contributing substantially to the economy of the community and state, of which prestige and status the site is an essential element, and where the enlargement or extension was or is designed to maintain the prestige and status by meeting the increasing demand of participants and patrons.

(w) The board of adjustment shall have the power to hear and decide cases where it is alleged by an applicant that there is an error in any order, requirement, decision, grant or refusal made by an administrative official in the enforcement of the zoning regulations. Such appeal shall be taken within thirty (30) days.

(x) Appeals to the board may be taken by any person or entity claiming to be injuriously affected or aggrieved by an official action or decision of the zoning enforcement officer. Such appeal shall be taken within thirty (30) days after the appellant or his agent receives notice of the action appealed from, by filing with said officer and with the board a notice of appeal specifying the grounds thereof, and giving notice of such appeal to any and all parties of record. Said officer shall forthwith transmit to the board all papers constituting the record upon which the action appealed from was taken and shall be treated as and be the respondent in such further proceedings. At any hearing by the board any interested person may appeal and enter his appearance and all shall be given an opportunity to be heard.

(y) The board shall fix a reasonable time for hearing the appeal and give public notice in accordance with KRS Ch. 424, as well as written notice to the appellant and the administrative official at least one (1) week prior to the hearing and shall decide it within thirty (30) days. The affected party may appear at the hearing in person or by attorney.

(z) If no building permit has been issued and a builder begins or continues to build, a restraining order may be obtained upon application to the property court of record and evidence of the lack of a building permit shall establish a prima facie case for the issuance of the restraining order.

(Ord. No. 23-14, Exh. A, 7-8-14)
Sec. 13.02. - Permitted uses.

In all R-3 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 R-2, medium density residential district.
(b) Accessory uses.
(c) Class A manufactured homes, as defined in "Article II, Definitions, Section 2.01, Definitions".

Sec. 13.03. - Conditional uses.

(a) Any use classified as a conditional use in the R-2, medium density residential district.
(b) Reserved.
(c) Reserved.
(d) Bed and breakfast inns.
(e) Class A manufactured homes, as defined in "Article II, Definitions, Section 2.01, Definitions", with the following limitations:

(1) Manufactured home shall meet all acceptable installations standards of Class A manufactured housing as provided in Section 2.01 of this code; and
(2) Manufactured home shall meet all acceptable appearance standards of Class A manufactured housing as provided in Section 2.01 of this code; and
(3) In the granting of a variance, in no instance shall the front yard setback be less than the average front setback that exists on the nearest developed lots on the same block that front on the same side of the street as the subject lot, in accordance with the following rules:
   a. Lots that front on a different street than the subject lot or that are separated from the subject lot by a street may not be used in computing the average;
   b. When the subject lot is a corner lot, the average setback will be computed on the basis of the two (2) nearest developed lots that front on the same side of the street as the subject lot;
   c. When the subject lot abuts a corner lot fronting the same street, the average setback will be computed on the basis of the abutting corner lot and the nearest two (2) lots that front on the same street as the subject lot; and
(4) In the granting of a variance, in no instance shall either side yard setback be less than five (5) feet; and
(5) In the granting of a variance, in no instance shall the rear yard setback be less than ten (10) feet; and
(6) In the granting of a variance, in no instance shall any permanent structure be permitted to be placed in a public utility or drainage easement.
Sec. 31.03. - Permitted uses.

1. **Permitted Uses.** The following uses are permitted:

   (a) Single-family dwellings.
   (b) Two-family dwellings (duplexes).
   (e) Class A manufactured homes, as defined in Article II, Section 2.01.
   (d) Townhouses in accordance with Section 4.05.
   (e) Accessory buildings or uses customarily incidental to any of the permitted uses, when located on the same lot and not involving any business, profession, trade or occupation.
   (f) Community gardens.
   (g) Home occupation as defined in Section 4.38.
   (h) Mixed-uses.

   i. **Mixed use buildings:**

      Existing structures containing both residential dwelling units and non-residential commercial uses as found herein: residential dwelling units may be located on the ground floor of mixed-use buildings provided that a minimum of one thousand five hundred (1,500) square feet of non-residential floor areas is located on the ground floor, or when all the following criteria are met:

      1. The building is a minimum of two (2) stories in height;
      2. Commercial or office uses are restricted to the ground floor unless a conditional use permit is obtained;
      3. Each ground floor dwelling unit is at the rear of the building, behind a commercial or office use, unless a conditional use permit is obtained.

   ii. **Neighborhood retail sales and services:**

      The use must be located in an existing structure, originally constructed for neighborhood business, or located within any mixed-use building, with the following criteria:

      1. The gross floor area of the original structure may be expanded with a conditional use permit.
      2. Retail sales and services that have been traditionally found in older urban neighborhoods. Typical uses include grocery shops, butcher shops, delicatessens, fruit and vegetable markets, ice cream shops, bakeries, cafes, pharmacies, music shops and schools, dance studios, antique shops, shoe repair, restaurants without drive-thrus, clothing and apparel stores, barber and beauty shops, and similar uses as determined by the codes administrator.
      3. Bars, banks with drive-thrus, and restaurants with drive-thrus are permitted with a conditional use permit.

   iii. **Professional offices:**

      The following professional office uses, may be allowed as permitted uses in existing or new buildings originally constructed for neighborhood business, or mixed-use purposes:

      1. Medical, dental, optometry, chiropractic offices, architecture and engineering offices, attorney, title or other legal offices, professional services including real-estate, insurance, property management, tourism and travel, marketing, design, and other related professional services.
2. Such professional office uses shall only be permitted on the first floor of a mixed use building unless a conditional use permit is obtained.

2. Conditional uses.
   (a) Funeral homes.
   (b) Nonprofit public and private facilities.
   (c) Schools, libraries, churches and other facilities normally incidental thereto, provided that there is adequate access to all required off-street parking areas, on-site parking spaces as required in Section 9.01 are provided, and there is no parking in the required front yard (see Section 31.05 parking (2)(a).
   (d) Bed and breakfast inns.
   (e) Family child-care home, with the following limitations:
      i. There shall be a maximum of ten (10) children allowed in the home of which no more than six (6) shall be unrelated to the care provider. No more than four (4) children under twelve (12) months of age nor more than six (6) children under six (6) years of age, including the provider's own or related children, shall be kept in the home.
      ii. No person may be employed that is not a resident of the premises.
      iii. Otherwise fully complies with the provisions of a home occupation as provided in Section 2.01 of this zoning ordinance.
   (f) Class A manufactured homes, as defined in "Article II, Definitions, Section 2.01, Definitions", with the following limitations:
      (1) Manufactured home shall meet all acceptable installations standards of Class A manufactured housing as provided in Section 2.01 of this code; and
      (2) Manufactured home shall meet all acceptable appearance standards of Class A manufactured housing as provided in Section 2.01 of this code; and
      (3) In the granting of a variance, in no instance shall the front yard setback be less than the average front setback that exists on the nearest developed lots on the same block that front on the same side of the street as the subject lot, in accordance with the following rules:
         a. Lots that front on a different street than the subject lot or that are separated from the subject lot by a street may not be used in computing the average;
         b. When the subject lot is a corner lot, the average setback will be computed on the basis of the two (2) nearest developed lots that front on the same side of the street as the subject lot;
         c. When the subject lot abuts a corner lot fronting the same street, the average setback will be computed on the basis of the abutting corner lot and the nearest two (2) lots that front on the same street as the subject lot; and
      (4) In the granting of a variance, in no instance shall either side yard setback be less than five (5) feet; and
      (5) In the granting of a variance, in no instance shall the rear yard setback be less than ten (10) feet; and
      (6) In the granting of a variance, in no instance shall any permanent structure be permitted to be placed in a public utility or drainage easement.
Sec. 33.14. - Signage.

Article X of the zoning ordinance applies, and the following additional district signage regulations shall also apply:

1. **Wall signage.**
   
   (a) Each business will be allowed one (1) wall-mounted sign per street frontage, up to ten (10) percent of the surface area of the wall area;

2. **Pedestrian signage.**
   
   (a) Pedestrian oriented signs are designed and intended for pedestrians to easily read the signage of the business, as they stand on the sidewalk adjacent to the business;
   
   (b) One (1) pedestrian oriented sign is permitted per business fronting Second Street, in addition to existing on-site signage allowances of Article X;
   
   (c) Such pedestrian sign shall be either a projecting sign, an awning sign, or attached to the facade;
   
   (d) If the pedestrian sign is a wall or awning sign in type, it must not exceed eight (8) square feet in size;
   
   (e) Projecting signage is allowed with the following conditions:
      
      i. All signs shall comply with applicable provisions of the Kentucky Building Code and the National Electrical Code adopted by the City of Henderson
      
      ii. The sign must not exceed sixteen (16) square feet in size;
      
      iii. The sign shall not be placed lower than ten (10) feet above grade;
      
      iv. The maximum height of the sign shall be sixteen (16) feet in height or the bottom of the second floor window or wall, whichever is less;
      
      v. The sign shall not project more than six (6) feet from the facade of the building;
      
      vi. If the sign encroaches over a city sidewalk, an encroachment permit issued by the city is required;
      
      vii. No projecting sign may encroach over any roadway, public or private.
   
   (f) Signs in the public right-of-way, including sandwich board signs, are permitted as per the requirements of subsection 10.08(d).

3. **Permitted sign materials.**
   
   (a) Masonry or monument signs;
   
   (b) Wood: painted, stained, or natural;
   
   (c) Metal;
   
   (d) Plastic, when used for individual letters and symbols only.

4. **Prohibited signs.**
   
   (a) Pole, pylon, and cabinet-type facade signs are prohibited;
   
   (b) Flashing, traveling, animated, LED, or back-lit signs, of all types are prohibited;
   
   (c) Illuminated signs that cast any glare into any residential or mixed use residential unit are prohibited.

5. **Permitted monument sign size.**
   
   (a) Monument signs may be up to eight (8) feet in height and eight (8) feet wide (and may be placed on a planting area no more than two (2) feet in height);
(b) Plastic, metal or wood inserts may be used for business names;
(c) Signs may not be backlit but may be lit with ground accent lighting.

6. **Animated signs**
   (a) Animated signs as defined in “Article X, Sec. 0.03. - Definitions and interpretation” may be allowed as a conditional use permit, with the following limitations:
   i. **Animated signs shall be monument type sign and may be up to eight (8) feet in height and eight (8) feet wide;** and
   ii. **Animated portion of sign shall be no larger than four (4) feet in height and six (6) feet wide;** and
   iii. **Animated portion of sign shall be encased using materials consistent with the permitted materials allowed in the Gateway Zone District;** and
   iv. **Landscaping shall be established and maintained as part of sign location.**

(Ord. No. 6-14, Exh. A, 1-28-14; Ord. No. 68-17, 12-15-17)
A. **Amendments to Henderson City Zoning Ordinance, Appendix A Zoning.**

  - The Planning Commission will consider **adding changes to the following Articles:**
    
    **Article II, Section 2.01, Definitions- (1) Class A Manufactured Housing (a)(4):**
    **Article V, Section 5.01. – Powers and duties; (q)**
    **Article XIII- R-3, Medium to High Density Residential District, Section 13.02, Permitted uses:**
    **Article XIII- R-3, Medium to High Density Residential District, Section 13.03, Conditional uses:**
    **Article XXXI, Audubon Residential District, Section 31.03-Permitted uses:**
    **Article XXXI, Audubon Residential District, Section 31.03-Conditional uses:**
    **Article XXXIII, Gateway Zone District #1, Section 33.14-Signage**
ORDINANCE NO. 23-20

ORDINANCE AMENDING APPENDIX A-ZONING

SUMMARY: AN ORDINANCE AMENDING APPENDIX A — ZONING, ARTICLE II, SECTION 2.01, DEFINITIONS; ARTICLE V, BOARD OF ADJUSTMENT, SECTION 5.01 POWERS AND DUTIES; ARTICLE XIII, R-3 MEDIUM TO HIGH DENSITY RESIDENTIAL DISTRICT, SECTION 13.02 PERMITTED USES AND SECTION 13.03 CONDITIONAL USES; ARTICLE XXXI, AUDUBON RESIDENTIAL DISTRICT PURPOSES, SECTION 31.03 PERMITTED USES AND CONDITIONAL USES; AND ARTICLE XXXIII, GATEWAY ZONE DISTRICT, SECTION 33.14 SIGNAGE OF THE CODE OF ORDINANCES OF THE CITY OF HENDERSON

WHEREAS, at a meeting of the Henderson City-County Planning Commission held on October 6, 2020, 2020 it was recommended that the Planning Commission make changes to Appendix A-Zoning, of the City’s Code of Ordinances of the City of Henderson.

NOW, THEREFORE BE IT ORDAINED by the City of Henderson, Kentucky that Appendix A, – Zoning, Article II, Definition, Section 2.01, Definitions; Article V, Board of Adjustment, Section 5.01 Powers and duties; Article XIII, R-3 Medium to High Density Residential District, Section 13.02 Permitted Uses and Section 13.03 Conditional Uses; Article XXXI, Audubon Residential District Purposes, Section 31.03 Permitted Uses and Conditional Uses; and Article XXXIII, Gateway Zone District, Section 33.14 Signage of Appendix A of the Code of Ordinances of the City of Henderson, known as The Zoning Regulations of the City of Henderson, Kentucky is hereby amended as set forth in Exhibit “A” attached hereto and made a part hereof by reference.

All ordinances or parts of ordinances in conflict herewith are hereby repealed and superseded to the extent of such conflict.

The ordinance shall become effective upon legal adoption.

On first reading of the foregoing ordinance, it was moved by Commissioner Royster, seconded by Commissioner Bugg, that the Ordinance be adopted on its first reading. On roll call the vote stood:

Commissioner Royster: AYE Commissioner Bugg: AYE
Commissioner Staton: NAY Mayor Austin: AYE
Commissioner Vowels: AYE

FIRST READ: 10/13/2020
SECOND READ: 

ORDINANCE NO. 23-20
On second reading of the ordinance, it was moved by Commissioner
__________________________, seconded by Commissioner ____________________, that the Ordinance
be adopted. On roll call the vote stood:

Commissioner Royster: _______ Commissioner Bugg: _______
Commissioner Staton: _______ Mayor Austin: _______
Commissioner Vowels: _______

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

______________________________
Steve Austin, Mayor

Date: __________________________

ATTEST:

______________________________
Maree Collins, CKMC,
City Clerk

APPROVED AS TO FORM AND
LEGALITY THIS 7 DAY OF

By: __________________________
Dawn S. Kelsey
City Attorney
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."

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:

(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.

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

**Certificate of use and occupancy.** The certificate issued by the building official which permits the use of a building in accordance with the approved plans and specifications and which certifies compliance with the provisions of law for the use and occupancy of the building in its several parts together with any special stipulation or conditions of the building permit.

**City.** The word "city" shall mean the Board of Commissioners of the City of Henderson, Kentucky.

**Clerk.** The clerk of the governing body.

**Club.** An organization of persons for special purposes or for the promulgation of sports, arts, science, literature, politics or the like, but not for profit.

**Commission.** The word "commission" shall mean the Henderson City-County Planning Commission.

**Comprehensive plan.** A comprehensive plan for the development of the local government, prepared and adopted by the planning commission and board of commissioners pursuant to state law, and including any part of such plan separately adopted and any amendment to such plans, or parts thereof.

**Conditional use.** A use which is essential to or would promote the public health, safety, or welfare in one (1) or more zones, but would impair the integrity and character of the zone in which it is located, or in adjoining zones, unless restrictions on location, size, extent, and character of performance are imposed in addition to those imposed in the zoning regulation.

**Conditional use permit.** Legal authorization to undertake a conditional use issued by the administrative official pursuant to authorization by the board of zoning adjustment, consisting of two (2) parts:

1. A statement of the factual determination by the board of zoning adjustment which justifies the issuance of the permit; and

2. A statement of the specific conditions which must be met in order for the use to be permitted.
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.

(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.

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.
(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 (½) of the lot. A FAR of 0.5 would allow floor space of one-half (½) of the lot area, or a two-story building covering one-quarter (¼) of the lot area, or a two-story building covering one-quarter (¼) 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.

_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.

_Loaded 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.
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.

peat, 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.

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 vehicular, 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.

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.

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, 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.
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.

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.

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).

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.
Sec. 5.01. - Powers and duties.

The board of zoning adjustment established by Ordinance No. 35-66 passed in 1966, and continued by Ordinance No. 3-70 passed in 1970, and Ordinance No. 35-70 passed in 1970, and Ordinance No. 15-82 passed in 1982, is continued by this ordinance. The board is known as the Henderson City Board of Zoning Adjustment. The board has the powers, duties, and responsibilities as set forth in KSA Chapter 100.

(a) Jurisdiction of the board of adjustment for the city shall be within the incorporated limits of the city, as exists or is amended in the future.

(b) The membership, appointment, and term of office of the board of adjustment is as follows: The board shall consist of five (5) citizen members, one (1) of which shall be citizen member of the planning commission and resident of the City of Henderson. The Mayor of Henderson shall appoint the members of the board with the approval of the City of Henderson legislative body. The term of office of members first appointed shall be staggered so that a proportionate number serve one (1), two (2), three (3), and four (4) years respectively, with later appointments or reappointments continuing the staggered pattern.

(c) Reimbursement for expenses lawfully incurred by a member of the board of adjustment in the performance of his duties may be authorized by formal action of the city commission.

(d) The board of adjustment shall have the power to receive, hold, administer and disburse funds which it may lawfully receive from any source. Prior to the beginning of each fiscal year the board may adopt a budget which will be presented to the board of commissioners for the purpose of receiving funds for the cost of its operation.

(e) Expenditures of such appropriations and funds shall be in accordance with the formal action of the board pursuant to the regulations lawfully established. Administration of the board shall be as described in KRS Ch. 100 and may be amended in the future.

(f) Vacancies on the board of adjustment shall be filled within sixty (60) days by the appointing authority. If the appointing authority fails to act within that time, the planning commission shall fill the vacancy. When a vacancy occurs other than through expiration of the term of office, it shall be filled for the remainder of the term. All appointments shall continue until the successors shall have qualified.

(g) All members of the board of adjustment shall, before entering upon their duties, qualify by taking the oath of office prescribed by Section 228 of the Constitution of the Commonwealth of Kentucky before any judge, notary public, clerk of a court or justice of the peace within the district or county in which he/she resides.

(h) Any member of the board of adjustment may be removed by the appropriate appointing authority for inefficiency, neglect of duty, malfeasance or conflict of interest. Any appointing authority who exercises the power to remove a member of the board of adjustments shall submit a written statement to the commission setting forth the reasons for removal, and the statement shall be read at the next meeting of the board of adjustment which shall be open to the general public. The member so removed shall have the right to appeal from the removal to the circuit court of the county in which he/she resides.

(i) The board of adjustment shall annually elect a chairman, vice-chairman and secretary and any other such officers it deems necessary and any officer shall be eligible for reelection at the expiration of his term.

(j) The board of adjustment shall conduct meetings at the call of the chairman who shall give written notice or oral notice to all members of the board at least seven (7) days prior to the meeting, which notice shall contain the date, time and place for the meeting and the subjects which will be discussed.

(k) A simple majority of the total membership of a board of adjustment as established by regulation or agreement shall constitute a quorum. Any member of the board of adjustment who has any
direct or indirect financial interest in the outcome of any question before the body shall disclose
the nature of the interest and shall disqualify himself/herself from voting on the questions.

(i) The board of adjustment shall adopt bylaws for the transaction of business and shall keep
minutes and records of all proceedings including regulations, transactions, findings, and
determinations and the number of votes for and against each question, and if any member is
absent or abstains from voting, indicating the fact, all of which shall immediately after adoption,
be filed in the office of the board. A transcript of the minutes of the board of adjustment meeting
shall be provided if requested by a party, at the expense of the requesting party, and the
transcript shall constitute the record.

(m) The board of adjustment may employ or contract with planners or other persons as it deems
necessary to accomplish its assigned duties.

(n) The board of adjustment shall have the power to issue subpoena to compel witnesses to attend
its meetings and give evidence bearing upon the questions before it. The sheriff shall serve
such subpoenas. The circuit court may, upon application by the board, compel obedience to
such court or such subpoena by proceedings of contempt.

(o) The chairman of the board of adjustments shall have the power to administer an oath to
witnesses prior to their testifying before the board on any issue.

(p) The board shall have the power to hear and decide applications for conditional use permits to
allow the proper integration into the community of uses which are specifically named in the
zoning regulations which may be suitable only in specific locations in the zone only if certain
conditions are met.

(1) The board may approve, modify, or deny any application for a conditional use permit. If it
approves such permits it may attach necessary conditions such as time limitations,
requirements that one (1) or more things be done before the request can be initiated, or
conditions of a continuing nature. Any such conditions shall be recorded in the board's
minutes and on the conditional use permit along with a reference to the specific section in
the zoning regulation listing the conditional use under consideration. The board shall have
the power to revoke conditional use permits or variances for noncompliance with the
condition thereof. Furthermore, the board shall have a right of action to compel offending
structures or uses removed at the cost of the violator and may have judgment in personam
for such cost.

(2) Granting of a conditional use permit does not exempt the applicant from complying with all
of the requirements of building, housing and other regulations.

(3) In any case where a conditional use permit has not been exercised within the time limit set
by the board, or within one (1) year, if no specific time limit has been set, such conditional
use permit shall not revert back to its original designation unless there has been another
public hearing. "Exercised" as set forth in this section shall mean that binding contracts for
the construction of the main building or other improvements have been met or, in the
absence of contracts, that the main building or other improvement is under construction to
a substantial degree, or that prerequisite conditions involving substantial investment, under
contract, in development are completed. When construction is not a part of the use,
"exercised" shall mean that the use is in operation in compliance with the conditions as set
forth in the permit.

(4) The administrative official shall review all conditional use permits except those for which
all conditions have been permanently satisfied, at least once annually and shall have the
power to inspect the land or structure where the conditional use is located in order to
ascertaining that the landowner is complying with all of the conditions listed on the conditional
use permit. If the landowner is not complying with all of the conditions listed on the
conditional use permit, the administrative official shall report the fact in writing to the
chairman of the board of adjustments. The report shall state specifically the manner in
which the landowner is not complying with the conditions on the conditional use permit,
and a copy of the report shall be furnished to the landowner at the same time it is furnished to the chairman of the board of adjustments. The board shall hold a hearing on the report within a reasonable time and notice of the time and place of the hearing shall be furnished to the landowner at least one (1) week prior to the hearing. If the board of adjustments finds that the facts alleged in the report of the administrative official are true and that the landowner has taken no steps to comply with them between the date of the report and the date of the hearing, the board of adjustments may authorize the administrative official to revoke the conditional use permit and take the necessary legal action to cause the termination of the activity on the land which the conditional use permit authorizes.

(5) Once the board of adjustment has completed a conditional use permit and all the conditions required are such type that they can be completely and permanently satisfied, the administrative official upon request of the applicant may, if facts warrant, make a determination that the conditions have been satisfied, and note the conclusion in the margin of the conditional use permit which is on file in the office of the code administrator. Thereafter said use, if it continues to meet the other requirements of the regulations, will be treated as a permitted use.

(6) When an application is made for land located within or abutting any residential zoning district, written notice shall be given at least fourteen (14) days in advance of the public hearing on the application to the public administrator, the mayor and city clerk, an owner of every parcel of property adjoining the property to which the application applies. Written notice shall be by first class mail with certification by the board's secretary or other officer that the notice was mailed. It shall be the duty of the applicant to furnish to the board the name and address of each parcel of property as described in this subsection. Records maintained by the property valuation administrator may be relied upon conclusively to determine the identity and address of said owner. In the event such property is in condominium or cooperative forms of ownership, then the person notified by mail shall be the president or chairperson of the owner group which administers property commonly owned by the condominium or cooperative owners. A joint notice may be mailed to two (2) or more co-owners of an adjoining property who are listed in the property valuation records as having the same address.

(7) When any property within the required notification area for a public hearing upon a conditional use permit application is located within an adjoining city, county, or planning unit, notice of the hearing shall be given at least fourteen (14) days in advance of the hearing by first class mail to that unit's planning commission. If the adjoining property is not part of a planning unit, notice shall be given to the mayor of the city in which the property is located or, if the property is in an unincorporated area, notice shall be given to the judge/executive of the county in which the property is located.

(q) The board shall have the power to hear and decide on applications for variances. The board may impose any reasonable conditions or restrictions on any variance it decides to grant. In the granting of a variance, in no instance shall any permanent structure be permitted to be placed in a public utility or drainage easement.

(r) Before any variance is granted, the board must find that the granting of the variance will not adversely affect the public health, safety or welfare, will not alter the essential character of the general vicinity, will not cause a hazard or a nuisance to the public and will not allow an unreasonable circumvention of the requirements of the zoning regulations. In making these findings the board shall consider whether:

(1) The requested variance arises from special circumstances which do not generally apply to land in the general vicinity, or in the same zone;

(2) The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant; and
(3) The circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.

(s) The board shall deny any request for a variance arising from circumstances that are the result of willful violations of the zoning regulation by the applicant subsequent to the adoption of the zoning regulation from which relief is sought.

(t) The board shall not possess the power to grant a variance to permit a use of any land, building, or structure which is not permitted by the zoning regulation in the zone in question, or to alter density requirements in the zone in question.

(u) A dimensional variance applies to the property for which it is granted, and not to the individual who applied for it. A variance also runs with the land and is transferrable to any future owner of the land, but it cannot be transferred by the application to a different site.

(v) The lawful use of a building or premises existing at the time of adoption of any zoning regulations affecting it may be continued, although such use does not conform to the provisions of such regulations except as otherwise provided herein. The board of adjustment shall not allow the enlargement or extension of a nonconforming use beyond the scope and area of its operation at the time the regulation which makes its use nonconforming was adopted, nor shall the board permit a change from one (1) nonconforming use to another unless the new nonconforming use is in the same or a more restrictive classification provided, however, the board of adjustments may grant approval, effective to maintain nonconforming use status, for enlargements or extensions, made or to be made to the facilities of a nonconforming use where the use consists of the presenting of a major public attraction or attractions such as a sports event or events, which has been presented at the same site over such period of years and has such attributes and public acceptance as to have attained local prestige and to have achieved the status of a public tradition, contributing substantially to the economy of the community and state, of which prestige and status the site is an essential element, and where the enlargement or extension was or is designed to maintain the prestige and status by meeting the increasing demand of participants and patrons.

(w) The board of adjustment shall have the power to hear and decide cases where it is alleged by an applicant that there is an error in any order, requirement, decision, grant or refusal made by an administrative official in the enforcement of the zoning regulations. Such appeal shall be taken within thirty (30) days.

(x) Appeals to the board may be taken by any person or entity claiming to be injuriously affected or aggrieved by an official action or decision of the zoning enforcement officer. Such appeal shall be taken within thirty (30) days after the appellant or his agent receives notice of the action appealed from, by filing with said officer and with the board a notice of appeal specifying the grounds thereof, and giving notice of such appeal to any and all parties of record. Said officer shall forthwith transmit to the board all papers constituting the record upon which the action appealed from was taken and shall be treated as and be the respondent in such further proceedings. At any hearing by the board any interested person may appeal and enter his appearance and all shall be given an opportunity to be heard.

(y) The board shall fix a reasonable time for hearing the appeal and give public notice in accordance with KRS Ch. 424, as well as written notice to the appellant and the administrative official at least one (1) week prior to the hearing and shall decide it within thirty (30) days. The affected party may appear at the hearing in person or by attorney.

(z) If no building permit has been issued and a builder begins or continues to build, a restraining order may be obtained upon application to the property court of record and evidence of the lack of a building permit shall establish a prima facie case for the issuance of the restraining order.
Sec. 13.02. - Permitted uses.

In all R-3 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 R-2, medium density residential district.
(b) Accessory uses.
(c) Class A manufactured homes, as defined in "Article II, Definitions, Section 2.01, Definitions".

Sec. 13.03. - Conditional uses.

(a) Any use classified as a conditional use in the R-2, medium density residential district.
(b) Reserved.
(c) Reserved.
(d) Bed and breakfast inns.
(e) Class A manufactured homes, as defined in "Article II, Definitions, Section 2.01, Definitions", with the following limitations:

1. Manufactured home shall meet all acceptable installations standards of Class A manufactured housing as provided in Section 2.01 of this code; and

2. Manufactured home shall meet all acceptable appearance standards of Class A manufactured housing as provided in Section 2.01 of this code; and

3. In the granting of a variance, in no instance shall the front yard setback be less than the average front setback that exists on the nearest developed lots on the same block that front on the same side of the street as the subject lot, in accordance with the following rules:
   a. Lots that front on a different street than the subject lot or that are separated from the subject lot by a street may not be used in computing the average;
   b. When the subject lot is a corner lot, the average setback will be computed on the basis of the two (2) nearest developed lots that front on the same side of the street as the subject lot;
   c. When the subject lot abuts a corner lot fronting the same street, the average setback will be computed on the basis of the abutting corner lot and the nearest two (2) lots that front on the same street as the subject lot; and

4. In the granting of a variance, in no instance shall either side yard setback be less than five (5) feet; and

5. In the granting of a variance, in no instance shall the rear yard setback be less than ten (10) feet; and

6. In the granting of a variance, in no instance shall any permanent structure be permitted to be placed in a public utility or drainage easement.
Sec. 31.03. - Permitted uses.

1. **Permitted Uses.** The following uses are permitted:
   (a) Single-family dwellings.
   (b) Two-family dwellings (duplexes).
   (c) Class A manufactured homes, as defined in Article II, Section 2.01.
   (d) Townhouses in accordance with Section 4.05.
   (e) Accessory buildings or uses customarily incidental to any of the permitted uses, when located on the same lot and not involving any business, profession, trade or occupation.
   (f) Community gardens.
   (g) Home occupation as defined in Section 4.38.
   (h) Mixed-uses.
      i. Mixed use buildings:
         Existing structures containing both residential dwelling units and non-residential commercial uses as found herein: residential dwelling units may be located on the ground floor of mixed-use buildings provided that a minimum of one thousand five hundred (1,500) square feet of non-residential floor areas is located on the ground floor, or when all the following criteria are met:
         1. The building is a minimum of two (2) stories in height;
         2. Commercial or office uses are restricted to the ground floor unless a conditional use permit is obtained;
         3. Each ground floor dwelling unit is at the rear of the building, behind a commercial or office use, unless a conditional use permit is obtained.
      ii. Neighborhood retail sales and services:
         The use must be located in an existing structure, originally constructed for neighborhood business, or located within any mixed-use building, with the following criteria:
         1. The gross floor area of the original structure may be expanded with a conditional use permit.
         2. Retail sales and services that have been traditionally found in older urban neighborhoods. Typical uses include grocery shops, butcher shops, delicatessens, fruit and vegetable markets, ice cream shops, bakeries, cafes, pharmacies, music shops and schools, dance studios, antique shops, shoe repair, restaurants without drive-thrus, clothing and apparel stores, barber and beauty shops, and similar uses as determined by the codes administrator.
         3. Bars, banks with drive thrus, and restaurants with drive-thrus are permitted with a conditional use permit.
      iii. Professional offices:
         The following professional office uses, may be allowed as permitted uses in existing or new buildings originally constructed for neighborhood business, or mixed-use purposes:
         1. Medical, dental, optometry, chiropractic offices, architecture and engineering offices, attorney, title or other legal offices, professional services including real- estate, insurance, property management, tourism and travel, marketing, design, and other related professional services.
         2. Such professional office uses shall only be permitted on the first floor of a mixed use building unless a conditional use permit is obtained.
2. **Conditional uses.**

   (a) Funeral homes.

   (b) Nonprofit public and private facilities.

   (c) Schools, libraries, churches and other facilities normally incidental thereto, provided that there is adequate access to all required off-street parking areas, on-site parking spaces as required in Section 9.01 are provided, and there is no parking in the required front yard (see Section 31.05 parking (2)(a)).

   (d) Bed and breakfast inns.

   (e) Family child-care home, with the following limitations:

      i. There shall be a maximum of ten (10) children allowed in the home of which no more than six (6) shall be unrelated to the care provider. No more than four (4) children under twelve (12) months of age nor more than six (6) children under six (6) years of age, including the provider's own or related children, shall be kept in the home.

      ii. No person may be employed that is not a resident of the premises.

      iii. Otherwise fully complies with the provisions of a home occupation as provided in Section 2.01 of this zoning ordinance.

   (f) Class A manufactured homes, as defined in "Article II, Definitions, Section 2.01, Definitions", with the following limitations:

      (1) Manufactured home shall meet all acceptable installations standards of Class A manufactured housing as provided in Section 2.01 of this code; and

      (2) Manufactured home shall meet all acceptable appearance standards of Class A manufactured housing as provided in Section 2.01 of this code; and

      (3) In the granting of a variance, in no instance shall the front yard setback be less than the average front setback that exists on the nearest developed lots on the same block that front on the same side of the street as the subject lot, in accordance with the following rules:

         a. Lots that front on a different street than the subject lot or that are separated from the subject lot by a street may not be used in computing the average;

         b. When the subject lot is a corner lot, the average setback will be computed on the basis of the two (2) nearest developed lots that front on the same side of the street as the subject lot;

         c. When the subject lot abuts a corner lot fronting the same street, the average setback will be computed on the basis of the abutting corner lot and the nearest two (2) lots that front on the same street as the subject lot; and

      (4) In the granting of a variance, in no instance shall either side yard setback be less than five (5) feet; and

      (5) In the granting of a variance, in no instance shall the rear yard setback be less than ten (10) feet; and

      (6) In the granting of a variance, in no instance shall any permanent structure be permitted to be placed in a public utility or drainage easement.
Sec. 33.14. - Signage.

Article X of the zoning ordinance applies, and the following additional district signage regulations shall also apply:

1. **Wall signage.**
   (a) Each business will be allowed one (1) wall-mounted sign per street frontage, up to ten (10) percent of the surface area of the wall area;

2. **Pedestrian signage.**
   (a) Pedestrian oriented signs are designed and intended for pedestrians to easily read the signage of the business, as they stand on the sidewalk adjacent to the business;
   (b) One (1) pedestrian oriented sign is permitted per business fronting Second Street, in addition to existing on-site signage allowances of Article X;
   (c) Such pedestrian sign shall be either a projecting sign, an awning sign, or attached to the facade;
   (d) If the pedestrian sign is a wall or awning sign in type, it must not exceed eight (8) square feet in size;
   (e) Projecting signage is allowed with the following conditions:
      i. All signs shall comply with applicable provisions of the Kentucky Building Code and the National Electrical Code adopted by the City of Henderson
      ii. The sign must not exceed sixteen (16) square feet in size;
      iii. The sign shall not be placed lower than ten (10) feet above grade;
      iv. The maximum height of the sign shall be sixteen (16) feet in height or the bottom of the second floor window or wall, whichever is less;
      v. The sign shall not project more than six (6) feet from the facade of the building;
      vi. If the sign encroaches over a city sidewalk, an encroachment permit issued by the city is required;
      vii. No projecting sign may encroach over any roadway, public or private.
   (f) Signs in the public right-of-way, including sandwich board signs, are permitted as per the requirements of subsection 10.08(d).

3. **Permitted sign materials.**
   (a) Masonry or monument signs;
   (b) Wood: painted, stained, or natural;
   (c) Metal;
   (d) Plastic, when used for individual letters and symbols only.

4. **Prohibited signs.**
   (a) Pole, pylon, and cabinet-type facade signs are prohibited;
   (b) Flashing, traveling, animated, LED, or back-lit signs, of all types are prohibited;
   (c) Illuminated signs that cast any glare into any residential or mixed use residential unit are prohibited.

5. **Permitted monument sign size.**
   (a) Monument signs may be up to eight (8) feet in height and eight (8) feet wide (and may be placed on a planting area no more than two (2) feet in height);
(b) Plastic, metal or wood inserts may be used for business names;
(c) Signs may not be backlit but may be lit with ground accent lighting.

6. **Animated signs**

   (a) Animated signs as defined in "Article X, Sec. 0.03. - Definitions and interpretation" may be allowed as a conditional use permit, with the following limitations:

   i. *Animated signs shall be monument type sign and may be up to eight (8) feet in height and eight (8) feet wide; and*

   ii. *Animated portion of sign shall be no larger than four (4) feet in height and six (6) feet wide; and*

   iii. *Animated portion of sign shall be encased using materials consistent with the permitted materials allowed in the Gateway Zone District; and*

   iv. *Landscaping shall be established and maintained as part of sign location.*
October 21, 2020

TO: Mayor Steve Austin and the Board of Commissioners
FROM: William L. “Buzzy” Newman, Jr., City Manager
SUBJECT: Ordinance Amending Chapter 23, Utilities, Article III, Gas Service

An item for the agenda of Tuesday, October 27, 2020 is final reading of an ordinance amending Chapter 23, Utilities, Article III, Gas Service, by adding Section 23-57, Theft of Service and Tampering; Payment and Restoration of Service, of the Code of Ordinances.

The proposed revisions relate to the addition of language related to repairs, damage, theft of natural gas service, and tampering with meters or other gas devices and mirror the changes that are being adopted for Henderson Water Utility.

Your approval of the attached ordinance is requested.

c: Owen Reeves, Gas System Director
ORDINANCE NO. 24-20

ORDINANCE AMENDING CHAPTER 23 UTILITIES

SUMMARY: ORDINANCE AMENDING ARTICLE III, GAS SERVICES, OF CHAPTER 23, UTILITIES, BY ADDING SEC. 23-57, THEFT OF SERVICE AND TAMPERING; PAYMENT AND RESTORATION OF SERVICE OF THE CODE OF ORDINANCES OF THE CITY OF HENDERSON

WHEREAS, the Henderson Municipal Gas System is responsible for enforcement of natural gas system and standards as they relate to damages and repairs to the distribution system, theft of natural gas service, and tampering with meters and other devices; and

WHEREAS, the Henderson Municipal Gas System Director and City Manager recommend to the Board of Commissioners of the City of Henderson to enact and adopt revisions to portions of Article III of Chapter 23 of the City Code of Ordinances, incorporating language related to repairs, damage, theft of gas services, and tampering with meters or other natural gas devices; and

NOW, THEREFORE, BE IT ORDAINED by the City of Henderson, Kentucky that the existing Article III, Gas Service, Sec. 23-57 Theft of Service and Tampering; Payment and Restoration of Service of Chapter 23, Utilities of the City's Code of Ordinances be and is hereby approved.

Sec. 23-57. - THEFT OF SERVICE AND TAMPERING; PAYMENT AND RESTORATION OF SERVICE.

No person shall maliciously, willfully, or negligently break, damage, uncover, deface, or tamper with any structure, appurtenance or equipment, which is a part of the Henderson Municipal Gas System. Repairs to any gas utility property or equipment including but not limited to meter sets, regulators, service lines and mains or other related infrastructure by the activities of other parties shall be charged to the responsible party at the actual cost to the Henderson Municipal Gas Utility for lost natural gas, making repairs or replacing the damaged facilities, plus fifteen percent (15%) for administrative costs.

1) Theft of Service and Tampering. Tampering with gas meters or stealing natural gas service shall be grounds for discontinuance of service. Theft of service and tampering shall include but not be limited to the following:
   a) opening valves at the main or meter that have been turned off by utility personnel;
   b) by-passing meters in any manner;
   c) taking of unmetered gas;
   d) removing, disabling, or adjusting meter registers, cutting wires, or disabling or tampering with any metering or data collection device;
   e) removing or reversing a gas meter; or
   f) making any unauthorized connection to the distribution system.

2) Any person damaging, defacing, or tampering with the Henderson Municipal Gas System or

FIRST READ: 10/12/2020
SECOND READ: 0
any person stealing gas service shall be deemed guilty of a Class B misdemeanor.

3) Notice of violation and service cut-off. A Notice of Violation (NOV) may be mailed or otherwise delivered if evidence suggests the possibility of theft of service or tampering. If in the opinion of the General Manager the theft or tampering endangers public health, or if theft is evident on a customer’s premises, the notice of violation may include a provision for the immediate cut-off of service. The City and HMG shall not be liable for any loss or damage resulting from the discontinuance or interruption of service imposed due to theft or tampering.

4) Payment of fees and restoration of service. If the City/HMG determines that theft of service or tampering has occurred, it reserves the right to adjust the customer’s current bill and bills for the prior twelve (12) months usage. Service will not be restored until payments are received for the following: adjusted payment for utility service; a violation payment of $100.00 per occurrence; service call charges; labor, including on-call and overtime premiums; replacement parts; and reconnect charges. Discontinuance of service shall not release the customer from liability for payment for service already received. The City and HMG shall have the right to refuse service to an applicant or any member of an applicant’s household living at the same address whenever such persons are delinquent on any payment to the City, or has had service discontinued because of a violation for theft or tampering.

All ordinances or parts of ordinances in conflict herewith are hereby repealed and superseded to the extent of such conflict.

This ordinance shall become effective upon its legal adoption.

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

On roll call the vote stood:

Commissioner Royster: AYE  Commissioner Bugg: AYE
Commissioner Staton: AYE  Mayor Austin: AYE
Commissioner Vowels: AYE

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

On second reading of the ordinance, it was moved by Commissioner ____________, seconded by Commissioner _________________, that the ordinance be adopted.

WHEREUPON, the vote was called. On roll call the vote stood:

Commissioner Royster: _______  Commissioner Bugg: _______
Commissioner Staton: _______  Mayor Austin: _______
Commissioner Vowels: _______
WHEREUPON, Mayor Austin declared the ordinance adopted, affixed his signature and the date and ordered that it be recorded.

ATTEST:

Maree Collins, CKMC, City Clerk

APPROVED AS TO FORM AND LEGALITY THIS ___ DAY OF OCTOBER, 2020.

By:  
Dawn S. Kelsey  
City Attorney
October 21, 2020

TO: Mayor Steve Austin and the Board of Commissioners
FROM: William L. “Buzzy” Newman, Jr., City Manager
SUBJECT: Electric Rates and Services Schedules

An item for the agenda of the Tuesday, October 27, 2020 is first reading of an ordinance approving and adopting a schedule of energy rates and services for electric power and energy furnished by Henderson Municipal Power and Light for the Housing Authority, Church, and Public School Customer Class.

The rates and services schedule was approved and recommended by the Henderson Utility Commission on September 28, 2020, in response to the initial study not including the Housing Authority, Church, and Public School Customer Class and subsequent interest in solar facility projects. The proposed rate includes a variable energy charge to be billed/credited to customers for Distributed Generation.

Mr. Chris Heimgartner, General Manager, Henderson Municipal Power and Light, is expected to join the meeting remotely to answer any questions that you may have regarding the proposed rate schedules.

Your approval of the attached ordinance is requested.

c: Chris Heimgartner
    Robert Gunter
    Greg Nunn
COMMISSION MEMO

TO: Utility Commission
FROM: Barbara Moll
DATE: September 18, 2020
RE: Recommendation for Approval and Adjustment of Schedules of Energy Rates and Services for Distributed Generation for the Housing Authority, Church, and Public School Customer Class

ACTION REQUESTED

Commission approval of a Resolution approving and recommending a schedule of electric rates and services for Distributed Generation for Henderson Municipal Power & Light Housing Authority, Church, and Public School customers to become effective on and after December 1, 2020.

BACKGROUND

HMP&L obtained an update on the Cost of Service Analysis which determined the level of fixed rates for each customer class for Distributed Generation, and a variable energy charge to be billed/credited to customers in each customer class for Distributed Generation. The initial study did not include the Housing Authority, Church, and Public School Customer Class. However, there is need for this rate schedule as certain customers have now expressed interest in solar facility projects.

RECOMMENDATION/MOTION

Motion to approve a Resolution recommending a schedule of electric rates and services for Distributed Generation for Henderson Municipal Power & Light Housing Authority, Church, and Public School customers to become effective on and after December 1, 2020 and authorizing the General Manager to make a presentation to the Henderson City Commission.
COMMISSION RESOLUTION #2020-17

RESOLUTION OF THE CITY OF HENDERSON UTILITY COMMISSION APPROVING AND RECOMMENDING A SCHEDULE OF DISTRIBUTED GENERATION ELECTRIC RATES AND SERVICES FOR ELECTRIC POWER AND ENERGY FURNISHED BY HENDERSON MUNICIPAL POWER & LIGHT TO ITS HOUSING AUTHORITY, CHURCH, AND PUBLIC SCHOOL CUSTOMERS AND CONSUMERS TO BECOME EFFECTIVE FOR ALL SERVICES BILLED ON AND AFTER DECEMBER 1, 2020

WHEREAS, Henderson Municipal Power & Light operates and maintains a utility that provides electric service to approximately 12,000 customers; and

WHEREAS, the Utility Commission has control of the operation and physical management of the Henderson Municipal Power & Light system; and

WHEREAS, KRS 96.535 provides in part that the rates to be charged for electric service by municipal utilities shall be fixed and revised from time to time by the Board appointed to operate the utility, with the approval of the legislative body of the City; and

WHEREAS, the Henderson Utility Commission reviewed its Schedule of Electric Rates and Services at a public meeting held on September 28, 2020; and

WHEREAS, Henderson Municipal Power & Light obtained an updated Cost of Service Analysis which analyzed the revenue requirements to ensure Henderson Municipal Power & Light would recover all costs; and

WHEREAS, the City of Henderson Utility Commission believes it is in the best interest of the citizens of Henderson, Kentucky, that it maintain adequate funding to permit proper system growth and maintain competitive business practices; and

WHEREAS, Henderson Municipal Power & Light has identified a specific new rate schedule that needs to be established to better service the utility and its customers.

NOW, THEREFORE, BE IT RESOLVED that the Henderson Utility Commission approves and recommends the following proposed establishment of a new rate schedule;
New Housing Authority, Church, and Public School Distributed Generation (HCSDG) Rate Schedule

The adoption of a new Housing Authority, Church, and Public School Distributed Generation Rate Schedule (Schedule HCSDG) defining the method by which net metered energy will be billed and/or credited to customers through a monthly rate, including a fixed monthly charge (attached as Exhibit 1).

BE IT FURTHER RESOLVED that the General Manager is authorized and instructed to execute and file any and all documents necessary to present the new rate schedules, and changes in the existing Schedule of Rates and Services to the Henderson City Commission for consideration and approval.

On Motion of Commissioner          , seconded by Commissioner , this Resolution and the accompanying Schedules of Rates and Services shall be approved and adopted. On roll call the vote stood:

Commissioner Curlin   aye
Commissioner Weaver   aye
Commissioner Sights   aye
Commissioner Howell   aye
Commissioner Shannon  aye

WHEREUPON, Chairman Shannon declared the Resolution adopted and directed the General Manager to submit a copy thereof to the Board of Commissioners of the City of Henderson along with a request for the City’s approval of the rate adjustments and Schedules of Rates and Services, this 28th day of September, 2020.

Lin Shannon, Chairman

It is certified by the undersigned Secretary of The City of Henderson Utility Commission, d/b/a Henderson Municipal Power & Light that this document represents a true and correct copy of a Resolution of the City of Henderson Utility Commission duly adopted on the 28th day of September, 2020.

Given under my hand this 28th day of September, 2020.

Jenny Howell, Secretary
City of Henderson, Kentucky
Henderson Municipal Power & Light

Housing Authority, Church, and Public School Distributed Generation Rate Schedule  
Schedule HCSDG

Service Area – All areas served by Henderson Municipal Power & Light (HMP&L).

Applicability – For Housing Authority, Church, and Public School buildings where customer is  
operating a distributed generation facility that is located behind the retail meter, and that is primarily  
intended to offset part or all of the customer’s electrical requirements from HMP&L. For one (1)  
location where service is taken through one (1) meter at one (1) point of delivery. After March 1,  
2007, a new customer’s estimated monthly demand must be less than 300 kilowatts to qualify for this  
rate.

Limitation of Service – Not available to Private Schools or any other customers classified in other  
rate classifications. Electric service is subject to HMP&L’s and the City of Henderson’s Ordinances,  
Policies, General Terms and Conditions of Service, Safety Policies, and Service Rules and  
Regulations, as amended.

Services Available – Sixty hertz alternating current as provided herein.

For customers with an estimated monthly demand equal to or less than 50 kilowatts.

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<tr>
<th>Single Phase – Three Wire</th>
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For customers with an estimated monthly demand greater than 50 kilowatts, but less than 300  
kilowatts when new service is requested after March 1, 2007.

| Three Phase – Four Wire  | 120/208 Volts |
| – Four Wire              | 120/240 Volts |
| – Four Wire              | 277/480 Volts |
| – Delta                  | *13,800 Volts |

* When HMP&L facilities are available.

Monthly Billing – Customers will be billed monthly for each service taken through one (1) meter at  
one (1) point of delivery.

Approved By: Henderson Utility Commission (September 28, 2020)  
Effective: For all customer billings issued on and after December 1, 2020

Approved By: Henderson Board of Commissioners ( )
City of Henderson, Kentucky  
Henderson Municipal Power & Light  

**Housing Authority, Church, and Public School Rate Schedule**  
**Schedule HCS (continued)**  

**Energy Charge** – For all net metered kilowatt hours billed and/or credited on and after December 1, 2020.

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<th>Monthly Consumption</th>
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**Monthly Fixed Charge** – Fixed monthly charge of $286.53 for each metered point of delivery.

**Power Cost Adjustment** – See Power Cost Adjustment Rate Schedule PCA, which is applicable to all metered General Service Rate customers.

**CPI Adjustment** – See CPI Escalation Schedule CPI, which is applicable to all metered General Service Rate customers.

**Term of Service** – Monthly.

**Payment** – Due on or before each monthly billing due date.

**Late Payment Fee** – A late payment fee will be imposed on all individual payments actually received by HMP&L after the monthly billing due date. The late payment fee will be equal to an additional five (5) percent of the customer’s total monthly billing including taxes and other fees, if applicable.
City of Henderson, Kentucky  
Henderson Municipal Power & Light  

**Housing Authority, Church, and Public School Distributed Generation Rate Schedule**  
**Schedule HCSDG**

**Service Area** – All areas served by Henderson Municipal Power & Light (HMP&L).

**Applicability** – For Housing Authority, Church, and Public School buildings where customer is operating a distributed generation facility that is located behind the retail meter, and that is primarily intended to offset part or all of the customer’s electrical requirements from HMP&L. For one (1) location where service is taken through one (1) meter at one (1) point of delivery. After March 1, 2007, a new customer’s estimated monthly demand must be less than 300 kilowatts to qualify for this rate.

**Limitation of Service** – Not available to Private Schools or any other customers classified in other rate classifications. Electric service is subject to HMP&L’s and the City of Henderson’s Ordinances, Policies, General Terms and Conditions of Service, Safety Policies, and Service Rules and Regulations, as amended.

**Services Available** – Sixty hertz alternating current as provided herein.

For customers with an estimated monthly demand equal to or less than 50 kilowatts.

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* When HMP&L facilities are available.

**Monthly Billing** – Customers will be billed monthly for each service taken through one (1) meter at one (1) point of delivery.

Approved By: Henderson Utility Commission (September 28, 2020)  
Approved By: Henderson Board of Commissioners (_______)  
Effective: For all customer billings issued on and after December 1, 2020
City of Henderson, Kentucky
Henderson Municipal Power & Light

Housing Authority, Church, and Public School Rate Schedule
Schedule HCS (continued)

Energy Charge – For all net metered kilowatt hours billed and/or credited on and after December 1, 2020.

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Monthly Fixed Charge – Fixed monthly charge of $286.53 for each metered point of delivery.

Power Cost Adjustment – See Power Cost Adjustment Rate Schedule PCA, which is applicable to all metered General Service Rate customers.

CPI Adjustment – See CPI Escalation Schedule CPI, which is applicable to all metered General Service Rate customers.

Term of Service – Monthly.

Payment – Due on or before each monthly billing due date.

Late Payment Fee – A late payment fee will be imposed on all individual payments actually received by HMP&L after the monthly billing due date. The late payment fee will be equal to an additional five (5) percent of the customer’s total monthly billing including taxes and other fees, if applicable.

Approved By: Henderson Utility Commission (September 28, 2020)
Approved By: Henderson Board of Commissioners (__________)
Effective: For all customer billings issued on and after December 1, 2020
ORDINANCE NO.   
ORDINANCE ADOPTING SCHEDULE OF ELECTRIC RATES AND SERVICES

SUMMARY: AN ORDINANCE APPROVING AND ADOPTING A SCHEDULE OF DISTRIBUTED GENERATION ELECTRIC RATES AND SERVICES FOR ELECTRIC POWER AND ENERGY FURNISHED BY HENDERSON MUNICIPAL POWER & LIGHT TO ITS HOUSING AUTHORITY, CHURCH, AND PUBLIC SCHOOL CUSTOMERS AND CONSUMERS RATE SCHEDULE (SCHEDULE HCSDG), HOUSING AUTHORITY, CHURCH, AND PUBLIC SCHOOLS DISTRIBUTED GENERATION RATES SCHEDULE GENERAL SERVICE DISTRIBUTED GENERATION RATE SCHEDULE TO BECOME EFFECTIVE FOR ALL SERVICES BILLED ON AND AFTER DECEMBER 1, 2020.

WHEREAS, KRS 96.535 provides in part that the rates to be charged for electric service by municipal utilities shall be fixed and revised from time to time by the Board appointed to operate the utility, with the approval of the legislative body of the City, and

WHEREAS, the Schedule of Electric Rates and Services was reviewed by the City of Henderson Utility Commission at a public meeting held on September 28, 2020; and

WHEREAS, Henderson Power & Light obtained an updated Cost of Service Analysis which analyzed the revenue requirements to ensure Henderson Municipal Power & Light (HMPL) would recover all costs; and

WHEREAS, the City of Henderson Utility Commission believes it is in the best interest of the citizens of Henderson, Kentucky, that it maintain adequate funding to permit proper system growth and maintain competitive business practices; and

WHEREAS, Henderson Municipal Power & Light has identified a specific new rate schedule that needs to be established to better service the utility and its customers.

NOW, THEREFORE, BE IT ORDAINED by the City of Henderson, Kentucky, as follows:

1. The rates and services described in the attached Housing Authority, Church, and Public School Distributed Generation (HCSDG) Rate Schedule, as established and adopted by the City of Henderson Utility Commission, are hereby approved, adopted, ratified and confirmed as the official Housing Authority, Church, and Public School Distributed Generation (HCSDG) Schedule of Electric Rates and Services rendered by the City of Henderson’s Municipal Power and Light system.

2. The revised Schedule of HCSDG Electric Rates and Services shall become effective for all services provided to the customers and consumers of Henderson Municipal
Power and Light for which billing is issued by the City of Henderson on and after December 1, 2020.

All ordinances or parts of ordinances in conflict herewith are hereby repealed and superseded to the extent of such conflict.

This Ordinance shall become effective upon its legal adoption.

On first reading of the foregoing Ordinance, it was moved by Commissioner ______________, seconded by Commissioner _________________, that the Ordinance be adopted on its first reading.

On roll call the vote stood:

Commissioner Royster: _______ Commissioner Bugg: _______
Commissioner Staton: _______ Mayor Austin: _______
Commissioner Vowels: _______

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

On second reading of the Ordinance, it was moved by Commissioner ________________, seconded by Commissioner ________________, that the Ordinance be adopted.

WHEREUPON, the vote was called. On roll call the vote stood:

Commissioner Royster: _______ Commissioner Bugg: _______
Commissioner Staton: _______ Mayor Austin: _______
Commissioner Vowels: _______

WHEREUPON, Mayor Austin declared the Ordinance adopted, affixed his signature and the date and ordered that it be recorded.

____________________________
Steve Austin, Mayor

Date: _________________________

ATTEST:

____________________________
Maree Collins, CKMC
City Clerk
APPROVED AS TO FORM AND LEGALITY THIS 22 DAY OF OCTOBER, 2020.

By: Dawn S. Kelsey
City Attorney
City of Henderson, Kentucky
Henderson Municipal Power & Light

Housing Authority, Church, and Public School Distributed Generation Rate Schedule
Schedule HCSDG

**Service Area** – All areas served by Henderson Municipal Power & Light (HMP&L).

**Applicability** – For Housing Authority, Church, and Public School buildings where customer is operating a distributed generation facility that is located behind the retail meter, and that is primarily intended to offset part or all of the customer’s electrical requirements from HMP&L. For one (1) location where service is taken through one (1) meter at one (1) point of delivery. After March 1, 2007, a new customer’s estimated monthly demand must be less than 300 kilowatts to qualify for this rate.

**Limitation of Service** – Not available to Private Schools or any other customers classified in other rate classifications. Electric service is subject to HMP&L’s and the City of Henderson’s Ordinances, Policies, General Terms and Conditions of Service, Safety Policies, and Service Rules and Regulations, as amended.

**Services Available** – Sixty hertz alternating current as provided herein.

For customers with an estimated monthly demand equal to or less than 50 kilowatts.

- Single Phase – Three Wire 120/240 Volts
- Three Phase – Four Wire 120/208 Volts
- Four Wire 120/240 Volts

For customers with an estimated monthly demand greater than 50 kilowatts, but less than 300 kilowatts when new service is requested after March 1, 2007.

- Three Phase – Four Wire 120/208 Volts
- Four Wire 120/240 Volts
- Four Wire 277/480 Volts
- Delta *13,800 Volts

* When HMP&L facilities are available.

**Monthly Billing** – Customers will be billed monthly for each service taken through one (1) meter at one (1) point of delivery.

Approved By: Henderson Utility Commission (September 28, 2020)  Effective: For all customer billings issued on and after December 1, 2020
Housing Authority, Church, and Public School Rate Schedule
Schedule HCS (continued)

Energy Charge – For all net metered kilowatt hours billed and/or credited on and after December 1, 2020.

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Monthly Fixed Charge – Fixed monthly charge of $286.53 for each metered point of delivery.

Power Cost Adjustment – See Power Cost Adjustment Rate Schedule PCA, which is applicable to all metered General Service Rate customers.

CPI Adjustment – See CPI Escalation Schedule CPI, which is applicable to all metered General Service Rate customers.

Term of Service – Monthly.

Payment – Due on or before each monthly billing due date.

Late Payment Fee – A late payment fee will be imposed on all individual payments actually received by HMP&L after the monthly billing due date. The late payment fee will be equal to an additional five (5) percent of the customer’s total monthly billing including taxes and other fees, if applicable.

Approved By: Henderson Utility Commission (September 28, 2020)  Effective: For all customer billings issued on and after December 1, 2020

Approved By: Henderson Board of Commissioners
City Commission Memorandum
20-169

October 22, 2020

TO: Mayor Steve Austin and the Board of Commissioners
FROM: William L. “Buzzy” Newman, Jr., City Manager

An item for the meeting on Tuesday, October 27, 2020, is first reading of an ordinance authorizing the issuance of City General Obligation Bonds, Series 2020A and General Obligation Refunding Bonds, Taxable Series 2020B for the purpose of providing funds for various public improvements in the City; and refunding in advance of maturity General Obligation Bonds, Series 2011A; and related costs in the principal amount of approximately $10,000,000.00 and $1,305,000.00, respectively.

The accompanying documents, prepared by Bond Counsel, include provisions for the terms and conditions for issuance, ordering and providing for the levy of an annual tax, to the extent necessary, sufficient to pay the principal and interest, revenue transfers, and provide for a public sale of the bonds. The Bonds will be payable from the tax revenues of the City and secured by an irrevocable pledge of the full faith, credit and taxing power of the City. The Bonds will be issued in fully registered form with Series 2020A scheduled to mature on December 1, 2040, and Series 2020B scheduled to mature on December 1, 2031 and to bear interest semiannually at rates established by competitive bidding.

Your approval of the attached ordinance is requested.

c: Dawn Kelsey
Robert Gunter
SUMMARY OF ORDINANCE

The Board of Commissioners of the City of Henderson, Kentucky, at regular meetings held on October 27, 2020 and November 10, 2020, adopted an ordinance titled as follows:

AN ORDINANCE OF THE CITY OF HENDERSON, KENTUCKY AUTHORIZING THE ISSUANCE OF (A) CITY OF HENDERSON, KENTUCKY GENERAL OBLIGATION BONDS, SERIES 2020A IN THE APPROXIMATE AGGREGATE PRINCIPAL AMOUNT OF $10,000,000 (SUBJECT TO A PERMITTED ADJUSTMENT DECREASING THE PRINCIPAL AMOUNT OF BONDS BY ANY AMOUNT) FOR THE PURPOSES OF FINANCING ALL OR A PORTION OF THE COSTS THE ACQUISITION, CONSTRUCTION, EQUIPPING, AND INSTALLATION OF (1) NEW MUNICIPAL WATER, SANITARY SEWER, AND STORM SEWER IMPROVEMENTS AND ADDITIONS, (2) A NEW MUNICIPAL FIRE STATION AND RELATED FACILITIES AND EQUIPMENT, (3) A NEW APPROXIMATELY 58-ACRE SPORTS COMPLEX, AND (4) A STORMWATER SYSTEM IN COUNTRYVIEW SUBDIVISION; AND (B) CITY OF HENDERSON, KENTUCKY GENERAL OBLIGATION REFUNDING BONDS, TAXABLE SERIES 2020B IN THE APPROXIMATE AGGREGATE PRINCIPAL AMOUNT OF $1,305,000 (SUBJECT TO A PERMITTED ADJUSTMENT INCREASING THE PRINCIPAL AMOUNT OF BONDS BY UP TO $130,000 AND DECREASING THE PRINCIPAL AMOUNT OF BONDS BY ANY AMOUNT) FOR THE PURPOSE OF REFUNDING IN ADVANCE OF MATURITY THE CITY'S GENERAL OBLIGATION BONDS, SERIES 2011A; APPROVING THE FORMS OF THE BONDS; AUTHORIZING DESIGNATED OFFICERS TO EXECUTE AND DELIVER THE BONDS; AUTHORIZING AND DIRECTING THE FILING OF A NOTICE OR NOTICES WITH THE STATE LOCAL DEBT OFFICER; PROVIDING FOR THE PAYMENT AND SECURITY OF THE BONDS; ESTABLISHING BOND PAYMENT FUNDS FOR EACH SERIES OF THE BONDS; AFFIRMING THE EXISTING SINKING FUND; AUTHORIZING ACCEPTANCE OF THE BID OF THE PURCHASER FOR EACH SERIES OF THE BONDS; AND REPEALING INCONSISTENT ORDINANCES.

This Ordinance authorizes the issuance of two series of general obligation bonds designated as “General Obligation Bonds, Series 2020A” in the approximate principal amount of $10,000,000 (the “Series 2020A Bonds”) and “General Obligation Refunding Bonds, Taxable Series 2020B” in the approximate principal amount of $1,305,000 (the “Series 2020B Bonds” and, together with the Series 2020A Bonds, the “Bonds”) by the City of Henderson, Kentucky (the “City”). The Series 2020A Bonds are to be issued for the purposes of financing (i) all or a portion of the costs of the acquisition, construction, installation, and equipping of new municipal water, sanitary sewer, and storm sewer improvements and additions comprising a new Raw Water Intake and Raw Water Pipeline, to be constructed on the Green River, at a point near Sebree, Kentucky, with a capacity of at least 8 million gallons per day; (ii) all or a portion of the costs of the acquisition, construction, installation, and equipping of a new municipal fire station and related facilities and equipment to be located at the intersection of Zion Road and Garden Mile Road; (iii)
all or a portion of the costs of the acquisition, construction, installation, and equipping of a new approximately 58-acre sports complex bordered by the Audubon Parkway and Airline Road (KY-812) consisting of six 200-foot ball diamonds, two 225-foot ball diamonds, three multi-purpose fields (for soccer, football, lacrosse, etc.), two concession stands, an outdoor pavilion, and four large parking lots, among other potential amenities; and (iv) all or a portion of the costs of the construction and installation of a stormwater system to provide minimal stormwater drainage in a phased and joint effort (50/50) between the City and Henderson Water Utility in Countryview Subdivision, which is an older development of about 300 homes off Old Madisonville Road and built with little provision for storm drainage; (v) all or a portion of the costs of capitalized interest on the Series 2020A Bonds, if any, (vi) all or a portion of the costs of credit enhancement on the Series 2020A Bonds, if any, and (vii) all or a portion of the costs of issuance of the Series 2020A Bonds. The Series 2020B Bonds are to be issued for the purposes of financing the costs of (i) the costs of refunding in advance of maturity all or a portion of the City’s General Obligation Bonds, Series 2011A maturing on and after December 1, 2022, (ii) all or a portion of the costs of credit enhancement on the Series 2020B Bonds, if any, and (iii) all or a portion of the costs of issuance of the Series 2020B Bonds. Provisions are made in the Ordinance for the payment of the Bonds and the security therefor; for the application of the proceeds of the Bonds; for the establishment of bond payment funds for each series and the continuation of the City’s previously established sinking fund; and for certain covenants of the City with respect to the Bonds. The Series 2020A Bonds are to be sold at public, competitive sale, and shall mature, or be subject to mandatory sinking fund redemption, in varying amounts on December 1, 2021 and each December 1st thereafter through December 1, 2040. The Series 2020B Bonds are to be sold at public, competitive sale, and shall mature, or be subject to mandatory sinking fund redemption, in varying amounts on June 1, 2021 and December 1, 2021 and each December 1st thereafter through December 1, 2031. The Bonds pledge the full faith, credit, and taxing power of the City and provision is made for the collection of a tax to pay the principal of, and interest on the Bonds, subject to certain credits, as provided in Section 7 of the Ordinance. As required by KRS 83A.060, the following Section 7 of the Ordinance is set forth in its entirety:

“Section 7. General Obligation. The Bonds shall be full general obligations of the City and, for the payment of the Bonds, and the interest thereon, the full faith, credit, and taxing power of the City are hereby pledged for the prompt payment thereof. During the period the Bonds are outstanding, there shall be and there hereby is levied on all the taxable property in the City, in addition to all other taxes, without limitation as to rate, a direct tax annually in an amount sufficient to pay the principal of and interest on the Bonds when and as due, it being hereby found and determined that current tax rates are within all applicable limitations. The tax shall be and is hereby ordered computed, certified, levied, and extended upon the tax duplicate and collected by the same officers in the same manner and at the same time that taxes for general purposes for each of the years are certified, extended, and collected. The tax shall be placed before and in preference to all other items and for the full amount thereof provided, however, that in each year to the extent that the other lawfully available funds of the City are available for the payment of the Bonds, and are appropriated for such purpose, the amount of such direct tax upon all of the taxable property in the City shall be reduced by the amount of such other funds so available and appropriated.”
The undersigned Attorney at Law, licensed to practice in Kentucky, hereby certifies that the foregoing title summary of the ordinance of the City of Henderson, Kentucky, was prepared by the undersigned and constitutes a general summary of essential provisions of the ordinance, reference to the full text of which ordinance is hereby made for a complete statement of its provisions and terms.

By: /s/ Mark S. Franklin

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AN ORDINANCE OF THE CITY OF HENDERSON, KENTUCKY AUTHORIZING THE ISSUANCE OF (A) CITY OF HENDERSON, KENTUCKY GENERAL OBLIGATION BONDS, SERIES 2020A IN THE APPROXIMATE AGGREGATE PRINCIPAL AMOUNT OF $10,000,000 (SUBJECT TO A PERMITTED ADJUSTMENT DECREASING THE PRINCIPAL AMOUNT OF BONDS BY ANY AMOUNT) FOR THE PURPOSES OF FINANCING ALL OR A PORTION OF THE COSTS THE ACQUISITION, CONSTRUCTION, EQUIPPING, AND INSTALLATION OF (1) NEW MUNICIPAL WATER, SANITARY SEWER, AND STORM SEWER IMPROVEMENTS AND ADDITIONS, (2) A NEW MUNICIPAL FIRE STATION AND RELATED FACILITIES AND EQUIPMENT, (3) A NEW APPROXIMATELY 58-ACRE SPORTS COMPLEX, AND (4) A STORMWATER SYSTEM IN COUNTRYVIEW SUBDIVISION; AND (B) CITY OF HENDERSON, KENTUCKY GENERAL OBLIGATION REFINDBOND S, TAXABLE SERIES 2020B IN THE APPROXIMATE AGGREGATE PRINCIPAL AMOUNT OF $1,305,000 (SUBJECT TO A PERMITTED ADJUSTMENT INCREASING THE PRINCIPAL AMOUNT OF BONDS BY UP TO $130,000 AND DECREASING THE PRINCIPAL AMOUNT OF BONDS BY ANY AMOUNT) FOR THE PURPOSE OF REFINDBIND IN ADVANCE OF MATURITY THE CITY'S GENERAL OBLIGATION BONDS, SERIES 2011A; APPROVING THE FORMS OF THE BONDS; AUTHORIZING DESIGNATED OFFICERS TO EXECUTE AND DELIVER THE BONDS; AUTHORIZING AND DIRECTING THE FILING OF A NOTICE OR NOTICES WITH THE STATE LOCAL DEBT OFFICER; PROVIDING FOR THE PAYMENT AND SECURITY OF THE BONDS; ESTABLISHING BOND PAYMENT FUNDS FOR EACH SERIES OF THE BONDS; AFFIRMING THE EXISTING SINKING FUND; AUTHORIZING ACCEPTANCE OF THE BID OF THE PURCHASER FOR EACH SERIES OF THE BONDS; AND REPEALING INCONSISTENT ORDINANCES.

WHEREAS, the City of Henderson, Kentucky (the “City”) has determined and does hereby confirm that it is a public purpose of the City to acquire, construct, equip, and install the following projects for the well-being and benefit of the citizens of the City (collectively, the “2020A Projects”):

(i) the acquisition, construction, installation, and equipping of new municipal water, sanitary sewer and storm sewer improvements and additions comprising a new Raw Water Intake and Raw Water Pipeline, to be constructed on the Green River, at a point near Sebree, Kentucky, with a capacity of at least 8 million gallons per day;

(ii) the acquisition, construction, installation, and equipping of a new municipal fire station and related facilities and equipment to be located at the intersection of Zion Road and Garden Mile Road;
(iii) the acquisition, construction, installation, and equipping of a new approximately 58-acre sports complex bordered by the Audubon Parkway and Airline Road (KY-812) consisting of six 200-foot ball diamonds, two 225-foot ball diamonds, three multi-purpose fields (for soccer, football, lacrosse, etc.), two concession stands, an outdoor pavilion, and four large parking lots, among other potential amenities; and

(iv) the construction and installation of a stormwater system to provide minimal stormwater drainage in a phased and joint effort (50/50) between the City and Henderson Water Utility in Countryview Subdivision, which is an older development of about 300 homes off Old Madisonville Road and built with little provision for storm drainage; and

WHEREAS, the City has heretofore issued its City of Henderson, Kentucky General Obligation Bonds, Series 2011A dated December 22, 2011, in the original aggregate principal amount of $2,085,000 (the “Series 2011A Bonds”), the proceeds of which were used to (i) to pay a portion of the costs of the acquisition, construction, and equipping of a new municipal fire station within the City (the “Series 2011A Project”); and (ii) to pay costs of issuance of the Series 2011A Bonds; and

WHEREAS, the City has determined that the present conditions of the municipal market are favorable and that it is therefore advantageous and in the best interests of the City for the City to proceed with the refunding of all or a portion of the Series 2011A Bonds; and

WHEREAS, in order to achieve the foregoing objectives of the City, the City has determined and does hereby confirm that it is necessary and desirable at this time for the City to proceed with the issuance of:

(i) its General Obligation Bonds, Series 2020A in the approximate principal amount of $10,000,000 (which amount may be decreased by any amount) (the “Series 2020A Bonds”) (1) to finance all or a portion of the Series 2020A Projects, (2) to pay all or a portion of capitalized interest on the Series 2020A Bonds, if any, (3) to pay all or a portion of the cost of credit enhancement on the Series 2020A Bonds, if any, and (4) to pay all or a portion of the costs of issuance of the Series 2020A Bonds; and

(ii) its General Obligation Refunding Bonds, Taxable Series 2020B in the approximate principal amount of $1,305,000 (which amount may be increased by $130,000 or decreased by any amount) (the “Series 2020B Bonds” and, together with the Series 2020A Bonds, the “Bonds”) (1) to refund in advance of maturity all or a portion of the Series 2011A Bonds, (2) to pay all or a portion of the cost of credit enhancement on the Series 2020B Bonds, if any, and (3) to pay all or a portion of the costs of issuance of the Series 2020B Bonds; and

WHEREAS, pursuant to the Constitution and Laws of the Commonwealth of Kentucky, and particularly Sections 66.011 et. seq. of the Kentucky Revised Statutes, as amended (the “General Obligation Act”) and Sections 58.010 et. seq. of the Kentucky Revised Statutes, as amended (the “Public Project Act”), a city may issue bonds, subject to the requirements of the
General Obligation Act or the Public Project Act, to pay all or any portion of the costs of financing or refinancing any public project to the extent that the city is authorized to cause the acquisition, construction, installation, and equipping thereof; and

WHEREAS, the City desires to cause all or a portion of (i) the costs of the Series 2020A Projects to be financed, (ii) the Series 2011A Bonds to be refunded in advance of maturity on a date or dates to be established by the City, (iii) the costs of capitalized interest on the Series 2020A Bonds, if any, to be financed, (iv) the costs of credit enhancement for the Bonds, if any, to be financed, and (v) the costs of issuance of the Bonds to be financed, all through the issuance of the Bonds to be sold and awarded to the successful bidder for each series of the Bonds (each, a “Purchaser” and collectively, the “Purchasers”) at public, competitive sale in accordance with the provisions of Chapter 424 of the Kentucky Revised Statutes, as amended.

NOW, THEREFORE, BE IT ORDAINED by the City of Henderson, Kentucky, as follows:

Section 1. Necessity, Authorization, and Purpose. The City hereby declares that it is desirable and necessary to issue, and hereby authorizes the issuance, of:

(i) its General Obligation Bonds, Series 2020A in the approximate principal amount of $10,000,000 (which amount may be decreased by any amount) (the “Series 2020A Permitted Adjustment”) (1) to finance all or a portion of the Series 2020A Projects, (2) to pay all or a portion of the cost of capitalized interest on the Series 2020A Bonds, if any, (3) to pay all or a portion of the cost of credit enhancement on the Series 2020A Bonds, if any, and (4) to pay all or a portion of the costs of issuance of the Series 2020A Bonds;

(ii) its General Obligation Refunding Bonds, Taxable Series 2020B in the approximate principal amount of $1,305,000 (which amount may be increased by $130,000 or decreased by any amount) (the “Series 2020B Permitted Adjustment”) (1) to refund in advance of maturity all or a portion of the Series 2011A Bonds, (2) to pay all or a portion of the cost of credit enhancement on the Series 2020B Bonds, if any, and (3) to pay all or a portion of the costs of issuance of the Series 2020B Bonds.

The exact principal amount of each series of the Bonds to be issued shall be established in the Award Certificate (as defined herein) for such series.

Section 2. Form of Bonds. Each series of the Bonds shall be issued as fully registered bonds and shall bear the respective designation set forth in Section 1 hereof. All Bonds issued pursuant to this Ordinance shall each express upon their face the purpose for which they are issued, that they are issued under the Act, and shall be substantially in the form set forth in Exhibit A-1 or A-2 attached hereto. If either series of the Bonds is issued in a calendar year after calendar year 2020, its designation may be adjusted to reflect the calendar year of its issuance.

Each series of the Bonds shall be in denominations as requested by its respective Purchaser, which shall be in integral multiples of five thousand dollars ($5,000). Each series of the Bonds shall each be dated its date of initial issuance and delivery, or such other date as is determined in an award certificate accepting the bid of the Purchasers for the Bonds (the “Award Certificates”)
to be executed by the Mayor, the City Manager, or the Finance Director of the City on the date of the sale of the Bonds.

Interest on Bonds shall be payable each June 1st and December 1st (an “Interest Payment Date”), commencing June 1, 2021, at the stated interest rate or rates on the principal amounts thereof, calculated on the basis of a three hundred sixty day year with thirty day months.

The Series 2020A Bonds shall be serial or term bonds maturing or subject to mandatory sinking fund redemption on December 1, 2021 and each December 1st thereafter in the years and in the amounts to be established in the Award Certificate after advertised competitive sale of the Series 2020A Bonds based on the interest rates set forth in the successful bid for the Series 2020A Bonds the (“Series 2020A Bid”) and the provisions of this Section 2, provided that the final maturity date of the Series 2020A Bonds shall be as set forth in the Award Certificate but shall be no later than thirty years after their date of issuance.

The Series 2020B Bonds shall be serial or term bonds maturing or subject to mandatory sinking fund redemption on June 1, 2021, December 1, 2021, and each December 1st thereafter in the years and in the amounts to be established in the Award Certificate after advertised competitive sale of the Series 2020B Bonds based on the interest rates set forth in the successful bid for the Series 2020B Bonds the (“Series 2020B Bid”) and the provisions of this Section 2, provided that the final maturity date of the Series 2020B Bonds shall be as set forth in the Award Certificate but shall be no later than twenty years after their date of issuance.

The interest rate or rates on each series of the Bonds shall be determined in the Award Certificate based on the Bids; provided that the aggregate net interest cost of each series of the Bonds determined separately shall not exceed six percent per annum.

The Bonds of each series issued as term bonds shall be subject to mandatory sinking fund redemption on the dates, in the years, and in the amounts as set forth in the Award Certificate.

The Bonds maturing on or after December 1, 2029 shall be subject to optional redemption prior to their maturity on any date on or after December 1, 2028, in whole or in part, in such order of maturity as shall be designated in writing by the City, and by lot within a maturity, at the election of the City upon thirty-five days’ written notice to the Paying Agent and Registrar at a redemption price equal to the par amount thereof, plus accrued interest to the date of redemption.

At least thirty days before the optional or mandatory sinking fund redemption date of any Bond, the Paying Agent and Registrar shall cause a notice of such redemption either in whole or in part, signed by the Paying Agent and Registrar, to be mailed, first class, postage prepaid, to all registered owners of the Bond to be redeemed at their addresses as they appear on the registration books kept by the Paying Agent and Registrar, but failure to mail any such notice shall not affect the validity of the proceedings for such redemption of Bonds for which such notice has been sent. Each such notice shall set forth the date fixed for redemption, the redemption price to be paid and, if less than all of the Bonds being payable by their terms on a single date then outstanding shall be called for redemption, the distinctive series, number or letters, if any, of such Bonds to be redeemed.
On the date so designated for redemption, notice having been mailed in the manner under the conditions hereinabove provided and moneys for payment of the redemption price being held in the applicable Bond Payment Fund or Funds by the Paying Agent and Registrar for the registered owners of the Bonds to be redeemed, the Bonds so called for redemption shall become and be due and payable at the redemption price provided for redemption of such Bonds on such date, interest on the Bonds so called for redemption shall cease to accrue, and the registered owners of such Bonds shall have no right in respect thereof except to receive payment of the redemption price thereof.

Notwithstanding the foregoing, any such redemption may be conditioned upon funds being deposited with the Paying Agent and Registrar on or before the applicable redemption date in an amount sufficient to carry out such redemption. A failure to make such deposit shall not constitute an event of default under this Resolution and the redemption in such event shall be cancelled. If the City knows in advance of an applicable redemption date that the necessary deposit will not occur, the City shall notify the Paying Agent and Registrar with instructions to give notice to the registered owner of the cancellation of the redemption.

The Bonds may be issued in book-entry-only form through the services of the Depository Trust Company (“DTC”). If the City determines to issue either or both series of the Bonds in book-entry-only form the Designated Officers (hereinafter defined) are authorized to execute all documents necessary to accomplish such form of issuance.

Section 3. Execution and Delivery. The Bonds shall be executed by the manual or facsimile signature of the Mayor and duly attested by the manual or facsimile signature of the City Clerk (which, together with any other person as may be authorized by resolution or municipal order are referred to as “Designated Officers”) and may have the seal of the City or a facsimile thereof affixed thereto. Additionally, all Bonds of a series shall bear the manual authenticating signature of an authorized representative of the paying agent and bond registrar designated in the Award Certificate (the “Paying Agent and Registrar”). The Designated Officers are further authorized and directed to deliver each series of the Bonds to its respective Purchaser upon the terms and conditions provided herein, in the Award Certificate, and in the winning Bid for such series, receive the proceeds therefor, execute, and deliver such certificates and other closing documents, and take such other action as may be necessary or appropriate in order to effectuate the proper issuance, sale, and delivery of each such series of the Bonds.

The City authorizes and directs the Paying Agent and Registrar to authenticate each series of the Bonds and to deliver the Bonds to their respective Purchaser upon payment of the purchase price thereof.

Section 4. Payment. Payment of or on account of the interest on and principal of a series of the Bonds shall be made directly to the Paying Agent and Registrar for the account of the registered owner. Interest on the Bonds shall be payable by check, mailed to the person whose name appears on the fifteenth day preceding an Interest Payment Date on the bond registration records as the registered owner, on each Interest Payment Date or by other transfer of funds acceptable to such registered owner and the Paying Agent and Registrar. Principal shall be payable in such coin or currency of the United States of America as shall be legal tender for the payment of public and private debts at the time and place of payment upon delivery of the Bonds to the
Paying Agent and Registrar or by other transfer of funds acceptable to the Paying Agent and Registrar and such registered owner. All such payments shall be valid and effectual to satisfy and discharge the liability upon such Bonds to the extent of the sum or sums so paid.

Section 5. Filing. The Designated Officers are hereby authorized to undertake and cause all filings which may be required by law to be filed by the City with respect to the Bonds including without limitation the filing with the State Local Debt Officer required by law.

Section 6. Bond Payment Fund; Payment of Bonds. There is hereby established with the Paying Agent and Registrar a bond payment fund in the name of the City to be known as “City of Henderson, Kentucky General Obligation Bonds, Series 2020A - Bond Payment Fund” (the “Series 2020A Bond Payment Fund”), into which the City covenants to deposit, and into which the Designated Officers are hereby authorized and directed to deposit from the City’s General Fund, on or before the twenty-fifth day of each month which precedes an Interest Payment Date, the amount required to pay principal of and interest due on the Series 2020A Bonds on such Interest Payment Date. The Paying Agent and Registrar shall, without further authorization from the City, withdraw from the Series 2020A Bond Payment Fund, on such Interest Payment Date, the amounts necessary to pay principal of, and interest on, the Series 2020A Bonds to the registered owner of the same.

There is hereby established with the Paying Agent and Registrar a bond payment fund in the name of the City to be known as “City of Henderson, Kentucky General Obligation Bonds, Series 2020B - Bond Payment Fund” (the “Series 2020B Bond Payment Fund” and, together with the Series 2020A Bond Payment Fund, the “Bond Payment Funds”), into which the City covenants to deposit, and into which the Designated Officers are hereby authorized and directed to deposit from the City’s General Fund, on or before the twenty-fifth day of each month which precedes an Interest Payment Date, the amount required to pay principal of and interest due on the Series 2020B Bonds on such Interest Payment Date. The Paying Agent and Registrar shall, without further authorization from the City, withdraw from the Series 2020B Bond Payment Fund, on such Interest Payment Date, the amounts necessary to pay principal of, and interest on, the Series 2020B Bonds to the registered owner of the same.

The Paying Agent and Registrar is hereby appointed depository of the Series 2020A Bond Payment Fund with respect to the Series 2020A Bonds. The Series 2020B Paying Agent and Registrar is hereby appointed depository of the Series 2020B Bond Payment Fund with respect to the Series 2020B Bonds.

If the City shall fail or refuse to make any required deposit in the Bond Payment Funds from the Sinking Fund, the Paying Agent and Registrar shall (i) notify any agency of the Commonwealth of Kentucky or any political subdivision thereof which may collect and distribute taxes or revenues for the City to seek any available necessary or proper remedial action; and (ii) upon being indemnified against cost and expense, exercise any remedy provided in the Act or at law or in equity for the benefit of the owner of the applicable Bonds or its assignee, and shall disburse all funds so collected to the owners of the applicable Bonds as payment of such Bonds.

Section 7. General Obligation. The Bonds shall be full general obligations of the City and, for the payment of the Bonds, and the interest thereon, the full faith, credit, and taxing power
of the City are hereby pledged for the prompt payment thereof. During the period the Bonds are outstanding, there shall be and there hereby is levied on all the taxable property in the City, in addition to all other taxes, without limitation as to rate, a direct tax annually in an amount sufficient to pay the principal of and interest on the Bonds when and as due, it being hereby found and determined that current tax rates are within all applicable limitations. The tax shall be and is hereby ordered computed, certified, levied, and extended upon the tax duplicate and collected by the same officers in the same manner and at the same time that taxes for general purposes for each of the years are certified, extended, and collected. The tax shall be placed before and in preference to all other items and for the full amount thereof provided, however, that in each year to the extent that the other lawfully available funds of the City are available for the payment of the Bonds, and are appropriated for such purpose, the amount of such direct tax upon all of the taxable property in the City shall be reduced by the amount of such other funds so available and appropriated.

Section 8. Maintenance of Sinking Fund. The Sinking Fund heretofore established by the City is hereby ordered to be continued and maintained as long as any of the Bonds shall remain outstanding. The funds derived from the tax levy required by Section 7 hereof or other lawfully available funds shall be placed in the Sinking Fund and, together with interest collected on the same, are irrevocably pledged for the payment of the interest on and principal of all bonds issued under the Act and Tax-Supported Leases, as defined in the Act, when and as the same fall due. Amounts shall be transferred from the Sinking Fund to the Bond Payment Funds at the times and in the amounts required by Section 6 hereof.

Section 9. Sale of Bonds; Award Certificate. The Designated Officers are hereby directed to sell the Bonds to their respective Purchasers at advertised competitive sale, the final principal amount of, the principal amortization of, the interest rate or rates on each series of the Bonds, and the identity of the Paying Agent and Registrar to be established in accordance with the requirements of Sections 1 through 3 hereof by adoption of the Award Certificate. The Designated Officers are hereby directed to appoint the same Paying Agent and Registrar for both series of the Bonds in the Award Certificate. Each of the Mayor, the City Manager, the Finance Director, and the City Clerk of the City is hereby authorized to execute the Award Certificate establishing the terms of each respective series of the Bonds and the identity of the Paying Agent and Registrar and, with respect to the Series 2020A Bonds, the Construction Fund Depository described herein, without any further action by the Board of Commissioners.

The City shall comply with the requirements of KRS Chapters 66 and 424 by advertising for bids for the purchase of each series of the Bonds. Actions heretofore taken by the City in connection with the preparation of such instruments and the distribution of such information by the City as shall be necessary to accomplish the foregoing, including the preparation of a Preliminary Official Statement and final Official Statement which Preliminary Official Statement and Official Statement shall be deemed final by the Mayor in accordance with Rule 15c2-12 of the Securities and Exchange Commission (the “Rule”), are hereby ratified and approved.

Section 10. Bonds Registered Owners; Transfer; Exchange. As long as any of the Bonds of a series executed and delivered hereunder shall remain outstanding, the Paying Agent and Registrar shall maintain an office for the Registration of each series of the Bonds and shall also keep at such office books for such registration and transfers. The registered owner of each series of the Bonds, as set forth in the registration books maintained by the Paying Agent and Registrar
on the fifteenth day preceding an Interest Payment Date, or its assignees, for purposes of this Bond Ordinance, to the extent of its interest, shall be treated as the owner of the applicable Bonds and shall be entitled to all rights and security of the owner of the respective series of the Bonds hereunder.

Upon surrender for registration of transfer of Bonds at the office of the Paying Agent and Registrar with a written instrument of transfer satisfactory to the Paying Agent andRegistrar, duly executed by the registered owner or the registered owner’s duly authorized attorney, the Paying Agent and Registrar shall execute and deliver, in the name of the designated transferee or transferees, one or more Bonds of the same series of any authorized denomination and of a like tenor and effect.

All Bonds of a series, upon surrender thereof at the office of the Paying Agent and Registrar, may, at the option of the registered owner thereof be exchanged for an equal aggregate principal amount of Bonds of the same series of any authorized denomination.

In all cases in which the privilege of exchanging or transferring Bonds is exercised, the Paying Agent and Registrar shall execute and deliver Bonds in accordance with the provisions of this Section. Every such exchange or transfer of Bonds, whether temporary or definitive, shall be without charge; provided that the Paying Agent and Registrar may impose a charge sufficient to reimburse it for any tax, fee or other governmental charge required to be paid with respect to such exchange or transfer, which sum or sums shall be paid by the person requesting such exchange or transfer as a condition precedent to the exercise of the privilege of making such exchange or transfer.

Section 11. Disposition of Bond Proceeds.

Series 2020A Bonds. The proceeds of the sale of the Series 2020A Bonds shall be deposited, together with other available funds of the City, as follows: (a) accrued interest and a rounding amount, if any, shall be deposited to the Series 2020A Bond Payment Fund created in Section 6 hereof; (b) an amount representing capitalized interest, if any, shall be deposited in the Series 2020A Bond Payment Fund created in Section 6 hereof; (c) an amount sufficient to pay the costs of issuing the Series 2020A Bonds, including any proceeds designated for payment of the costs of credit enhancement, shall be deposited to a special cost of issuance fund hereby directed to be established and designated as the “City of Henderson, Kentucky General Obligation Bonds, Series 2020A - Cost of Issuance Fund” (the “Series 2020A Cost of Issuance Fund”); (d) the remainder of the proceeds shall be deposited to a special construction fund hereby directed to be established and designated as the “City of Henderson, Kentucky General Obligation Bonds, Series 2020A - Construction Fund”(the “Series 2020A Construction Fund”) to be held by the construction fund depository designated in the Award Certificate (the “Series 2020A Construction Fund Depository”) and used for the acquisition, construction, installation, and equipping of the 2020A Projects.

Series 2020B Bonds. The proceeds of the sale of the Series 2020B Bonds shall be deposited, together with other available funds of the City, as follows: (a) accrued interest and a rounding amount, if any, shall be deposited to the Series 2020B Bond Payment Fund created in Section 6 hereof; (b) an amount sufficient to pay the costs of issuing the Series 2020B Bonds,
including any proceeds designated for payment of the costs of credit enhancement, shall be deposited to a special cost of issuance fund hereby directed to be established and designated as the “City of Henderson, Kentucky General Obligation Bonds, Series 2020B - Cost of Issuance Fund” (the “Series 2020B Cost of Issuance Fund”); (d) the remainder of the proceeds of the Series 2020B Bonds shall be deposited in an escrow account established with The Bank of New York Mellon Trust Company, N.A. in its capacity as escrow agent and as the paying agent and bond registrar for the Series 2011A Bonds (the “Escrow Agent”) pursuant to an Escrow Deposit Agreement by and between the City and the Escrow Agent, the amount of such deposit, together with investment earnings thereon, being an amount sufficient to pay the outstanding principal balance and accrued interest on the Series 2011A Bonds to and including December 1, 2021, such date being their first available date of optional redemption.

Section 12. Further Actions. In connection with the undertaking and implementation by the City of the plan of financing herein described, which is hereby expressly directed, the Designated Officers are hereby authorized and directed to take and carry out such further necessary, desirable, or appropriate actions to effect such plan of financing, including executing and delivering a financial advisory services agreement with the City’s financial advisor, Robert W Baird & Company, Incorporated. Louisville, Kentucky.

Section 13. Designation of Bonds. Series 2020A The Bonds are hereby designated as “qualified tax-exempt obligations” for the purposes set forth in § 265(b)(3) of the Internal Revenue Code of 1986, as amended as the City does not anticipate issuing more than $10,000,000 of “qualified tax-exempt obligations” during calendar year 2020. The Series 2020B Bonds are not designated as “qualified tax-exempt obligations” for the purposes set forth in § 265(b)(3) of the Internal Revenue Code of 1986, as amended (the “Code”), because interest on the Series 2020B Bonds will be subject to taxation for purposes of federal income tax for purposes of the Code.

Section 14. Discharge of Bond Ordinance. If the City shall pay or cause to be paid, or there shall otherwise be paid, to the owners of the Bonds the total principal and interest due or to become due thereon through maturity, in the manner stipulated therein and in this Bond Ordinance, then the pledges made under this Bond Ordinance, and all covenants, agreements, and other obligations of the City hereunder, shall thereupon cease, terminate, and become void and be discharged and satisfied.

Section 15. Severability. If any one or more of the provisions of this Bond Ordinance should be determined by a court of competent jurisdiction to be contrary to law, then such provisions shall be deemed to be severable from all remaining provisions and shall not affect the validity of such other provisions.

Section 16. Inconsistent Actions. All prior ordinances, resolutions, orders, or parts thereof inconsistent herewith are hereby repealed.

Section 17. Open Meetings Compliance. All meetings of the Board of Commissioners and of its committees and any other public bodies, at which the formal actions in connection with the issuance of the Bonds were taken, or at which deliberations that resulted in such formal actions were held, were open meetings, and such formal actions were taken and any such deliberations
took place while such meetings, after proper notice, were open to the public, in compliance with all legal requirements including KRS 61.810, 61.815, and 61.820 and 61.823.

Section 18. Effective Date. This Bond Ordinance shall become effective immediately upon adoption and publication of a summary thereof, as provided by law.

[Signature page to follow]
SIGNATURE PAGE TO BOND ORDINANCE

INTRODUCED AND PUBLICLY READ ON FIRST READING on October 27, 2020.

PUBLICLY READ, ADOPTED, AND APPROVED ON SECOND READING, this November 10, 2020.

CITY OF HENDERSON, KENTUCKY

By: ________________________________
    Mayor

Attest:

By: ________________________________
    City Clerk

CERTIFICATION

I, the undersigned, do hereby certify that I am the duly qualified and acting City Clerk of the City of Henderson, Kentucky, and as such City Clerk, I further certify that the foregoing is a true, correct, and complete copy of a Bond Ordinance duly enacted by the Board of Commissioners of the City at a duly convened meeting held on November 10, 2020, on the same occasion signed by the Mayor as evidence of his approval, and now in full force and effect, all as appears from the official records of the City in my possession and under my control.


______________________________
City Clerk
EXHIBIT A-1

to

BOND ORDINANCE

Unless this certificate is presented by an authorized representative of The Depository Trust Company, a New York corporation ("DTC") to issuer or its agent for registration of transfer, exchange, or payment and any certificate issued is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL inasmuch as the registered owner hereof, Cede & Co., has an interest herein.

COMMONWEALTH OF KENTUCKY
CITY OF HENDERSON, KENTUCKY
GENERAL OBLIGATION BOND, SERIES 2020A

No. RA-1

BOND DATE: 

MATURITY DATE: December 1, 

INTEREST RATE: 

REGISTERED HOLDER: 

PRINCIPAL AMOUNT: 

KNOW ALL PERSONS BY THESE PRESENTS: That the City of Henderson, Kentucky (the "City"), for value received, hereby acknowledges itself obligated to, and promises to pay to the registered holder identified above, or registered assigns, the principal sum identified above (or, if any part thereof has been paid, the balance thereof remaining unpaid), on the maturity date specified above, and to pay interest on the principal sum (or, if any part thereof has been paid, the balance thereof remaining unpaid) from the date hereof, payable each June 1st and December 15th, commencing June 1, 2021, at the Interest Rate per annum identified above, calculated on the basis of a three hundred sixty-day year with thirty-day months, except as the provisions hereinafter set forth with respect to prior redemption may be and become applicable hereto. The principal of and interest on this bond are payable, without deduction for exchange, collection, or service charges, in lawful money of the United States of America. Principal is payable at the designated corporate trust office of [Paying Agent Name], [Paying Agent City], [Paying Agent State], or any successor (the "Paying Agent and Registrar") or by other transfer of funds acceptable to the Paying Agent and Registrar and such owner. All interest on this bond and principal payable prior to the final maturity date shall be payable by check or draft mailed to the record date registered holder hereof at the address shown on the registration records kept by the Paying Agent and Registrar or by other transfer of funds acceptable to the Paying Agent and Registrar and such owner. The record date shall be the fifteenth day of the month preceding each interest payment date.

This Bond is one of an issue of Bonds of like tenor and effect, except as to denomination and maturity, numbered from RA-1 upward, inclusive, of the denomination of $5,000 or any integral multiple thereof originally aggregating [___] dollars ($[___]) in principal amount.
issued for the purposes of financing (i) all or a portion of the costs of the acquisition, construction, installation, and equipping of new municipal water, sanitary sewer and storm sewer improvements and additions comprising a new Raw Water Intake and Raw Water Pipeline, to be constructed on the Green River, at a point near Sebree, Kentucky, with a capacity of at least 8 million gallons per day; (ii) all or a portion of the costs of the acquisition, construction, installation, and equipping of a new municipal fire station and related facilities and equipment to be located at the intersection of Zion Road and Garden Mile Road; (iii) all or a portion of the costs of the acquisition, construction, installation, and equipping of a new approximately 58-acre sports complex bordered by the Audubon Parkway and Airline Road (KY-812) consisting of six 200-foot ball diamonds, two 225-foot ball diamonds, three multi-purpose fields (for soccer, football, lacrosse, etc.), two concession stands, an outdoor pavilion, and four large parking lots, among other potential amenities; and (iv) all or a portion of the costs of the construction and installation of a stormwater system to provide minimal stormwater drainage in a phased and joint effort (50/50) between the City and Henderson Water Utility in Countryview Subdivision, which is an older development of about 300 homes off Old Madisonville Road and built with little provision for storm drainage; (v) all or a portion of the costs of capitalized interest on the Bonds, if any, (vi) all or a portion of the cost of credit enhancement on the Bonds, if any, and (vii) all or a portion of the costs of issuance of the Bonds, all pursuant to and in full compliance with the general laws of the Commonwealth of Kentucky and particularly Chapter 66 of the Kentucky Revised Statutes, and pursuant to an ordinance duly adopted by the Board of Commissioners of the City on November 10, 2020 (the "Bond Ordinance") upon the affirmative vote of at least a majority of the members of its Board of Commissioners at a public meeting duly and regularly held, and after filing proper notice with the State Local Debt Officer of the Commonwealth of Kentucky.

This Bond and the issue of which it forms a part is a general obligation of the City and the full faith, credit, and taxing power of the City are pledged to the payments due hereunder. THIS BOND IS CONTINUALLY SECURED BY THE FAITH, CREDIT, AND TAXING POWER OF THE CITY.

The Bonds mature on December 1st of the following years, in the respective principal amounts and bear interest at the following rates of interest:

<table>
<thead>
<tr>
<th>Maturity Date</th>
<th>Amount</th>
<th>Interest Rate Per Annum</th>
</tr>
</thead>
<tbody>
<tr>
<td>December 1, 2021</td>
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<tr>
<td>December 1, 2022</td>
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<td>December 1, 2030</td>
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<td>December 1, 2031</td>
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<tr>
<td>December 1, 2032</td>
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</tr>
</tbody>
</table>
The Bonds maturing on or after December 1, 2029 shall be subject to optional redemption prior to their maturity on any date on or after December 1, 2028, in whole or in part, in such order of maturity as shall be designated in writing by the City, and by lot within a maturity, at the election of the City upon thirty-five days’ written notice to the Paying Agent and Registrar at a redemption price equal to the par amount thereof, plus accrued interest to the date of redemption.

[INSERT ANY MANDATORY SINKING FUND REDEMPTION REQUIREMENTS]

At least thirty days before the redemption date of any Bonds the Paying Agent and Registrar shall cause a notice of such redemption signed by the Paying Agent and Registrar, to be mailed, first class, postage prepaid, to all registered owners of the Bonds to be redeemed at their addresses as they appear on the registration books kept by the Paying Agent and Registrar, but failure to mail any such notice shall not affect the validity of the proceedings for such redemption of Bonds for which such notice has been sent. Each such notice shall set forth the date fixed for redemption, the redemption price to be paid and, if less than all of the Bonds being payable by their terms on a single date then outstanding shall be called for redemption, the distinctive number or letters, if any, of such Bonds to be redeemed.

On the date so designated for redemption, notice having been published in the manner under the conditions hereinabove provided and moneys for payment of the redemption price being held in the Payment Fund by the Paying Agent and Registrar for the registered owners of the Bonds to be redeemed, the Bonds so called for redemption shall become and be due and payable at the redemption price provided for redemption of such Bonds on such date, interest on the Bonds so called for redemption shall cease to accrue, and the registered owners of such Bonds shall have no right in respect thereof except to receive payment of the redemption price thereof.

Notwithstanding the foregoing, any such redemption may be conditioned upon funds being deposited with the Paying Agent and Registrar on or before the applicable redemption date in an amount sufficient to carry out such redemption. A failure to make such deposit shall not constitute an event of default under this Resolution and the redemption in such event shall be cancelled. If the City knows in advance of an applicable redemption date that the necessary deposit will not occur, the City shall notify the Paying Agent and Registrar with instructions to give notice to the registered owner of the cancellation of the redemption.
No recourse shall be had for the payment of the principal of or the interest on this Bond, or for any claim based hereon, against any officer, agent or employee, past, present, or future, of the City, as such, either directly or through the City, whether by virtue of any constitutional provision, statute, or rule of law, or by the enforcement of any assessment or penalty, or otherwise; all such liability of such officers, agents or employees is hereby renounced, waived, and released as a condition of and as consideration for the issuance, execution, and acceptance of this Bond.

It is hereby certified that all acts, conditions, and things required to be done, to occur or be performed precedent to and in the issuance of this Bond, or in the creation of the obligations of which this Bond is evidence, have been done, have occurred and have been performed in regular and due form and manner as required by law; that the faith, credit, and taxing power of the City are hereby irrevocably pledged for the prompt payment of the principal hereof and interest hereon; that the repayment obligation represented by this Bond is not in excess of any constitutional or statutory limitation; and that due provision has been made for the levy and collection of a tax sufficient in amount to pay the interest on this Bond as it falls due and to provide for the redemption of this Bond at maturity or upon earlier redemption.

[Signature page to follow]
SIGNATURE PAGE TO SERIES 2020A BOND

IN WITNESS WHEREOF, the City has caused this Bond to be signed either manually or by facsimile in its name by its Mayor and duly attested either manually or by facsimile by its City Clerk and an impression or facsimile of the City’s seal to be imprinted hereon, as of the date set forth above.

[Seal]  CITY OF HENDERSON, KENTUCKY

By: ________________________________
    Mayor

Attest:

By: ________________________________
    City Clerk

CERTIFICATE OF AUTHENTICATION

This is to certify that this Bond is one of the Bonds described hereinabove.

__________________________________
    Authorized Signature
    [Paying Agent Name]
    Paying Agent and Registrar

Date of Authentication: ________________
CERTIFICATE

It is hereby certified that the following is a correct and complete copy of the text of the legal opinion of Dinsmore & Shohl LLP, Covington, Kentucky, regarding the issue of which the within bond is one, the original of which opinion was manually executed, dated and issued as of the date of delivery of and payment for the issue and a copy of which is on file with the undersigned.

________________________________________
City Clerk

[FORM OF APPROVING OPINION]
ASSIGNMENT

FOR VALUE RECEIVED, the undersigned hereby sells, assigns and transfers unto:

________________________________________________________________________

(please print or typewrite social security number or other identifying number and name and
address of transferee)

the within Bond and does hereby irrevocably constitute and appoint the ________________

_______________ or its successor as Bond Paying Agent and Registrar to transfer the Bond

on the books kept for registration thereof with full power of substitution in the premises.

Dated: ________________

Note: The signature to this assignment must correspond with the name of the registered
owner as it appears upon the face of the within Bond in every particular, without alteration or enlargement or any change whatever.
**EXHIBIT A-2**  
**to**  
**BOND ORDINANCE**

Unless this certificate is presented by an authorized representative of The Depository Trust Company, a New York corporation ("DTC") to issuer or its agent for registration of transfer, exchange, or payment and any certificate issued is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL inasmuch as the registered owner hereof, Cede & Co., has an interest herein.

| COMMONWEALTH OF KENTUCKY  
| CITY OF HENDERSON, KENTUCKY  
| GENERAL OBLIGATION REFUNDING BOND, TAXABLE SERIES 2020B |
| No. RB-1 | $____________________________ |
| BOND DATE: | [June/December] 1, ____________________ |
| MATURITY DATE: | | |
| INTEREST RATE: | % |
| REGISTERED HOLDER: | ________________________________ |
| PRINCIPAL AMOUNT: | ________________________________ |

KNOW ALL PERSONS BY THESE PRESENTS: That the City of Henderson, Kentucky (the "City"), for value received, hereby acknowledges itself obligated to, and promises to pay to the registered holder identified above, or registered assigns, the principal sum identified above (or, if any part thereof has been paid, the balance thereof remaining unpaid), on the maturity date specified above, and to pay interest on the principal sum (or, if any part thereof has been paid, the balance thereof remaining unpaid) from the date hereof, payable each June 1st and December 1st, commencing June 1, 2021, at the Interest Rate per annum identified above, calculated on the basis of a three hundred sixty-day year with thirty-day months, except as the provisions hereinafter set forth with respect to prior redemption may be and become applicable hereto. The principal of and interest on this bond are payable, without deduction for exchange, collection, or service charges, in lawful money of the United States of America. Principal is payable at the designated corporate trust office of [Paying Agent Name], [Paying Agent City], [Paying Agent State], or any successor (the "Paying Agent and Registrar") or by other transfer of funds acceptable to the Paying Agent and Registrar and such owner. All interest on this bond and principal payable prior to the final maturity date shall be payable by check or draft mailed to the record date registered holder hereof at the address shown on the registration records kept by the Paying Agent and Registrar or by other transfer of funds acceptable to the Paying Agent and Registrar and such owner. The record date shall be the fifteenth day of the month preceding each interest payment date.

This Bond is one of an issue of Bonds of like tenor and effect, except as to denomination and maturity, numbered from RB-1 upward, inclusive, of the denomination of $5,000 or any integral multiple thereof originally aggregating [_____] dollars ($[____]) in principal amount,
issued for the purposes of financing (i) the costs of refunding in advance of maturity all or a portion of the City’s General Obligation Bonds, Series 2011A, (ii) all or a portion of the costs of credit enhancement on the Bonds, if any, and (iii) all or a portion of the costs of issuance of the Bonds, all pursuant to and in full compliance with the general laws of the Commonwealth of Kentucky and particularly Chapter 66 of the Kentucky Revised Statutes, and pursuant to an ordinance duly adopted by the Board of Commissioners of the City on November 10, 2020 (the “Bond Ordinance”) upon the affirmative vote of at least a majority of the members of its Board of Commissioners at a public meeting duly and regularly held, and after filing proper notice with the State Local Debt Officer of the Commonwealth of Kentucky.

This Bond and the issue of which it forms a part is a general obligation of the City and the full faith, credit, and taxing power of the City are pledged to the payments due hereunder. THIS BOND IS CONTINUALLY SECURED BY THE FAITH, CREDIT, AND TAXING POWER OF THE CITY.

The Bonds mature on December 1st of the following years, in the respective principal amounts and bear interest at the following rates of interest:

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<tbody>
<tr>
<td>June 1, 2021</td>
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<td>December 1, 2021</td>
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<td>December 1, 2030</td>
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<tr>
<td>December 1, 2031</td>
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</tr>
</tbody>
</table>

The Bonds maturing on or after December 1, 2029 shall be subject to optional redemption prior to their maturity on any date on or after December 1, 2028, in whole or in part, in such order of maturity as shall be designated in writing by the City, and by lot within a maturity, at the election of the City upon thirty-five days’ written notice to the Paying Agent and Registrar at a redemption price equal to the par amount thereof, plus accrued interest to the date of redemption.

[INSERT ANY MANDATORY SINKING FUND REDEMPTION REQUIREMENTS]

At least thirty days before the redemption date of any Bonds the Paying Agent and Registrar shall cause a notice of such redemption signed by the Paying Agent and Registrar, to be mailed, first class, postage prepaid, to all registered owners of the Bonds to be redeemed at their addresses as they appear on the registration books kept by the Paying Agent and Registrar, but failure to mail any such notice shall not affect the validity of the proceedings for such redemption.

A-2-2
of Bonds for which such notice has been sent. Each such notice shall set forth the date fixed for redemption, the redemption price to be paid and, if less than all of the Bonds being payable by their terms on a single date then outstanding shall be called for redemption, the distinctive number or letters, if any, of such Bonds to be redeemed.

   On the date so designated for redemption, notice having been published in the manner under the conditions hereinabove provided and moneys for payment of the redemption price being held in the Payment Fund by the Paying Agent and Registrar for the registered owners of the Bonds to be redeemed, the Bonds so called for redemption shall become and be due and payable at the redemption price provided for redemption of such Bonds on such date, interest on the Bonds so called for redemption shall cease to accrue, and the registered owners of such Bonds shall have no right in respect thereof except to receive payment of the redemption price thereof.

   Notwithstanding the foregoing, any such redemption may be conditioned upon funds being deposited with the Paying Agent and Registrar on or before the applicable redemption date in an amount sufficient to carry out such redemption. A failure to make such deposit shall not constitute an event of default under this Resolution and the redemption in such event shall be cancelled. If the City knows in advance of an applicable redemption date that the necessary deposit will not occur, the City shall notify the Paying Agent and Registrar with instructions to give notice to the registered owner of the cancellation of the redemption.

   No recourse shall be had for the payment of the principal of or the interest on this Bond, or for any claim based hereon, against any officer, agent or employee, past, present, or future, of the City, as such, either directly or through the City, whether by virtue of any constitutional provision, statute, or rule of law, or by the enforcement of any assessment or penalty, or otherwise; all such liability of such officers, agents or employees is hereby renounced, waived, and released as a condition of and as consideration for the issuance, execution, and acceptance of this Bond.

   It is hereby certified that all acts, conditions, and things required to be done, to occur or be performed precedent to and in the issuance of this Bond, or in the creation of the obligations of which this Bond is evidence, have been done, have occurred and have been performed in regular and due form and manner as required by law; that the faith, credit, and taxing power of the City are hereby irrevocably pledged for the prompt payment of the principal hereof and interest hereon; that the repayment obligation represented by this Bond is not in excess of any constitutional or statutory limitation; and that due provision has been made for the levy and collection of a tax sufficient in amount to pay the interest on this Bond as it falls due and to provide for the redemption of this Bond at maturity or upon earlier redemption.

   [Signature page to follow]
SIGNATURE PAGE TO SERIES 2020B BOND

IN WITNESS WHEREOF, the City has caused this Bond to be signed either manually or by facsimile in its name by its Mayor and duly attested either manually or by facsimile by its City Clerk and an impression or facsimile of the City’s seal to be imprinted hereon, as of the date set forth above.

[Seal]

CITY OF HENDERSON, KENTUCKY

By: ____________________________

Mayor

Attest:

By: ____________________________

City Clerk

CERTIFICATE OF AUTHENTICATION

This is to certify that this Bond is one of the Bonds described hereinabove.

________________________________________

Authorized Signature
[Payee Agent Name]

Paying Agent and Registrar

Date of Authentication: __________________
CERTIFICATE

It is hereby certified that the following is a correct and complete copy of the text of the legal opinion of Dinsmore & Shohl LLP, Covington, Kentucky, regarding the issue of which the within bond is one, the original of which opinion was manually executed, dated and issued as of the date of delivery of and payment for the issue and a copy of which is on file with the undersigned.

________________________________________
City Clerk

[FORM OF APPROVING OPINION]
ASSIGNMENT

FOR VALUE RECEIVED, the undersigned hereby sells, assigns and transfers unto:

__________________________________________

(please print or typewrite social security number or other identifying number and name and
address of transferee)

the within Bond and does hereby irrevocably constitute and appoint the _________________

______________ or its successor as Bond Paying Agent and Registrar to transfer the Bond

on the books kept for registration thereof with full power of substitution in the premises.

Dated: ____________________________

Note: The signature to this assignment must correspond with the name of the registered
owner as it appears upon the face of the within Bond in every particular, without alteration or enlargement or any change whatever.
<table>
<thead>
<tr>
<th>BOARD</th>
<th>EXPIRATION DATE</th>
<th>TERM</th>
</tr>
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<tbody>
<tr>
<td><strong>MUNICIPAL HOUSING COMMISSION</strong></td>
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<tr>
<td>Willie Ballard*</td>
<td>09/30/2020</td>
<td>2-Year</td>
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<tr>
<td>*Non-voting Resident Member</td>
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<tr>
<td><strong>CITY-COUNTY AIRPORT BOARD</strong></td>
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<tr>
<td>(Jointly appointed)</td>
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<tr>
<td>Dorin Luck</td>
<td>01/05/2021</td>
<td>4-Year</td>
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<tr>
<td>Glenn Stone</td>
<td>01/05/2021</td>
<td>4-Year</td>
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<tr>
<td><strong>WATER &amp; SEWER COMMISSION</strong></td>
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<td>Paul Bird</td>
<td>01/12/2021</td>
<td>3-Year</td>
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<tr>
<td>Gary Jennings, D.M.D.</td>
<td>01/12/2021</td>
<td>3-Year</td>
</tr>
<tr>
<td><strong>BOARD OF OCCUPATIONAL LICENSE APPEALS</strong></td>
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<tr>
<td>Alternate Member (Vacant-former member moved out of town)</td>
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<td>3-Year</td>
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