

ORDINANCE NO. 3487

(ZOA-18-000601 – Development Code Update - Amend Henderson Municipal Code Sections 19.5.2 – Use Classification, 19.6.10 - Other Procedures, and 19.12.4 – Defined Terms)

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HENDERSON, NEVADA, TO AMEND TITLE 19 OF THE HENDERSON MUNICIPAL CODE – HENDERSON DEVELOPMENT CODE - BY AMENDING A PORTION OF SECTION 19.5.2 – USE CLASSIFICATION, SECTION 19.6.10 – OTHER PROCEDURES AND SECTION 19.12.4 – DEFINED TERMS, TO ADDRESS AGE-RESTRICTED COMMUNITIES.

WHEREAS, the City Council of the City of Henderson (the “City Council”) has statutory authority pursuant to NRS to 278.020 to regulate and restrict the improvement of land and to control the location and soundness of structures within its jurisdiction for the purpose of promoting health, safety, morals and the general welfare of the community; and

WHEREAS, pursuant to this authority, on January 19, 2010, the City Council adopted City of Henderson Municipal Code Title 19 – Henderson Development Code (as the same may be amended from time-to-time by the City Council, the “Development Code”); and

WHEREAS, the City Council considers the Development Code a “living document,” which will invariably need amending for corrections, revisions and necessary updates; and

WHEREAS, the City Council of the City of Henderson adopted its updated Comprehensive Plan on July 11, 2017, which included Land Use and Community Design goals such as Goal H1: “Strive for a diverse mix of land uses that support complete neighborhoods, transit use, aging in place and community health...”, and Strategies H7.9: “Support the development and implementation of an Aging in Place Plan to allow seniors to avoid leaving their communities and social networks as they age”; and

WHEREAS, staff and stakeholders, in partnership with AARP, developed the Age Friendly Action Plan; and

WHEREAS, City Council accepted the Age Friendly Action Plan in January 2018, recognizing the impact the physical environment and public facilities have on the mobility, independence and quality of life of older people and their ability to “age in place;” and

WHEREAS, the Action Plan is designed to allow older residents the independence and quality of life to age comfortably and safely within their homes and communities in the City; and

WHEREAS, the City’s Development Code currently does not require identification of age-restricted communities; and

WHEREAS, in order to adequately address the goals of the Henderson Strong Comprehensive Plan and the priorities in the Age Friendly Plan, the City Council desires that developers identify housing types that will be designed and marketed to seniors, and to require development agreements or master plans for this use type so that the City may assess access to services and appropriate locations for: age-restricted communities in order to allow seniors to comfortably age in place; and

WHEREAS, the master plan development overlay or development agreement process will allow this analysis to occur to ensure that adequate services and facilities are planned to ensure access to health and support services, transportation options, and accessible outdoor spaces and buildings; and

NOW, THEREFORE, the City Council of the City of Henderson, Nevada, does ordain:

SECTION 1. Sections 19.5.2 – Use Classification, 19.6.10 – Other Procedures, and 19.12.4 – Defined Terms are hereby amended as represented in Exhibit A, hereto attached consisting of five (5) pages.

SECTION 2. If any section, subsection, sentence, clause, phrase, provision or portion of this Ordinance, or the application thereof to any person or circumstances, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions or provisions of this Ordinance or their applicability to distinguishable situations or circumstances.

SECTION 3. All ordinances, or parts of ordinances, sections, subsections, phrases, sentences, clauses or paragraphs contained in the Municipal Code of the City of Henderson, Nevada, in conflict herewith are repealed and replaced as appropriate.

SECTION 4. A copy of this Ordinance shall be filed with the office of the City Clerk, and notice of such filing shall be published once by title in the Review Journal, a newspaper having general circulation in the City of Henderson, at least ten (10) days prior to the adoption of said Ordinance, and following approval shall be published by title (or in full if the Council by majority vote so orders) together with the names of the Councilmen voting for or against passage for at least one (1) publication before the Ordinance shall become effective. This Ordinance is scheduled for publication on June 8, 2018, in the Review Journal.

PASSED, ADOPTED, AND APPROVED THIS 5TH DAY OF JUNE, 2018.

Debra March, Mayor

ATTEST:

Sabrina Mercadante, MMC, City Clerk

The above and foregoing Ordinance was first proposed and read in title to the City Council on May 15, 2018, which was a Regular Meeting, and referred to a Committee of the following Councilmen:

“COUNCIL AS A WHOLE”

Thereafter on June 5, 2018, said Committee reported favorably on the Ordinance and forwarded it to the Regular Meeting with a do-pass recommendation. At the Regular Meeting of the Henderson City Council held June 5, 2018, the Ordinance was read in title and adopted by the following roll call vote:

Those voting aye:

Debra March, Mayor
Councilmembers:
John F. Marz
Gerri Schroder
Dan K. Shaw
Dan H. Stewart

Those voting nay: None
Those abstaining: None
Those absent: None

Debra March, Mayor

ATTEST:

Sabrina Mercadante, MMC, City Clerk

Editor’s Note: Pursuant to City Charter Section 2.090(3), language to be omitted is red and enclosed in [brackets], and language proposed to be added is in blue italics and underlined.

Exhibit A
Amendments to Sections 19.5.2 – Use Classification, 19.6.10 – Other Procedures, and
19.12.4 – Defined Terms

CHAPTER 19.5: USE REGULATIONS

19.5.2. USE CLASSIFICATION

A. USE CLASSIFICATIONS

Use classifications organize land uses and activities into general “use categories,” and specific “use types” within the categories, based on common functional, product, or physical characteristics, such as the type and amount of activity, the type of customers or housing types, how goods or services are sold or delivered, and site conditions. The use classifications provide a systematic basis for assigning present and future land uses into appropriate zoning districts. Use classifications describe one or more uses having similar characteristics, but do not list every use or activity that may appropriately be within the classification. The use classifications in each of the use tables include: Residential Uses, Public/Institutional Uses, Commercial Uses, and Industrial Uses. Accessory Uses and Temporary Uses are addressed in Sections 19.5.7 and 19.5.8, respectively.

B. DEVELOPMENTS WITH MULTIPLE PRINCIPAL USES

When all principal uses of a building fall within one use category, the entire building is assigned to that use category. When the principal uses of a development fall within different use categories, each principal use is classified in the applicable use category and each use is subject to applicable regulations within that category. Developments with multiple principal uses, such as shopping centers, may include only those use types allowed in the base zoning district. For developments that meet the “shopping center” definition, parking for uses may be calculated at one space per 250 square feet.

C. UNLISTED USES

1. Procedure

Where a particular use type (principal, accessory, or temporary) is not specifically listed in this chapter, the Community Development and Services Director may permit the use type upon finding the standards of this subsection are met in accordance with the procedure in Section 19.6.9.F, *Interpretation*. The

COMMENTARY:

For example, a development that contains a bookstore, coffee shop, and bakery would be classified in the “Retail Sales and Service”

19.5.2.D – Prohibited Uses

Community Development and Services Director shall give due consideration to the purpose and intent of this Code concerning the zoning district(s) involved, the character of the uses specifically identified, and the character of the use(s) in question. Any new use type may be incorporated into this Code through a Development Code text amendment in accordance with the procedure in Section 19.6.4.B.

2. Standards for Approving Unlisted Uses

In order to determine if the proposed use(s) has an impact that is similar in nature, function, and duration to the other use types allowed in a specific zoning district, the Community Development and Services Director shall assess all relevant characteristics of the proposed use, including but not limited to the following:

- (a) The volume and type of sales; retail, wholesale, etc.;
- (b) The size and type of items sold and nature of inventory on the premises;
- (c) Any processing done on the premises, including assembly, manufacturing, warehousing, shipping, distribution;
- (d) Any dangerous, hazardous, toxic, or explosive materials used in the processing;
- (e) The nature and location of storage and outdoor display of merchandise, whether enclosed, open, inside or outside the principal building; predominant types of items stored (such as business vehicles, work-in-process, inventory and merchandise, construction materials, scrap and junk, and raw materials including liquids and powders);
- (f) The type, size, and nature of buildings and structures;
- (g) The number and density of employees and customers per unit area of site in relation to business hours and employment shifts;
- (h) Transportation requirements, including the modal split for people and freight, by volume type and characteristic of traffic generation to and from the site;
- (i) Trip purposes and whether trip purposes can be shared by other use types on the site;

19.5.2.D – Prohibited Uses

- (j) Parking requirements, turnover and generation, ratio of the number of spaces required per unit area or activity, and the potential for shared parking with other use types;
- (k) The amount and nature of any nuisances generated on the premises, including but not limited to noise, smoke, odor, glare, vibration, radiation, and fumes;
- (l) Any special public utility requirements for serving the proposed use type, including but not limited to water supply, wastewater output, pre-treatment of wastes and emissions required or recommended, and any significant power structures and communications towers or facilities; and
- (m) The impact on adjacent lands created by the proposed use type, which should not be greater than that of other use types in the zoning district.

D. PROHIBITED USES

The following uses are prohibited within the City of Henderson:

1. Residential Motels
2. Bed & Breakfast facilities
3. [Age-restricted communities, unless approved through the master development plan per 19.6.4.D.1 or development agreement process per 19.6.10.A. Applications for age-restricted communities shall include an analysis of potential impacts on city services.](#)

19.6.10. OTHER PROCEDURES

A. DEVELOPMENT AGREEMENTS

1. Applicability

A development agreement is appropriate for development of those parcels that should, at the discretion of the City Council, as recommended by the Development Agreement Staff Review (DASR), be developed in accordance with a development agreement. Development projects that include one or more of the following are subject to development pursuant to a development agreement unless otherwise determined by the DASR:

- (a) A local improvement district or modification to a local improvement district pursuant to NRS Chapter 271;
- (b) A refunding agreement entered into pursuant to HMC 14.16;
- (c) A request to waive residential construction tax;
- (d) An annexation of any size;
- (e) Projects with a Sensitive Lands overlay or projects requiring a plan for environmental remediation;
- (f) A project requiring the preservation or renovation of historic structures;
- (g) A project for which a request an owner participation agreement or tax-increment financing is made, which requests shall also require collaboration with the City's Redevelopment Agency;
- (h) A project that includes one or more of the following:
 - (1) 250 or more single-family dwelling units;
 - (1) 500 or more multifamily dwelling units;
 - (2) 200 or more hotel rooms;
 - (3) 40 or more acres of nonresidential development; or
 - (4) A project that generates over 3000 average daily trips (commercial/industrial only).

19.6.10.A.1 – Development Agreements

- (i) A project that includes one or more of the following:
 - (1) A facility that generates more than 50 megawatts of electricity;
 - (2) A natural gas storage or peak-shaving facility; or
 - (3) A gas regulator station or main that operates or is capable of operating at over 200 pounds per square inch.
- (j) Property proposed for a master plan development overlay where existing infrastructure is not of sufficient capacity to support the proposed development;
- (k) Property acquired through a Bureau of Land Management (BLM) land sale;
- (l) Property acquired through a City of Henderson sale pursuant to NRS 268.048 *et seq.*;
- (m) Property located within the West Henderson Land Use Plan boundary;
- (n) Property located within a public facilities needs assessment area;
- (o) Development of a property currently or previously subject to an inactive, non-compliant, or cancelled development agreement;
- (p) Proposed amendments or development changes to property currently subject to any one or more of the above other than minor modifications where the development agreement contains an express process for administrative approval of minor modifications.
- (q) A proposal to redevelop or change the use of a golf course, park, open space or PS-zoned land.
- (r) A project consisting of or containing an age-restricted community.

AFFORDABLE HOUSING

Housing affordable for a family with a total gross income that does not exceed 80 percent of the median gross income for Clark County, based upon the estimates of the United States Department of Housing and Urban Development of the most current median gross family income for Clark County.

AGE-RESTRICTED COMMUNITY

Any type of housing community governed by a common set of rules, regulations and/or restrictions that prohibit persons under a certain age from residing within the community or limit the number of persons under a certain age who may reside within the community.

AIRPORT APPROACH ZONE (APZ)

The airport approach area, as defined in Federal Aviation Regulations Part 77, Surfaces.



Memorandum

CITY OF HENDERSON
240 Water Street
P.O. Box 95050
Henderson, NV 89009-5050

**COMMUNITY DEVELOPMENT
& SERVICES**

Michael Tassi, Director
702-267-1500
fax 702-267-1501

TO: City Clerk

FROM: Community Development & Services – Planning Services

DATE: August 21, 2018

SUBJECT: Scrivener’s Error in Section 19.6.10 of the recent Title 19 Amendment approved by City Council on June 5, 2018

On June 5, 2018 as item C-1 on its Committee Meeting Agenda and UB-69 (Bill No. 3226) on the Regular Meeting Agenda, the City Council adopted and approved Bill No. 3226 to amend Title 19 to add language regarding “Age-Restricted Communities”.

Attached hereto as Exhibit A is a redline version which reflects text that was inadvertently added to Section 19.6.10 (p), but not to be part of the approved update regarding age-restricted communities.

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- (h) A project that includes one or more of the following:
 - (1) 250 or more single-family dwelling units;
 - (1) 500 or more multifamily dwelling units;
 - (2) 200 or more hotel rooms;
 - (3) 40 or more acres of nonresidential development; or
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- (p) Proposed amendments or development changes to property currently subject to any one or more of the above; ~~other than minor modifications where the development agreement contains an express process for administrative approval of minor modifications.~~
- (q) A proposal to redevelop or change the use of a golf course, park, open space or PS-zoned land.
- (r) A project consisting of or containing an age-restricted community.