



Summary of Each Section for the **DRAFT** Land Development Code

General Points

- The 2020 Comprehensive Plan, adopted by the Board of Commissioners July 6, 2004, recommended the creation of the Land Development Code (LDC) where all the development related ordinances were combined into one user friendly document.
 - The draft LDC combines the current Zoning, Subdivision, Sign, Communication Tower, Flood Damage Prevention, Manufactured Home Park, Mountain Ridge Protection, and Vested Rights Ordinances into one user-friendly document.
 - The draft LDC is actually 42 pages less than the current Ordinances combined. The draft LDC contains 342 pages. The current Ordinances total 384 pages.
 - In an effort to make the document more user friendly, all words that are defined appear in *italics*. Definitions are found in Article XIV, page 293.
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Article I – General Provisions

- This Article provides necessary legal provisions needed to administer the LDC.
 - Farms and agricultural uses are exempt from “zoning” rules by State law. Section 200A-9 provides this state mandated exemption. If you are operating a bona fide farm or agricultural use, you are not required to comply with any zoning standards.
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Article II – Zoning District Regulations

- Article II contains descriptions of the zoning districts, the table of uses, and the supplemental requirements.
- Subpart A (page 5) lists and describes each zoning district. The setbacks and density (number of homes per acre) for each zoning district are found in Sections 200A-27 to 200A-35.

- Four (4) residential zoning districts are created with the draft LDC. They are R-1, R-2 and R-3.
- The draft LDC does not require a minimum lot size. However, it does limit the overall density of a development. In other words, there is an average lot size requirement which will allow developments to voluntarily conserve environmentally sensitive or unsuitable building areas. This will reduce infrastructure costs and could reduce housing costs. See Section 200A-27 B. on page 8.
- R-1 is the most dense and urban zoning district. This district is intended for areas that are currently served by public water and sewer or are planned for public water and sewer service. It allows single family developments to obtain an average density of four (4) homes per acre. It also allows multifamily projects to obtain a density up to 16 dwelling units (apartments or condos) per acre. See Section 200A-27 B. on page 8.
- R-2 is the medium density zoning district. This district allows single-family developments to obtain an average density of one (1) home per acre on average. Again, each lot is not required to provide one (1) acre but the average must not exceed one (1) home per acre. For example, if a homeowner owned 2 acres in the R-2 zoning district and wanted to cut off ½ acre for another lot, that subdivision would be permitted.
- The R-2MH allows the same density as the R-2 district. The R-2MH allows manufactured homes where the R-1 and R-2 districts do not (see the Table of Uses on beginning on page 45).
- The R-3 zoning district is the rural, low density zoning district. This district allows single-family developments to obtain an average density of one (1) home per 1.5 acres on average. Again, each lot is not required to provide 1.5 acres but the average must not exceed one (1) home per 1.5 acres.
- The Office Institutional zoning district is intended to provide for office, institutional, and residential development such as colleges and hospitals (See Section 200A-31 on page 15).
- The Local Commercial zoning district is intended to serve the immediate area's commercial and residential needs. Smaller scale commercial projects are permitted in this district (See Section 200A-32 on page 17).
- The Community Commercial zoning district is intended to serve as a community commercial center where you find a variety of retail sales and services (See Section 200A-33 on page 19).
- The Regional Commercial zoning district is intended to provide larger scale commercial development such as shopping malls (See Section 200A-34 on page 21).

- The General Commercial zoning district is intended to provide a zoning classification to allow existing businesses to continue operation and expansion where they otherwise might become a nonconforming use. Essentially, this is the “grandfather” zoning district (See Section 200A-35 on page 22).
- The Industrial zoning district allows a variety of industrial uses that are not typically compatible with residential uses (See Section 200A-36 on page 23).
- The Mixed Use District allows for special projects that incorporate both residential and nonresidential uses. With this zoning district a developer would bring his development plans forth with the rezoning application and special conditions would be agreed to by both the County and the developer.
- The new LDC provides for Conditional Zoning. This is a new tool for Henderson County that has proven to be very effective and useful in other jurisdictions. It works very much like a regular rezoning in that the same procedures must be followed. However, conditions can be placed on the rezoning by the Board of Commissioners if the applicant agrees to all of the conditions. This would allow negotiations between the developer and the County to address any concerns for a particular project. For example, if a developer wanted to request the Industrial Zoning District but it was near an established neighborhood, the range of uses could be limited. For this example let’s assume that the proposed use was acceptable for that location but some of the other uses in the Industrial District were not. The use of the property could be limited to only the proposed use or a specified set of uses. There are many other conditions that could be considered but the applicant and the County must agree to them. This option has the potential to increase economic development and protect communities from undesirable effects.
- The Table of Uses, beginning on page 45, is a user-friendly chart that indicates what zoning districts allow specific uses. This chart will allow administrators, developers and citizens to quickly determine in what districts a particular use is allowed.
- The far right column of the Table of Uses contains a heading entitled “SR.” The SR stands for Supplemental Requirements. If a number appears in the same row for a particular use, then additional requirements are applied. Simply note the SR number and move to that number to find any additional requirements for development. The Supplemental Requirements section is found immediately after the Table of Uses.

Article III – Subdivision Regulations

- The draft LDC provides several illustrations in this section. However, many of the requirements for subdivision remain the same.
- Minor subdivisions (up to 10 lots) are approved by the Subdivision Administrator.

- Major Subdivisions up to 34 lots are approved by the Technical Review Committee (TRC). The TRC would be comprised of key County officials and provides an improved process for customers. The meetings of the TRC will be public meetings and anyone could attend. The TRC will reduce the workload on the Planning Board and allow the Planning Board to focus more on policy issues and less on administrative approvals such as subdivisions. The Planning Board will still approve subdivisions with more than 35 lots (See Article XI, Subpart C, beginning on page 246).
- The draft LDC provides a new type of subdivision called “Conservation Subdivision.” This is a voluntary option for developers where density bonuses (number of homes) may be obtained by providing certain amounts of open space and preserving environmentally sensitive areas. With this option, the developer can increase the number of homes by 10-20% depending on the percent of open space set aside. Developers can greatly reduce infrastructure costs by clustering the homes in the more suitable areas. This could potentially reduce the cost of housing for new developments.

Article IV – Adequate Public Facilities

- This Article is reserved for future use. There are no requirements associated with this Article.

Article V – Landscape Design Standards

- This Article requires buffers between some zoning districts. For example, if a new industrial project (in an industrial zone) is adjacent to a residentially zoned area, a buffer is required. Subpart A on page 147 details the buffer widths and planting requirements.
- Subpart B (page 148) requires landscaping for new parking lots.
- Subpart C (page 149) requires street trees for major subdivisions.
- Subpart D (page 150) provides the screening standards to protect adjoining property owners from unsightly areas. When and what type of screening class is required is indicated in the Supplemental Requirements Section of Article II for each specific uses (page 51).
- Section 200A-132 (page 155) provides an option for the developer to use an alternate method to meet the landscaping requirements.
- Subpart F (page 157) is a recommended list of plant species. Other species may be used if they will survive in our climate.

Article VI – Off-Street Parking and Loading Standards

- Section 200A-139 (page 161) specifies the number of required parking spaces based on the type of use. The number of spaces required is minimal as most businesses will provide more spaces than are required by this section.
- Section 200A-140B (page 161) requires the connection of parking areas to reduce short vehicle trips on main roads. This is a common method of access management used to improve traffic flow.
- Section 200A-140I (page 162) requires that drive-through lanes provide enough length to prevent the stacking of vehicles on a main road.

Article VII – Sign Regulations

- Subpart B (page 167) lists various types of signs that are exempt from this section and do not require a permit. If a proposed sign exceeds the standards of this Subpart it must comply with the requirements of Subpart C (beginning on page 169). It may be allowed, but a permit will be required.
- Subpart C (beginning on page 169) explains the size and height limitations for signs that are not exempt as specified in Subpart B. The proposed standards provide great flexibility for businesses.
- Maximum freestanding sign heights in the Office-Institutional and Commercial districts range from 18 feet to 75 feet. Freestanding sign size ranges from 72 square feet to 200 square feet. Wall signs are limited to 10% of a wall area up to 250 square feet.
- Freestanding signs in the Industrial district are limited to 72 square feet in size and up to 75 feet in height. Wall signs are limited to 10% of a wall area up to 250 square feet.
- Subpart D (page 172) provides limitations for the location and size of off-premise signs (commonly referred to as billboards). These standards are similar to our current requirements.

Article VIII – Natural Resources

- This Article organizes the current Flood Damage Prevention, Water Supply Watershed Protection, Protected Mountain Ridges, and recently adopted Soil Erosion and

Sedimentation Control Ordinances into one Article for easy reference. The standards have not changed with this draft LDC.

Article IX – Nonconformities

- This Article explains how existing legal uses and structures are addressed by the draft LDC. This is a common section in development ordinances and is often referred as the “Grandfather Clause.”
 - Section 200A-213 provides that structures or uses that are currently allowed in the Open Use district may continue their use or operation and expand even if they are placed in a new zoning district that does not allow the use.
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Article X – Decision-Making, Administrative and Advisory Bodies

- This Article explains the roles and responsibilities of various board and officials as it relates to the LDC.
 - The draft LDC establishes a new committee called the Technical Review Committee (TRC) (page 233). The purpose of this committee is to coordinate the review of major projects. The TRC will review and approve major site plans and major subdivisions with less than 35 lots. This committee will provide greater coordination between County departments and better customer service. It is common for large and small jurisdictions to use such committees in the review of projects.
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Article XI – Review Processes and Procedures

- This Article (beginning on page 243) provides a common place for someone to find the procedures for how the various types of approvals are obtained. It spells out how anything from site plans to subdivisions to rezonings are approved and who gives the approval.
- With the draft LDC, the Board of Commissioners will no longer hold any quasi-judicial proceedings. Quasi-judicial proceedings are more formal than other public hearings in that special rules must be followed. It is much like a court proceeding. Such proceedings are required for special uses permits, variances, and appeals for example. The Board of Adjustment will be the only board to hold quasi-judicial proceedings under the draft LDC.

Article XII – Enforcement, Violations and Appeals

- This Article provides commonly used provisions for the enforcement of violations (Section 200A-280 on page 287).
- Table 12.1 (page 289) establishes who hears an appeal based on who made the initial decision. The Zoning Board of Adjustment will become the primary appellate body for the County except when otherwise required by law.

Article XIII – Legal Status

- This Article (page 291) provides standard legal provisions that essentially repeal the old ordinances. It also provides standard language that protects the remaining ordinance should a court find a portion of the LDC be declared unconstitutional.

Article XIV – Definitions

- This Article (beginning on page 293) provides definitions for various words used in the LDC. Readers should note that it is not intended that every word used in the LDC be defined. Words should be defined only when the definition can make clear the intent of the rule in the proper context. If a word is not defined by the LDC then the common use of the term applies.
- Any words or terms defined by the LDC appear in *italics* to indicate to the reader that a definition exists.