

REQUEST FOR BOARD ACTION

HENDERSON COUNTY

BOARD OF COMMISSIONERS

MEETING DATE: 1 August 2005

SUBJECT: Technical corrections and amendments

ATTACHMENT(S): Draft ordinance

SUMMARY OF REQUEST:

This is a nine-part “technical corrections” ordinance, modeled on similar technical corrections statutes used in the General Assembly and Congress. A brief analysis of the nine parts follows:

- 1) This deletes reference to the Department of Youth Development in the Code. This Department was made a part of the Department of Social Services some years ago.
- 2) This modifies how persons lawfully confined may be used as a source of labor for county work, using the only statutory provision allowing the same, and removing reference to an individual who is (likely) now long dead.
- 3) This modifies the EMS ordinance to allow persons not licensed to operate an ambulance if it is pursuant to a mutual aid agreement with a licensed entity. This would allow a mutual aid compact with, for example, South Carolina authorities for the southernmost portions of Henderson County.
- 4) This changes the standards for determining response times, for the purpose of EMS franchise applications, and would insure that applicants meet state standards for levels of certification.
- 5) This makes clear in the Flood Damage Prevention Ordinance that streambank work permitted by Federal or State authorities do not require an additional county permit.
- 6) This makes clear in the Flood Damage Prevention Ordinance that “retention of land for agriculture” (as “agriculture” is defined in that ordinance) is a service to the community which may be demonstrated to apply for a special fill permit.
- 7) This shares the same purpose as 6), above.
- 8) This makes clear under the Flood Damage Prevention Ordinance that the replacement of agricultural development (as “agriculture” is defined in that ordinance) which was in existence as of the date the ordinance was adopted does not require a floodplain development permit.
- 9) This makes clear that business solicitation may take place on county premises when pursuant to an authorized vendor of employment benefits.

It is anticipated that similar proposals for technical corrections and amendments will follow.

COUNTY MANAGER RECOMMENDATION/BOARD ACTION REQUESTED:

The County manager supports this proposal.

County staff will be present and prepared if requested to give further information on this matter.

**AN ORDINANCE TO MAKE TECHNICAL CORRECTIONS, CONFORMING CHANGES
AND AMENDMENTS TO EXISTING ORDINANCES**

The Henderson County Board of Commissioners enacts:

SECTION ONE:

Section 16-2 of the Henderson County Code is hereby deleted.

~~There is hereby created within the organizational structure of Henderson County government a Department of Youth Development consisting of the existing full-time staff of Henderson County Youth Services, Inc. Said staff are to be placed on the county payroll as regular county employees subject to county personnel policies, procedures and benefits with changes to become effective on July 1, 1987.~~

SECTION TWO:

Section 78-1 of the Henderson County Code reads as rewritten:

~~Such persons as are or may be confined in the County Jail and are liable to be worked under Section 8448 of the code N.C. Gen. Stat. §148-26 shall be worked on the public projects roads leading out from the county town and on the public square in said town, and the jailer shall be ordered to turn said prisoners over to the road overseer appointed by the Board every morning and receive them at night, and said overseer shall prepare and use such chains and shackles as may be necessary to prevent escape and use such coercion as may be necessary to enforce obedience, and Mr. B.H. Posy is authorized to employ an overseer to work said prisoners under this order pursuant to N.C. Gen. Stat. §148-26.~~

SECTION THREE:

Section 87-2.B. of the Henderson County Code reads as rewritten:

~~No person shall drive, attend or permit a vehicle to be operated for ambulance purposes within the County of Henderson unless he or she holds a currently valid certificate as an ambulance attendant or emergency medical technician issued by the State of North Carolina, except pursuant to a mutual aid agreement entered into between Henderson County and an agency or entity licensed under standards comparable to those employed in this Chapter.~~

SECTION FOUR:

Section 87-3.H. of the Henderson County Code reads as rewritten:

~~A description of the applicant's capability to provide twenty-four-hour coverage, seven days per week, for the district covered by the franchise applied for and an accurate estimate of the minimum and maximum time for a response call within such districts demonstrating that minimum and maximum response times within the district covered by the franchise applied for would meet the requirements for the level of service for which application is made.~~

SECTION FIVE:

Section __-4.2(A) of the Henderson County Code reads as rewritten:

Plans and Application Requirements. A Floodplain Development Permit shall be required for any new development in a SFHA, except for watercourse alteration and streambank restoration where the same is permitted by the United States Corps of Engineers and, if applicable, the State of North Carolina. For watercourse alteration and streambank restoration where a proper and appropriate permit from the United States Corps of Engineers and, if applicable, the State of North Carolina, has been granted, no further permit from Henderson County is required. Application for a Floodplain Development Permit shall be made to the Floodplain Administrator on forms furnished by him or her prior to any development activities proposed to be located within Special Flood Hazard Areas. The following items/information shall be presented to the Floodplain Administrator to apply for a Floodplain Development Permit.

SECTION SIX:

Section __-4.6(D)(4) of the Henderson County Code reads as rewritten:

The importance of the services provided by the proposed facility to the community, including the retention of land for agriculture;

SECTION SEVEN:

Section __-4.7(B)(4) of the Henderson County Code reads as rewritten:

The application shall include information demonstrating compliance with the Henderson County 2020 Comprehensive Plan, and demonstrating the substantial public or community purpose(s) which the permit, if granted, will advance. Examples of substantial public or community purpose(s) advanced by the permit, if granted, which must be demonstrated include:

- (i) Advancing a governmental purpose, which includes promoting and preserving use of land for agriculture.
- (ii) Meeting public infrastructure needs.
- (iii) Projects which fall under the Board of Commissioners' Economic Incentives Guidelines.
- (iv) Redevelopment projects which have the effect of substantially increasing the flood-control capabilities of the parcel.

SECTION EIGHT:

Section __-5.1(M) of the Henderson County Code reads as rewritten:

Non-conforming structures or other development may not be enlarged, replaced, or rebuilt unless such enlargement or reconstruction is accomplished in conformance with the provisions of this ordinance. Provided, however, nothing in this ordinance shall

prevent the repair, reconstruction, or replacement of a building or structure existing on the effective date of this ordinance and located totally or partially within the floodway, non-encroachment area, or stream setback, provided that the bulk of the building or structure below the regulatory flood protection elevation in the floodway, non-encroachment area, or stream setback is not increased and provided that such repair, reconstruction, or replacement meets all of the other requirements of this ordinance, and nothing in this ordinance shall prevent the permitted maintenance, repair, reconstruction or replacement of agriculture-related water diversion structures where the permit for the same is granted by other than Henderson County. No permit shall be required from Henderson County to reconstruct agricultural development which pre-exists the effective date of this Ordinance.

SECTION NINE:

Section 137-1 of the Henderson County Code reads as rewritten:

It is the policy of the Henderson County Board of Commissioners that no solicitation from any county employee by anyone representing any firm or cause will be permitted on county property without prior approval of the Board of County Commissioners. This does not include persons representing a firm contacting an employee which is representing the county in an official capacity and on official business, or to persons representing a firm with which the county has contracted to offer insurance or other employment benefit to its employees.

Adopted by the Henderson County Board of Commissioners by unanimous vote on 1 August 2005, and signed this the _____ day of August, 2005.

HENDERSON COUNTY BOARD OF COMMISSIONERS

By: _____
WILLIAM L. MOYER
Chairman

Attest:

Secretary to the Board of Commissioners

[SEAL]

DRAFT