

## CHAPTER 1

### INTRODUCTION

#### **SECTION**

#### **1.01. AUTHORITY FROM STATE ENABLING LEGISLATION**

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#### **1.01. AUTHORITY FROM STATE ENABLING LEGISLATION.**

An Ordinance, in pursuance of the authority in Sections 13-7-201--13-7-401, Tennessee Code Annotated, to provide for the establishment of districts within the corporate limits of the City of Etowah, Tennessee; to regulate within such districts the location, height, and size of buildings and other structures; the percentage of lot which may be occupied; the sizes of yards, courts, and other open spaces; the density and distribution of population; and the uses of buildings and structures for trade, industry, residence, recreation, agriculture, forestry, soil conservation, water supply conservation, or other purposes.

#### **1.02. TITLE.**

This Ordinance shall be known as The Zoning Ordinance of Etowah, Tennessee, dated 1986. the zoning map shall be referred to as the Zoning Map of Etowah, Tennessee, and all explanatory matter thereon are hereby adopted and made a part of this Ordinance, subject to amendment as provided for in Section 6.09. of this Ordinance.

#### **1.03. PURPOSE.**

The zoning regulations and districts contained in this Ordinance have been carefully prepared and defined in accordance with a comprehensive plan for the following purposes:

1. To protect the public health by providing through setback requirements and other means adequate light and air between buildings and through density standards the avoidance of extreme concentrations of population
2. To provide safety by lessening congestion in the streets through adequate access control provisions; fire hazards through adequate setbacks; and flood hazards through land use controls for identified flood areas
3. To foster convenience by establishing a reasonable relationship of one land use to another and by considering the locational requirements of each land use for highway access and proximity to related uses
4. To promote general livability by calling for the provision of utilities and other public facilities

5. To enhance prosperity and general welfare by preserving the character of existing development through the denial of proposed detrimental uses and through the required use of buffer strips where needed

These regulations and district boundaries have been made with consideration to the character of each district and its peculiar uses; and with a view of conserving the value of buildings and property and encouraging the most appropriate use of land within the City of Etowah.

**1.04. ENACTMENT.**

For the purposes just stated the Etowah City Commission does Ordain and Enact into law the following articles and sections:

## CHAPTER 2

### DEFINITIONS

#### SECTION

#### 2.01. SCOPE

#### 2.02. DEFINITIONS

##### 2.01. SCOPE.

To carry out the provisions and intentions of this Ordinance, certain words, terms, and phrases are to be used and interpreted as defined hereinafter. Words used in the present tense shall include the future tense; words in the singular number include the plural; and words in the plural number include the singular; the word "person" includes a firm, partnership, or corporation as well as an individual; the term "shall" is always mandatory and not directory; and the word "may" is permissive; the word "used" or "occupied" as applied to any land or building shall be construed to include the words "intended, arranged, or designed to be used or occupied."

##### 2.02. DEFINITIONS.

The following words, terms, and phrases are hereby defined as follows and shall be interpreted as such throughout this Ordinance. Terms not herein defined shall have the meaning customarily assigned to them.

Access. The right to cross between public and private property, thereby permitting pedestrians and vehicles to enter and leave property.

Accessory Building. A subordinate building, the use of which is incidental to that of a main building and located on the same lot therewith.

Accessory Use. A use customarily incidental, appropriate, and subordinate to the principal use of land or buildings and located upon the same lot therewith.

Adult. Any person eighteen (18) years of age or older. **(Added 11-27-00)**

Adult-Oriented Establishments. Sexually explicit establishments which cater to an exclusively or predominantly adult clientele, including but not limited to: adult bookstores, adult motion picture theaters, adult mini-motion picture and video establishments, adult cabaret, escort agency, sexual encounter center, massage parlor, rap parlor, sauna, and any premises to which the public patrons or members are invited or admitted and which are so physically arranged as to provide booths, cubicles, rooms, compartments or stalls separate from the common areas of the premises for the purpose of viewing adult-oriented motion pictures, videos, or other visual media, as defined in *TCA 7-51-1102* and *TCA 7-51-1401*, or wherein an entertainer provides adult entertainment to a member of the public, a patron or a member when such adult entertainment is held, conducted, operated or maintained for a profit, direct or indirect. It also includes, without being limited to, any adult entertainment studio or any premises that is physically arranged and used as such, whether advertised or represented as an adult

entertainment studio, rap studio, exotic dance studio, encounter studio, sensitivity studio, model studio, escort service, or any other term of like import as well as other enterprises which regularly feature materials, acts or displays involving complete nudity, specified sexual activities, or exposure of specified anatomical areas: **(Added 11-27-00)**

1. Specified anatomical areas including less than completely and opaquely covered:
  - a. Human genitals and pubic region
  - b. Buttocks
  - c. Female breast below a point immediately above the top of the areola; and
  - d. Human male genitals in a discernibly turgid state; and/or sexual excitement or enticement.
2. Specified sexual activities include:
  - a. Human genitals in a state of sexual stimulation or arousal
  - b. Acts of human masturbation, sexual intercourse or sodomy
  - c. Fondling or other erotic touching of human genitals, pubic region, buttocks or female breasts

Agriculture. The tilling of soil, the raising of crops, horticulture, and gardening, but not including the keeping or raising of domestic animals or fowl, except household pets, and not including agricultural industry or business, such as fruit-or vegetable-packing plants, animal hospitals, or similar uses.

Animal Husbandry. The science of breeding, feeding, and tending domestic animals, especially farm animals.

Automobile Wrecking. The dismantling, storage, sale, or dumping of used motor vehicles, trailers, or parts thereof (also see "wrecked auto yard").

Average Ground Elevation. The elevation of the mean finished grade at the front of a structure.

Basement. A story partly or wholly underground. For purposes of height measurement, a basement shall be counted as a story when more than one-half of its height is above the average ground elevation or when subdivided and used for commercial activities.

Board. Etowah Board of Zoning Appeals.

Boarding or Rooming House. Any dwelling not divided into separate apartments, but in which three (3) or more persons either individually or as families are housed for rent with or without meals.

Buffer Strip. A greenbelt planted strip not less than ten (10) feet in width. Such a greenbelt shall be composed of one (1) row of evergreen trees, spaced not more than forty (40) feet apart and not less than two (2) rows of shrubs or hedges, spaced not more than five (5) feet apart within the row and which grow to a height of five (5) feet or more after one full growing season and which shrubs will eventually grow to not less than ten (10) feet.

Building. Any structure having a roof supported by columns or by walls, including mobile homes, and similar structures whether stationary or movable.

Building Area. The total area taken on a horizontal plane at the main grade level of the principal building and all accessory buildings exclusive of uncovered porches, terraces, and steps.

Building Inspector. The Etowah Building Inspector or his authorized representative appointed by the Etowah City Manager.

Building, Main, or Principal. A building 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 a main building of the lot on which it is situated.

Building Setback Line. A line delineating the minimum allowable distance between the property line and a building on a lot within which no building or other structure shall be placed except as otherwise provided.

Campground. A parcel of land used or intended to be used or rented for occupancy by campers or for occupancy by travel trailers, tents or movable or temporary dwellings, rooms, or sleeping quarters of any kind.

Club. (Added 2/23/04) A building(s) or facility owned or operated by an association, not-for-profit corporation, or persons for a social, education, or recreational purpose, characterized by certain membership qualifications, payment of fees and dues and regular meetings but not operated for profit or that renders a service(s) that is customarily carried on as a business, provided that vending machines, snack bars, merchandising or other commercial activities are provided only for the membership of said club. For the purposes of this ordinance this definition excludes churches, synagogues or other houses of worship.

Commercial Feed Lot. Any parcel of land on which one hundred (100) or more cattle, fowl, or hogs are being kept and fed for the purpose of slaughter and sale on the commercial food market.

Country Club. A chartered, non-profit membership club with facilities catering primarily to its membership and providing one or more of the following recreational or social amenities: golf, horse riding, clubhouse, pool, dining facilities, and bar.

Day Nursery. Any place, home, or institution which receives six (6) or more young children, conducted for cultivating the normal aptitude for exercise, play observation, initiation, and instruction.

Development. Any manmade change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations.

District. Any section or sections of Etowah, Tennessee, for which the regulations governing the use of land and the use, density, bulk, height, and coverage of buildings and other structures are uniform.

Dwelling. A permanent building or portion thereof used for residential purposes, which contains at least a kitchen, bathroom facilities, and a sleeping area. In no case shall the term dwelling include any of the following: motor homes, travel trailers, portable buildings, trailer coaches, storage buildings, single-wide modular homes regulated elsewhere in this ordinance, or any other structure not designed specifically for permanent residential dwelling. (Amended 9-26-2016)

Dwelling, Multi-Family. A building designed for occupancy by two (2) or more families living independently of each other in separate dwelling units with each unit having its own bedroom, kitchen, and bathroom facilities. (Amended 9-26-2016)

Dwelling, Single-Family. A building designed to be occupied exclusively by one (1) family as defined in this ordinance. (Amended 9-26-2016)

Dwelling Unit. One or more rooms, a single kitchen, and a bath designed as a unit for occupancy by only one (1) family for cooking, living, and sleeping purposes.

Family. One or more persons occupying one dwelling unit, provided that unless all members are related by blood, marriage, or adoption, no such family shall contain over five (5) persons.

Flat Lot. A lot which lies behind the land or lots which front a street. The flag lot takes its access from the street via a narrow strip which is part of the flag lot and is not shared with any other lot or parcel. The name "flag lot" derives from the appearance of the lot on a plat; i.e., a flag (building site) with a flagpole (access strip).

Flea Market. Any premises, open air or under roof, where the principle use is the occasional or periodic sale of new and used household goods, clothing and apparel, personal effects, tools, works of art or craft, small household appliances and similar merchandise, objects, or equipment in small quantities, broken lots or parcels, but not in bulk, for use or consumption by the immediate purchaser. Sales of prepared foods for immediate consumption or home baked goods may be allowed. This shall not include sidewalk sales, and occasional yard sales and charity sales held on the owner's or sponsor's premises or on a public sidewalk immediately adjacent to said premises. (Added 04-24-00)

## Flood-Related Terms:

Area of Special Flood Hazard. The land in the floodplain within a community subject to a one (1) percent or greater chance of flooding in any given year.

Base Flood or 100-Year Flood. The flood having a one (1) percent chance of being equaled or exceeded in any given year.

Flood or Flooding. A general and temporary condition of partial or complete inundation of normally dry land areas from 1) the overflow of inland or tidal waters; and 2) the unusual and rapid accumulation or runoff of surface waters from any source.

Flood Insurance Rate Map (FIRM). The official map of a community on which the Federal Emergency Management Agency (FEMA) has delineated both the Areas of Special Flood Hazard and the Risk Premium Zones applicable to the community.

Floodway. The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot.

Floodway Fringe. The land areas lying outside the floodway but within the area subject to the base flood.

Lowest Floor. The lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access, or storage in an area other than a basement area is not considered a building's lowest floor provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements.

Substantial Improvement. For a structure built prior to the enactment of this Ordinance, any repair, reconstruction, or improvement of a structure the cost of which equals or exceeds fifty (50) percent of the market value of the structure either 1) before the improvement or repair is started, or 2) if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration on any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either 1) any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions, or 2) any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

Floor Area. The sum of the gross floor area for each of the several stories under roof measured from the exterior limits or faces of a building or structure.

Gasoline Service Station. Any area of land, including structures thereon, that is utilized for the retail sale of gasoline, oil (but not butane or propane fuels), and automobile accessories, and

incidental services including facilities for lubricating, car washing and cleaning, or otherwise servicing automobiles, but not including painting or major repair.

Grade, Finished. The completed surfaces of lawns, walks, and roads brought to grades as shown on official plans or designs relating thereto.

Health Department. The McMinn County Office of the Tennessee Department of Health and Environment.

Height of Building. The vertical distance from the average ground elevation or finished grade at the building line, whichever is highest, to the highest point of the building.

Home Occupation. See Chapter 4, Section 4.06.

Hospital. See "Medical Facilities".

Junkyard or Salvage Yard. A lot, land, or structure, or part thereof, used primarily for the collection, storage, and sale of waste paper, rags, scrap metal, or discarded material; or for the collecting, dismantling, storing, and salvaging of machinery or vehicles not in running condition, or for the sale of parts thereof (in the latter case, may include a "wrecked auto yard").

Loading Space. A space within the main building or on the same lot therewith, providing for the parking, loading, or unloading of a vehicle.

Lot. A piece, parcel, or plot of land in one ownership, which may include one (1) or more lots of record, occupied or to be occupied by one (1) principal building and its accessory buildings including the open spaces required under this Ordinance.

Lot Area. The total horizontal surface area of land included within the lot lines.

Lot, Corner. A lot of which at least two (2) adjoining sides abut on a street, provided that the interior angles at the intersection of two such sides is less than one hundred thirty-five (135) degrees.

Lot Coverage. The lot area covered by all buildings located therein including the area covered by all overhanging roofs.

Lot Depth. The average distance from the street line of the lot to its rear line, measured in the general direction of the side lines of the lot.

Lot Frontage. That dimension of a lot or portion of a lot abutting on a street, excluding the side dimension of a corner lot.

Lot, Interior. A lot other than a corner lot.



Lot Lines. the boundaries dividing a given lot from the street, an alley, adjacent lots, or public water bodies.

Lot of Record. A lot which is part of a subdivision recorded in the Office of the County Register of Deeds, or a lot described by metes and bounds, the description of which has been recorded in the Office of the County Register of Deeds prior to the date of passage of the Etowah Subdivision Regulations.

Lot Width. The width of a lot at the building setback line measured at right angles to its depth.

Manufactured Home. A structure, transportable in two (2) or more sections, which, in the traveling mode, is eight (8) body feet or more in width, or forty (40) feet or more in length, and which is built on a permanent chassis and designed to be used as a dwelling with a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein. A manufactured home for the purpose of the Ordinance does not include a manufactured unit to be used in conjunction with a commercial or industrial activity. **(Amended 10-23-00)**

Medical Facilities:

Convalescent, Rest, or Nursing Home. A health facility where persons are housed and furnished with meals and continuing nursing care for compensation.

Dental Clinic or Medical Clinic. A facility for the examination and treatment of ill and afflicted human out-patients provided, however, that patients are not kept overnight except under emergency conditions.

Dental Office or Doctor's Office. Same as dental or medical clinic.

Hospital. An institution providing health services primarily for human in-patient medical or surgical care for the sick or injured and including related facilities such as laboratories, out-patient facilities, and staff offices which are an integral part of the facility.

Public Health Center. A facility primarily utilized by a health unit for the provision of public health services.

Minimum Floor Elevation. The lowest elevation permissible for the construction, erection, or other placement of any floor including a basement floor.

Mobile Home. A factory-manufactured structure or housing unit, which is not self-propelled, but which is built on one chassis and is transported in one section. It is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. For the purposes of this ordinance, it does not include recreational vehicles or travel/camping trailers. (Whether or not a foundation is added shall not change this definition of a mobile home.) See also "Modular Building Unit" below. **(Amended 10-23-00)**

Mobile Home Park. Any area, tract, site, or plot of land whereupon two (2) or more mobile homes as herein defined are placed, located, or maintained, or intended to be placed, located, or maintained and shall include all accessory buildings used or intended to be used as part of the equipment thereof.

Mobile Home Subdivision. A subdivision with individual lot ownership planned for mobile homes and which meets all requirements of the Etowah Subdivision Regulations.

Modular Building Unit. As defined in Tennessee Code Annotated Section 68-36-303:

A structural unit or preassembled component unit including the necessary electrical, plumbing, heating, ventilating, and other service systems, manufactured off-site and transported to the point of use for installation or erection, with or without other specified components, as a finished building and *not designed for ready removal to another site* [italics added]. This term applies only to units intended or used for residential occupancy;

and in Etowah a modular building unit shall have a permanent foundation and the general appearance of a conventionally-constructed single-family home. Further, as allowed in Tennessee Code Annotated Section 13-24-201, modular homes shall not include units which are constructed as a single self-contained unit and which are mounted on a single chassis. Nor shall modular homes include self-propelled motor homes or recreational vehicles or campers. Furthermore, a modular home is one which can have under code an electric meter mounted directly on the exterior wall of the unit.

Non-Conforming Use. A building, structure, or use of land existing at the time of enactment of this Ordinance which does not conform to the regulations of the district in which it is situated.

Noxious Matter. Material (in gaseous, liquid, solid, particulate, or any other form) which is capable of causing injury to living organisms, or chemical reactions or detrimental effects on the social, economic, or psychological well-being of individuals.

Off-Street Parking Space. A yard, space, or area off the road right-of-way, which space shall be accessible to a road and shall be arranged and maintained for the purpose of providing standing space for vehicles while at rest or while being utilized to load or unload merchandise or other materials incidental to the occupancy.

Open Space: An area on the same lot with a main building which is open, unoccupied, and unobstructed by structures from the ground to the sky except as otherwise provided in this Ordinance. Open space lines shall coincide or be parallel to the building setback lines on the same lot.

Parking Lot. An off-street facility including parking spaces along with adequate provisions for drives and aisles for maneuvering and getting access, and for entrance and exit, designed so as to be usable.

Parking Space. An off-street space available for parking one (1) motor vehicle and having an area of not less than one hundred sixty-two (162) square feet (nine (9) feet by eighteen (18) feet), exclusive of passageways and driveways giving access thereto, and having direct access to a street or alley.

Patio Home. A patio home for the purpose of the Etowah Zoning Ordinance shall be defined as a single-family residential dwelling of one (1) or more floors, which does not have any common walls shared with an adjacent unit or units, but which is located to one side of a less-than-standard width lot. That is, these homes have a "zero foot" setback on one side to maximize the amount of usable outdoor lot area on the other side for a patio, landscaped garden, or other outdoor living area.

Permanent Foundation (Manufactured Homes and Modular Building Units). (Added 5/14/2015)  
The foundation of all manufactured homes and modular building units will be considered permanent, and compliant with all local codes when:

1. The axle and all related transportation hardware is removed from the structure,
2. Piers of solid/filled masonry or reinforced concrete are installed as foundation supports for the structure,
3. The structure is permanently strapped or tied to the piers,
4. The exterior perimeter foundation wall (skirt), whether the exterior walls of the building structure are load bearing or non-load bearing, is constructed of masonry units or reinforced concrete and finished with an approved veneer.

The sole use of jacks as foundation supports is prohibited. The use of metal sheet, plastic sheet, lattice board, or any material other than masonry units/reinforced concrete for skirting (or perimeter foundation wall) is prohibited.

Planned Unit Development (PUD). A development such as an apartment complex, shopping center, or medical center which is planned as a unit and which may require certain dimensional features that vary from those normally allowed.

Planning Commission. The Etowah Regional Planning Commission.

Plat. A map, plan, layout, or other drawing indicating the location and boundaries of individual properties or lots.

Principal Use. The specific primary purpose for which land or a building is used.

Public Uses. Public parks, schools, and administrative, cultural, and service buildings not including public land or buildings devoted solely to storage and maintenance of equipment and materials.

Recreational Vehicle. A vehicular-type unit primarily designed as temporary living quarters for recreational, camping, or travel use, which either has its own motive power or is mounted on or drawn by another vehicle. The basic entities classified as "recreational vehicles" are: travel trailers, camping trailers, truck campers, and motor homes defined below.

Travel Trailer. A vehicular unit, mounted on wheels, designed to provide temporary living quarters for recreational, camping, or travel use and of such size or weight as not to require special highway movement permits when drawn by a motorized vehicle, and with a living area of less than two hundred twenty (220) square feet, excluding built-in equipment (such as wardrobes, closets, cabinets, kitchen units, or fixtures) and bath and toilet rooms.

Camping Trailer. A vehicular portable unit mounted on wheels and constructed with collapsible, partial side walls which fold for towing by another vehicle and unfold at the campsite to provide temporary living quarters for recreational, camping, or travel use.

Truck Camper. A structure either factory-built or homemade which fits into the bed of a truck (usually a pickup truck) and designed to provide temporary living quarters for recreational, camping, or travel use.

Motor Home. A vehicular unit designed to provide temporary living quarters for recreational, camping, or travel use built on or permanently attached to a self-propelled motor vehicle chassis or on a chassis cab or van which is an integral part of the completed vehicle.

Residential Occupancy. The use of a building, structure, or vehicle for living purposes.

Right-of-Way. The strip of public land provided for a public road. The right-of-way is generally wider than the actual road surface.

Roadway. The actual road surface including necessary road shoulders and drainage facilities including ditches and curbing and guttering, which is utilized to transport motor vehicles.

Sanitary Sewer System. A municipal or community sewage collection, treatment, and disposal system of a type approved by the Health Department.

Sanitary Landfill. An area or site utilized by a public or private entity for disposal of solid waste or refuse in a manner which meets the regulations imposed upon the operation and maintenance of sanitary landfill sites by the Tennessee Department of Health and Environment.

Setback. The required distance between the front, side, or rear lot lines, and the nearest portion of the principal structure.

Shopping Center or Complex. A group of businesses, shops, stores, and/or professional services which are planned, developed, and managed as a unit sharing elements such as parking, access drives, and often common walls, often developed as a Planned Unit Development.

Sign. Includes any writing, printing, numbering, painting, display, emblem, drawing, picture, or other device designed, used, or intended for announcing, advertising, or drawing attention to, whether placed on or attached to the ground, rocks, trees, tree stumps, or other natural structures

or on buildings, structures, milestones, signboards, billboards, wallboards, roofboards, frames, supports, fences, or other manmade objects. Any of the above constitutes a sign within a building only when illuminated and placed in a window.

Billboard. An off-site sign with a sign area of over one hundred (100) square feet, or an on-site with a sign area of over two hundred (200) square feet.

Business Sign. An on-site sign of less than two hundred (200) square feet in sign area used to announce the name of a business or profession at that location and may include services offered, the hours of operation, the partners involved or other such information.

Flashing Sign. A directly or indirectly illuminated sign on which artificial light is not maintained stationary and constant in intensity and color at all times in use.

Ground Sign. Any sign not attached to any part of any building and which is supported by uprights or braces, placed upon the ground.

Off-Site Sign. A sign which promotes a cause or a candidate or which directs attention to an attraction, business, commodity, or service to be, or being, conducted, sold, rented, leased, or otherwise offered for use or disposition elsewhere than on the premises.

On-Site Sign. Any sign other than an off-site sign.

Portable Sign. A sign that is not mounted to any permanent structure, but is instead usually attached to a movable trailer or stand.

Projecting Sign. Any sign extending over the public sidewalk or beyond the street right-of-way boundary

Roof Sign. Any sign erected, constructed, or maintained upon the roof of any building.

Sign Area. The area of the sign, excluding the structural elements lying outside the limits of such sign and not forming an integral part of the display.

Temporary Sign. Any sign which is by reason of construction or purpose intended to be displayed for a short period of time. Unless specifically stated elsewhere in this Ordinance, a period of six (6) months is the maximum time limit for the display of a temporary sign.

Wall Sign. Any sign on any surface or place that may be affixed parallel to, or printed on, the wall of any building.

Special Exception. Any use which is specifically permitted if the owner can demonstrate to the satisfaction of the Board that he will meet certain enumerated safeguards or qualifying conditions for the special exception.

Storm Sewer. A municipal or community collection and disposal system for the handling and control of rainwater drainage.

Story. That portion of a building included between the upper surface of any floor and the upper surface of the floor next above; or any portion of a building between the topmost floor and the roof which is used for human occupancy or in which the floor area with eight (8) feet or more of head clearance equals fifty (50) percent or more of floor area of the next story below. Provided it is not used as a dwelling unit, a top floor in which the floor area with eight (8) feet or more of head clearance equals less than fifty (50) percent of the floor area of the story next below shall be a "half story". A basement shall be considered as a story if more than half of its height is above the average ground level from which the "height of building" is measured or if it is used for commercial purposes.

Street. Any public or private thoroughfare which is intended for the use of vehicles, and usually also provides access to adjacent property. Type of streets are defined as follows.

Major Thoroughfare: A major street serving as part of the principal network for cross-city and through traffic movement. A major thoroughfare has higher traffic volumes, usually has a wide right-of-way and should be designated as a major thoroughfare in the 1967 Etowah Transportation Plan.

Collector Street: A street that serves a collection and distribution function carrying traffic from the local streets to the major thoroughfares or to other local streets.

Local Street: The network of streets which primarily provide access to abutting property, i.e., neighborhood streets, generally two-lane with low traffic volumes and low traffic speeds.

Cul-de-sac: A dead-end street, usually a local street.

Alley: A minor right-of-way, dedicated to public use, which affords a secondary means of vehicular access to the back or side of properties otherwise abutting a street, and which may be used for public utility purposes.

Structure. Any combination of materials, including buildings and mobile homes, constructed or erected, the use of which requires location on the ground or attachment to anything having location on the ground and including, among other things, signs, billboards, and fences.

Swimming Pool. A water-filled enclosure, permanently constructed or portable, having a depth of more than twenty-four (24) inches below the level of the surrounding land or any above surface pool having said depth, used and maintained for swimming and bathing. **(Amended 04-24-00)**

Telecommunications Structure. (Added) A building, tower, or other structure and equipment used for the transmission, re-transmission, broadcast, or promulgation of telephone, telegraph, radio, television, or other electronic communications signals. (See Code 47 in the Standard Land Use Coding.) **(Amended 5/28/02)**

Townhouse, Residential. A single-family residential dwelling of one or more floors on a lot by itself and having or appearing to have a common wall with an adjacent similar unit or units.

Toxic Materials. Materials (gaseous, liquid, solid, particulate, or any other form) which are capable of causing injury to living organisms by chemical reaction even when present in very small amounts.

Travel Trailer Park. A parcel or area of land designed and equipped to accommodate travel trailers for short periods of time not to exceed fourteen (14) days.

Usable Floor Space. Floor space used for retail sale or display, including permanent outdoor motor vehicle sales areas and outdoor plant sales areas at nurseries.

Use. The purpose for which land or a building or other structure is designed, arranged, or intended, or for which it is or may be occupied or maintained.

Wrecked Auto Yard. Any lot or place which is exposed to the weather and upon which more than five (5) motor vehicles of any kind, incapable of being operated, and which it would not be economically feasible to make operative, are placed, located, or found.

Yard, Front. The required open space, unoccupied by buildings, between the road or street right-of-way line and the principal building.

Yard, Rear. The required space, unoccupied except by a building of accessory use as herein provided, extending from the rear of the principal building to the rear lot line the full width of the lot.

Yard, Side. The space, unoccupied except as herein provided, measured between the side lot line and the nearest point of the principal building and between the front yard and the rear yard.

## CHAPTER 3

### ZONING DISTRICTS

#### **SECTION**

#### **3.01. CLASSIFICATION OF DISTRICTS**

#### **3.02. ZONING DISTRICT MAP**

#### **3.03. ZONING DISTRICT BOUNDARIES**

#### **3.04. SPECIFIC DISTRICT REGULATIONS**

#### **3.01. CLASSIFICATION OF DISTRICTS.**

For the purpose of this Ordinance, the following zoning districts are hereby established in the Town of Etowah, Tennessee:

<b><u>District Abbreviation</u></b>	<b><u>Zoning District Name</u></b>
<u>R-1</u>	<u>Low Density Residential</u>
<u>R-2</u>	<u>Medium Density Residential</u>
<u>R-3</u>	<u>High Density Residential</u>
<u>MH</u>	<u>Mobile Home</u>
<u>C-1</u>	<u>Central Business</u>
<u>C-2</u>	<u>Highway Business</u>
<u>I-1</u>	<u>Light Industrial</u>
<u>I-2</u>	<u>Heavy Industrial</u>
<u>AG</u>	<u>Agricultural</u>
<u>MD</u>	<u>Medical</u>
<u>FL</u>	<u>Flood Hazard</u>

#### **3.02. ZONING DISTRICT MAP.**

The location and boundaries of the zoning districts established by this Ordinance are bounded and defined as shown on the map entitled Zoning Map of Etowah, Tennessee. The zoning map or its amendments shall be dated with the effective date of the ordinance that adopts the zoning map or zoning map amendment. Certified copies of the adopted zoning map or zoning map amendment shall be maintained at City Hall in Etowah, Tennessee, and shall be available for inspection by the public at all reasonable times, as long as this Ordinance remains in effect.

#### **3.03. ZONING DISTRICT BOUNDARIES.**

Unless otherwise indicated on the zoning map or zoning map amendment, the district boundaries are lot lines, center lines of streets or alleys, or the corporate limits of the City of Etowah as they exist at the time of the enactment of this Zoning Ordinance. Questions concerning the exact locations of district boundaries shall be determined by the Etowah Board of Zoning Appeals. Where a district boundary line divides a lot existing at the time this Ordinance takes effect and the major portion of said lot is in the less restricted district, the regulations relative to that district may extend as well to such portion of said lot as is not more than twenty (20) feet within the more restricted district.

#### **3.04. SPECIFIC DISTRICT REGULATIONS.**



The following regulations shall apply in the eleven (11) zoning districts established in Section 3.01. of this Ordinance.

**3.04.1. R-1 LOW DENSITY RESIDENTIAL DISTRICT.**

- A. District Description. This residential district is intended to be used for single-family residential areas with fairly low population densities. Additional permitted uses include uses and facilities normally required to provide the basic elements of a balanced and attractive residential area. These areas are intended to be defined and protected from the encroachment of uses not performing a function necessary to the residential environment. Internal stability, attractiveness, order, and efficiency are encouraged by providing for adequate light, air, and open space for dwellings and related facilities and through consideration of the proper functional relationship of each element.
- B. Uses Permitted. In the R-1 Low Density Residential District, the following uses and their accessory uses are permitted:
1. Single-family dwellings, including modular homes, but not mobile homes
  2. Residential townhouses and patio homes as regulated in Section 4.16.
  3. Non-commercial nurseries, gardens, and greenhouses provided that no greenhouse heating plant shall be operated within twenty-five (25) feet of any side or rear lot line
  4. Churches or similar places of worship, but not including temporary missions or revival tents, provided that:
    - a) There is a planted evergreen buffer strip at least twenty (20) feet wide along the property line, except lines bordering on streets, and
    - b) The building is located not less than fifteen (15) feet from the buffer zone or thirty-five (35) feet from any property lines.
  5. Church schools (Nursery through grade 12), provided that:
    - a) The school is located in or adjacent to an existing church building or worship with which the school will be a part,
    - b) There is a planted evergreen buffer strip at least thirty (30) feet wide along the property lines, except the lines bordering on streets, and
    - c) The building is located not less than fifteen (15) feet from the buffer zone or forty-five (45) feet from any property lines.

6. Public schools, colleges, and other public educational institutions, provided that:
  - a) There is a planted evergreen buffer strip at least thirty (30) feet wide along the property lines, except the lines bordering on streets, and
  - b) The building is located not less than fifteen (15) feet from the buffer zone or forty-five (45) feet from any property lines.
7. Utility facilities necessary for the provision of public services
8. Customary accessory buildings, including private garages and non-commercial workshops, provided they are located in the rear yard and not closer than five (5) feet to any lot line, or fifteen (15) feet from any existing building on an adjacent lot
9. Planned unit developments (PUD's) provided they follow the regulations in Section 4.09.
10. Golf courses and country clubs only as planned unit development
11. Cemeteries, subject to Planning Commission review to ascertain that the provisions of Section 4.14. have been met
12. Customary incidental home occupations subject to Planning Commission review to ascertain that the requirements of Section 4.06. will be met
13. Radio, television, and communications towers provided the Board of Zoning Appeals finds that the proposed site is essential to their transmission needs

C. Dimensional Regulations. All uses permitted in the R-1 Low Density Residential District shall comply with the following requirements, except as provided in Chapter 5 "Exceptions and Modifications".

1. Front Yard. The minimum depth of the front yard shall be thirty (30) feet.
2. Rear Yard. The minimum depth of the rear yard shall be twenty (20) feet for the principal structure.
3. Side Yard. The side yards shall be a minimum of fifteen (15) feet for one- and two-story structures, plus five (5) additional feet of side yard for each additional story over two.

If the side yard abuts a local street, alley, or cul-de-sac the side yard setback shall be twenty-five (25) feet.

If the side yard abuts a major thoroughfare or collector road the side yard setback shall be thirty (30) feet.

4. Land Area. No lot or parcel of land shall be reduced in size to provide separate lots or building sites of less than fifteen thousand (15,000) square feet in area except where sanitary sewer service is available, in which case the minimum lot area shall be ten thousand (10,000) square feet. However, where there is an existing lot of record of less than fifteen thousand (15,000) square feet at the time of adoption of this Ordinance, this lot may be utilized for the construction of one (1) single-family dwelling providing the lot in question has a public water supply and sanitary sewer service providing that said lot of record is not less than seven thousand five hundred (7,500) square feet in area.
5. Maximum Lot Coverage. On any lot or parcel of land the area occupied by all buildings, including accessory buildings, shall not exceed forty (40) percent of the total area of such lot or parcel.
6. Lot Width. No lot shall be less than one hundred (100) feet at the building setback line.
7. Height Requirements. No building shall exceed two and one-half (2 1/2) stories or thirty-five (35) feet in height, except as provided in Section 5.03.
8. Required Street Frontage and Orientation of Principal Structures.  
(Added 8/20/2012)

All principal structures shall be positioned on the lot so that the front façade and front door face a dedicated local street for which an E911 address can be given. On corner lots, one of the streets shall be designated as the front street, and the principal structure shall face this street or shall be angled toward the intersection of both streets. Under no condition shall the back of the principal structure face or angle toward a street or be visible from the street providing access except as provided above for corner lots. In no case shall an accessory structure be located in the front yard or closer to any street than the principal structure. Accessory structures shall be located to the side or rear of the principal structure and are subject to all building setbacks.

9. Minimum Square Footage Requirements for Residential Structures & Dwelling Units. (Added 9-26-2016)  
Single-family dwellings in the R-1 Low Density Residential Zoning District shall have a gross floor area of not less than eight-hundred (800) square feet of living space. Custom built homes and permitted modular

homes shall be required to have a permanent foundation. The minimum square footage of townhouses and/or patio homes shall be as regulated in Section 4.16 of this ordinance.

- D. Off-Street Parking Requirements. As regulated in Section 4.03.
- E. Access Control. As regulated in Section 4.01.

### **3.04.2. R-2 MEDIUM DENSITY RESIDENTIAL DISTRICT.**

- A. District Description. This residential district is intended to promote and encourage the establishment and maintenance of a suitable environment for urban residence in areas which by location and character are appropriate for occupancy by moderate density, single-family and selected multiple-family dwellings. One of the important purposes of this district is to create adequate standards of residential development in order to prevent overcrowded and unhealthy conditions in the older, established neighborhoods. The intensity of land use should not be so great as to cause congestion of buildings or traffic or overload existing sanitary facilities. Densities should be limited to provide adequate light, air, and usable open space for the residents and adequate space for all related facilities.
- B. Uses Permitted. In the R-2 Medium Density Residential District, the following uses and their accessory uses are permitted:
  - 1. Any use permitted in the R-1 Low Density Residential District with the same restrictions applying
  - 2. Duplexes
  - 3. Residential townhouse and patio homes as regulated in Section 4.16.
  - 4. Private schools, provided that:
    - a) There is a planted evergreen buffer strip at least thirty (30) feet wide along the property lines, except the lines bordering on streets, and
    - b) The building is located not less than fifteen (15) feet from the buffer zone or forty-five (45) feet from any property lines
- C. Dimensional Regulations. All uses permitted in the R-2 Medium Density Residential District shall comply with the following requirements, except as provided in Chapter 5 "Exceptions and Modifications".
  - 1. Front Yard. The minimum depth of the front yard shall be thirty (30) feet.

2. Rear Yard. The minimum depth of the rear yard shall be twenty (20) feet for the principal structure.
3. Side Yard. Each side yard shall be a minimum of fifteen (15) feet for one- and two-story structures, plus five (5) additional feet of side yard for each additional story over two.

If the side yard abuts a local street, alley, or cul-de-sac the side yard setback shall be twenty-five (25) feet.

If the side yard abuts a major thoroughfare or collector road the side yard setback shall be thirty (30) feet.

4. Land Area. No lot or parcel of land shall be reduced in size to provide separate lots or building sites of less than ten thousand (10,000) square feet in area except where sanitary sewer service is available, in which case the minimum lot area shall be seven thousand five hundred (7,500) square feet. However, where there is an existing lot of record of less than ten thousand (10,000) square feet at the time of adoption of this Ordinance, this lot may be utilized for the construction of one (1) single-family dwelling providing the lot in question has a public water supply and sanitary sewer service and providing that said lot of record is not less than six thousand (6,000) square feet in area.

On lots where duplexes are constructed, the following lot area requirements shall apply for each duplex:

- a) Ten thousand (10,000) square feet with public water and sanitary sewers
- b) Seventeen thousand five hundred (17,500) square feet with public water, but without sanitary sewers.

5. Maximum Coverage. On any lot or parcel of land, the area occupied by all buildings, including accessory buildings, shall not exceed forty-five (45) percent of the total area of such lot or parcel.
6. Lot Width. No lot shall be less than seventy-five (75) feet wide at the building setback line. (Amended 8/20/2012)
7. Height Requirement. No building shall exceed two and one-half (2 1/2) stories or thirty-five (35) feet in height except as provided in Section 5.03.
8. Required Street Frontage and Orientation of Principal Structures.  
(Added 8/20/2012)

All principal structures shall be positioned on the lot so that the front façade and front door face a dedicated local street for which an E911 address can be given. On corner lots, one of the streets shall be designated as the front street, and the principal structure shall face this street or shall be angled toward the intersection of both streets. Under no condition shall the back of the principal structure face or angle toward a street or be visible from the street providing access except as provided above for corner lots. In no case shall an accessory structure be located in the front yard or closer to any street than the principal structure. Accessory structures shall be located to the side or rear of the principal structure and are subject to all building setbacks.

9. Minimum Square Footage Requirements for Residential Structures & Dwelling Units. (Added 9-26-2016)

Detached Single-family dwellings and duplexes in the R-2 Medium Density Residential Zoning District shall have a gross floor area of not less than six-hundred (600) square feet of living space per dwelling unit. Custom built homes and permitted modular homes shall be required to have a permanent foundation. The minimum square footage of townhouses and/or patio homes shall be as regulated in Section 4.16 of this ordinance.

D. Off-Street Parking Requirements. As regulated in Section 4.03.

E. Access Control. As regulated in Section 4.01.

**3.04.3. R-3 HIGH DENSITY RESIDENTIAL DISTRICT.**

A. District Description. This residential district is intended to promote and encourage the establishment and maintenance of a suitable environment for urban residence in areas which by location and character are appropriate for occupancy by high density single- and multi-family dwellings. The intent of the provisions of this district is to create adequate standards of residential development to allow for high density development without undesirable conditions. The intensity of land use should not be so great as to cause congestion of buildings or traffic or to overload existing sanitary facilities.

B. Uses Permitted. In the R-3 High Density Residential District, the following uses and their accessory uses are permitted:

1. Any use permitted in the R-1 Low Density Residential District and the R-2 Medium Density Residential District with the same restrictions applying
2. Multi-family dwellings where the sewage disposal system is approved by the Etowah Utility Board

3. Group quarters or dormitories where public sewage service is available
4. Recreational facilities associated with multi-family dwellings or apartment complexes

C. Dimensional Regulations. All uses permitted in the R-3 High Density Residential District shall comply with the following requirements, except as provided in Chapter 5 "Exceptions and Modifications".

1. Front Yard. The minimum depth of the front yard shall be thirty (30) feet.
2. Rear Yard. The minimum depth of the rear yard shall be twenty (20) feet.
3. Side Yard. The side yard shall be a minimum of fifteen (15) feet for one- and two-story structures, plus five (5) additional feet of side yard for each additional story over two.

If the side yard abuts a local street, alley, or cul-de-sac the side yard setback shall be twenty-five (25) feet.

If the side yard abuts a major thoroughfare or collector road the side yard setback shall be thirty (30) feet.

4. Land Area. No lot or parcel of land shall be reduced in size to provide separate lots or building sites of less than ten thousand (10,000) square feet in area except where sanitary sewer service is available, in which case the minimum lot area shall be seven thousand five hundred (7,500) square feet for a single-family home. However, where there is an existing lot of record of less than ten thousand (10,000) square feet at the time of adoption of this Ordinance, this lot may be utilized for the construction of one (1) single-family dwelling providing the lot in question has a public water supply and sanitary sewer service and providing that said lot of record is not less than five thousand (5,000) square feet in area.

On lots or parcels of land where multi-family dwellings are constructed, the following area requirements shall apply:

<u>NUMBER OF DWELLING UNITS</u>	<u>WITH PUBLIC WATER AND SANITARY SEWERS</u>	<u>WITH PUBLIC WATER BUT WITHOUT SANITARY SEWERS</u>
2 Units	10,000 sq. ft.	17,500 sq. ft.
3 Units	15,000 sq. ft.	
Over 3 units	15,000 sq. ft.+ 2,500 sq. ft. for each unit over 3	

5. Maximum Lot Coverage. On any lot or parcel of land the area occupied by all buildings, including accessory buildings, shall not exceed forty-five (45) percent of the total area of such lot or parcel.
6. Lot Width. No lot shall be less than seventy-five (75) feet wide at the building setback line. (Amended 8/20/2012)
7. Height Requirement. No building shall exceed three (3) stories or forty (40) feet, except as permitted in Section 5.03.
8. Required Street Frontage and Orientation of Principal Structures. (Added 8/20/2012)

All principal structures shall be positioned on the lot so that the front façade and front door face a dedicated local street for which and E911 address can be given. On corner lots, one of the streets shall be designated as the front street, and the principal structure shall face this street or shall be angled toward the intersection of both streets. Under no condition shall the back of the principal structure face or angle toward a street or be visible from the street providing access except as provided above for corner lots. In no case shall an accessory structure be located in the front yard or closer to any street than the principal structure. Accessory structures shall be located to the side or rear of the principal structure and are subject to all building setbacks.

9. Minimum Square Footage Requirements for Residential Structures & Dwelling Units. (Added 9-26-2016)  
Detached Single-family dwellings, duplexes, and multi-family dwellings in the R-3 High Density Residential Zoning District shall have a gross floor area of not less than six-hundred (600) square feet of living space per dwelling unit. Custom built homes and permitted modular homes shall be required to have a permanent foundation. The minimum square footage of townhouses or patio homes shall be as regulated in Section 4.16 of this ordinance.

- D. Off-Street Parking Requirements. As regulated in Section 4.03.
- E. Access Control. As regulated in Section 4.01.
- F. Site Plan Requirements. As required in Section 4.15.

#### **3.04.4. MH MOBILE HOME DISTRICT.**

- A. District Description. This residential district is intended to provide for the development of single-family mobile home parks and for mobile home subdivisions. The purpose of this district is two-fold: 1) to provide for adequate mobile home parks where mobile home dwellers can rent a mobile home space,



and 2) to provide for new platted mobile home subdivisions where mobile home owners can purchase a lot for their home. Mobile home subdivisions will be regulated by the Etowah Subdivision Regulations as to required improvements and approval procedure and by these zoning regulations for dimensional requirements.

B. Uses Permitted.

1. Single-family mobile homes and customary accessory uses such as storage sheds and carports
2. "Public" parks, playgrounds, and community buildings in mobile home subdivisions
3. "Private" parks, playgrounds, community buildings, and coin laundries provided by the mobile home park

C. Uses Prohibited. All uses not allowed under Section 3.04.4.B. "Uses Permitted".

D. Regulations for Mobile Home Parks.

1. Permit Required. No mobile home park shall be established or maintained by any person unless such person holds a valid mobile home park permit from the City of Etowah. The permit shall not be issued until the Etowah Regional Planning Commission has approved the site plan, the McMinn County Health Department has approved the water and sewerage plans and other features required by the Tennessee Trailer Court Act, and the Etowah Building Inspector has certified that the mobile home park has been developed in accordance with the approved site plan.
2. Site Plan Required. The requirements of Section 4.15.F. "Requirements, Regulations, and Restrictions" shall be met for the site plan of a mobile home park. The scale of the site plan shall be one inch equals one hundred feet (1" = 100') or more detailed if the developer desires.
3. Site Requirements. Each mobile home park shall be located outside of flood hazard areas on a well-drained site and shall be situated so drainage will not endanger water supply. Each mobile home park shall be located on a single lot or on adjacent lots of the same ownership and planned so as to facilitate the efficient management and administration of such park.

Any area of land designated to be used as a mobile home park shall be at least three (3) acres in size and located in the MH Mobile Home District.

4. Size of Mobile Home Spaces. Each mobile home space shall be at least three thousand six hundred (3,600) square feet, including parking area,

with a minimum width and length of forty (40) feet by ninety (90) feet, respectively.

Each mobile home located in a mobile home park shall be situated such that there is at least:

- a) Ten (10) feet from a mobile home to any adjacent property line,
- b) Twenty-five (25) feet from any public street right-of-way to a mobile home, and
- c) Ten (10) feet of clear and open space between any attachments such as screened porches and adjacent mobile homes or other buildings.

5. Street Requirements. The minimum widths of various private streets within a mobile home park shall comply with the following:

One way with no on-street parking ..... Ten (10) feet wide

Two-way with no on-street parking ..... Sixteen (16) feet

Parallel parking on one side ..... Eight (8) feet  
additional width

Parallel parking on two sides ..... Sixteen (16) feet  
additional width

The streets shall be constructed with four (4) inches of compacted gravel or higher standards.

6. Parking and Buffer Area. Each mobile home park shall provide two (2) parking spaces per mobile home space. Each parking space shall be at least nine (9) feet by eighteen (18) feet. They may be arranged side-by-side or end-to-end.

Each mobile home park shall have a green strip at least ten (10) feet wide along all exterior boundaries of the park.

7. Recreation Area. A centrally-located area in each mobile home park shall be provided for use by the occupants for recreation and entertainment. Such recreational area shall be at least four hundred (400) square feet per mobile home space. Such recreational area shall be maintained in an attractive manner and shall be well-drained.

8. Water Supply. Water shall be piped directly to each mobile home space or site. The developer of a mobile home park shall attach to any public water supply located within one thousand (1,000) feet of the proposed park. If such a public water supply is available it shall be used exclusively.

No independent water supply shall be constructed without written approval of plans and specifications by the Health Officer.

9. Sewage Disposal. Each mobile home park shall provide an adequate disposal system approved in writing by the Health Officer. Each mobile home space shall be equipped with at least a three (3) inch sewer connection trapped below the frost line and reaching at least four (4) inches above the surface of the ground. All trunk sewer lines shall be laid in trenches separated by at least ten (10) feet horizontally from any drinking water supply line.

The developer of a mobile home park shall first attempt to dispose of sewage through a public sewerage system. If this attempt is not feasible, then a septic tank and subsurface soil absorption system may be used provided the soil characteristics are suitable and an adequate disposal area is available.

10. Solid Waste Collection. The storage, collection, and disposal of refuse within a mobile home park shall be so managed as to create no health hazards. All refuse shall be stored in flytight, watertight, and rodent-proof containers. Garbage and refuse shall be collected and disposed of no less than once a week.

- E. Regulations for Mobile Home Subdivisions. Mobile home subdivisions shall be located on land which is zoned MH and shall be developed in accordance with the Etowah Subdivision Regulations regarding platting, design, improvements, et cetera, with the following exceptions:

1. Lot Width. Lot width shall be a minimum of fifty (50) feet.
2. Lot Depth. Lot depth shall be a minimum of one hundred (100) feet.
3. Lot Area. Lot area shall be a minimum of five thousand (5,000) square feet with public water and sewerage. (Lots without public water and/or sewerage shall have a lot area as prescribed by the McMinn County Health Department to accommodate wells and/or individuals septic tank systems.)

#### **3.04.5. C-1 CENTRAL BUSINESS DISTRICT.**

- A. District Description. This district is established to provide an area for the conduct of community and regional retail and service business of an indoor and intensive

nature, especially for those sales and service uses which require a central location, which generate substantial pedestrian traffic, and which are mutually benefited by close proximity to other uses of similar nature and requirements, and for only those small-scale industrial uses commonly associated with retail, or business, or personal service activities. It is intended that such an area have properties suitable for uses of different sizes so developed as to promote pedestrian circulation, avoid "dead" spaces between uses, and to contribute to mutual business advantage. It is further intended to exclude those commercial and industrial activities which are characterized by trucking, other than stocking and delivery of retail goods, and which cater to automobiles, or traffic, or to patrons who remain in their vehicles for service.

The provisions of this district are further intended to protect present retail businesses while encouraging the eventual elimination of uses inappropriate to the functions of the Central Business District.

B. Uses Permitted. The following uses and their accessory uses shall be permitted in the C-1 Central Business District:

1. Retail sales or rentals including computer equipment, supplies and software; variety, discount and general merchandise; clothing and apparel, florists, copy and print shops, office furniture and supplies; home and office communication supplies and equipment, furniture and home furnishings, home appliances, books, magazines and newspapers; audio and video equipment, repair and supplies including televisions; music and musical instruments, hardware, garden and lawn supplies and equipment, auto parts and tires, jewelry, home appliances, hobby stores, sporting goods, antiques, gifts, souvenirs, card shops, pets and pet supplies, tobacco, and liquor (with necessary permits), and including those which are making products sold at retail on the premises, providing such manufacturing is incidental to the retail business or service, occupies less than forty (40) percent of the floor area and employs not more than five (5) operators. **(Amended 07-23-01)**
2. Clubs, lodges, and fraternal organizations
3. Personal service establishments including barber and beauty shops, laundromats, shoe repair, tailors and alterations, indoor recreation except for pool halls and video arcades, day care centers, art, dance, martial arts, music and photography studios; dry cleaners, funeral homes, eye glasses, hearing aids, home sick room supplies and equipment, ambulance services, locksmiths, real estate offices, and travel agencies, but excluding adult oriented entertainment and sales. **(Amended 07-23-01)**
4. Offices, studios, and financial institutions

5. Grocery stores, including specialty food stores such as bakery goods, delicatessens, and meat markets
6. Insurance agencies
7. Newspaper and other printing plants
8. Off-street parking lots
9. Professional offices for doctors, lawyers, dentists, architects, artists, engineers, and similar professional services
10. Public uses and structures
11. Utility structures and facilities, but excluding storage and parking facilities for equipment and supplies
12. Radio and television stations and transmission towers
13. Drug stores or pharmacies
14. Restaurants, grills, and similar eating establishments, excluding drive-ins
15. Schools, colleges, and churches
16. Signs as regulated in Section 4.12.
17. Theaters (indoor)
18. Public transportation terminals, including taxi stands
19. Gasoline service stations as regulated in Section 4.10.
20. Hotels and motels
21. Planned unit development (PUD's) as regulated in Section 4.09.
22. Automotive services (but not body repair) provided they are located in an existing building suited for such use.
23. Accessory apartment for the proprietor where said person and his/her immediate family resides on the premises of the office or retail store.  
(Amended 01-29-97)
24. Wholesale and mail order uses not to exceed 33 percent of the floor area or storage area of the structure or yard. (Added 07-23-01)

25. Light Sewing Apparel Industries (**Added 2/27/06**)

C. Uses Permitted as Special Exceptions (Added 3/24/2014). In the C-1, Central Business District, the following uses and their accessory uses may be permitted as special exceptions upon review and approval by the Planning Commission. In the exercise of its approval, the Commission may impose such conditions upon the proposed use(s) of building and land, as it may deem advisable to further the general purpose of this ordinance.

1. Residential units (such as apartments or condos) are allowed on the upper floors and in the rear of any structure in the C-1 district as a use permitted on review. The following requirements shall apply to commercial/residential mixed use. When a conflict arises between these regulations and other regulations found in this ordinance or elsewhere, the strictest regulation shall apply:
  - a. The first floor of the structure which fronts the street shall be maintained for commercial use in accordance with the allowed uses of the C-1 zoning district. The first floor is not intended to include subterranean basements or storage space.
  - b. Residential units located in the rear of a commercial building shall be separate and not interfere with loading/unloading areas.
  - c. Residential units shall be at least 500 square feet each.
  - d. Each residential unit shall have at least one off-street parking space dedicated to the use of the residents. For units above 1,000 square feet of floor space, two off-street parking spaces shall be required. Residential parking spaces shall be required in addition to the parking requirements found in Section 4.03 of this ordinance, which will also apply to the commercial use of the building.
  - e. Residential units shall have separate access from commercial establishments.
  - f. The proposed design must comply with the International Building Code and other relevant city codes.
  - g. The Planning Commission shall review a sketch plan detailing the building layout and parking for the commercial/mixed use in order to ensure adherence to these requirements and to promote the health, safety, and welfare of the public. Reasons for denial of a request include, but are not limited to:
    - i. The intensity and nature of the primary commercial use or adjacent uses make the addition of residential units inappropriate.
    - ii. The addition of residential units would have a negative impact on the internal transportation system of the lot, adjacent properties or the external transportation system.

D. Dimensional Regulations. All uses permitted in the C-1 Central Business District shall comply with the following requirements, except as provided in Chapter 5 "Exceptions and Modifications".

1. Front Yard. No front yard shall be required in the C-1 Central Business District.
2. Rear Yard. Where a commercial building is to be serviced from the rear there shall be provided an alleyway, service court, rear yard, or combination thereof of not less than thirty (30) feet in depth. The depth of a rear yard which abuts a residential district shall be not less than twenty-five (25) feet.

In all other cases, no rear yard is required. When buildings have common sides and rear walls, as they often do in C-1 districts, special care shall be taken to meet the requirements of the City's fire code.

3. Side Yard. No side yard shall be required except that the width of a side yard which abuts a residential district shall be twenty-five (25) feet. If a side yard is provided adjacent to another C-1 property, the side yard shall be at least five (5) feet so that extremely narrow aisles are not created which will be difficult to police or keep free of litter.
4. Height Requirement. No building shall exceed three (3) stories or forty (40) feet, except as provided in Section 5.03.

E. Requirement of Buffer Strip. Wherever a new use is established on property which abuts at any point upon property zoned R-1, R-2, R-3, or MH, the developer of said new use shall provide a buffer strip as defined in Chapter 2 "Definitions" along the entire abutment.

F. Off-Street Parking Requirements. As regulated in Section 4.03.

G. Off-Street Loading and Unloading Requirements. As regulated in Section 4.04.

H. Access Control. As regulated in Section 4.01.

I. Site Plan Requirements. As required in Section 4.15.

### **3.04.6. C-2 HIGHWAY BUSINESS DISTRICT.**

A. District Description. This district is established along selected portions of major thoroughfares to provide areas for those amusements, specialized sales, and travel accommodation activities which depend on visibility from or proximity to automobiles or traffic, serve regional travelers, cater to local residents in vehicles,

or provide services essential to the movement of vehicles. It is intended that such areas have properties with lot sizes, yards, and performance and development standards sufficient to ensure that activities performed on any one lot will not unduly impede the flow of traffic, will not adversely affect activities of adjoining zones, and will not infringe on the efficiency of activities or customer attractiveness of adjacent lots. It is further intended to exclude those uses which are not necessary for service to traffic, which are not dependent on traffic, and which could reasonably be located elsewhere thus not contributing to congestion of the major thoroughfares.

B. Uses Permitted. The following uses and their accessory uses shall be permitted in the C-2 Highway Business District:

1. Any use permitted in the C-1 Business District, except industry other than that which is incidental to a retail business or service
2. Hotels and motels, bed and breakfast, nursing homes and assisted living facilities (**Amended 07-23-01**)
3. Restaurants, grills, and fast food outlets including those allowing customer service in automobiles
4. Tourist services, including tourist information centers, souvenir/gift shops, and hunting/fishing/boating/camping supply shops
5. Medical clinics and laboratories, ambulance and rescue services (**Amended 07-23-01**)
6. Gasoline service stations and convenience stores, as regulated in Section 4.10 (**Amended 07-23-01**)
7. Automobile service, but not body repair
8. Establishments for the sale, service, or rental of passenger, travel, and recreation vehicles
9. Public or private golf courses
10. Libraries, art galleries, museums, and the like
11. Outdoor recreation facilities
12. Signs as regulated in Section 4.12.
13. Utility structures and facilities including storage and parking facilities for equipment and supplies



14. Commercial laundries and commercial plant nurseries and landscape companies
15. Animal hospitals, veterinarians, and animal kennels provided they are enclosed (**Amended 07-23-01**)
16. Truck stops
17. Amusement parks, amphitheaters, ballparks or stadiums, fairgrounds, and group picnic grounds
18. Public zoos
19. Airports and other transportation terminals
20. Planned unit developments (PUD's), such as shopping centers and professional office complexes
21. Auditoriums, exhibit halls, field houses, gymnasiums, theaters, and indoor recreation facilities
22. Cemeteries, subject to the provisions of Section 4.14.
23. Accessory apartment for the proprietor where said person and his/her immediate family resides on the premises of the office or retail store (**Amended 01-27-97**)
24. Pawn shops, building supply, heating, air-conditioning and ventilation sales and service; automobile and home glass, home repair contract services including carpenters, electricians, painters, plumbers, roofers and the like, bottled water sales and water treatment supplies for home and pool. (**Added 07-23-01**)

C. Uses Permitted as Special Exceptions. In the C-2, Highway Commercial District, the following uses and their accessory uses may be permitted as special exceptions upon review and approval by the Planning Commission. In the exercise of its approval, the Commission may impose such conditions upon the proposed use(s) of building and land, as it may deem advisable to further the general purpose of this ordinance. (**Added 04-24-00**)

1. Flea markets, open air or under roof. (Ref. Sec. 4.18)
2. Automobile and light truck rentals, sales (new and used) and service. (**Added 07-23-01**)

3. Fireworks and other storage and sale of hazardous and inflammatory materials not otherwise provided for. **(Added 07-23-01)**
  4. Tattoo and body piercing parlors, provided said parlor and the operators thereof are properly registered and licensed by the State of Tennessee under *TCA* § 68-38-201 et. seq. And 62-38-301 et. seq., as amended. Any permit for said use is subject to state registration and licensing. Suspension or loss of state registration or licensing for a period of one (1) year (365 calendar days from the date of suspension or loss) shall cause the zoning permit to be null and void. **(Added 6/27/02)**
- D. Uses prohibited in the C-2 Highway Business District, all uses except those uses specifically permitted or permitted as special exceptions are prohibited. **(Added 6/27/02)**
- E. Dimensional Regulations. The following requirements shall apply to all uses permitted in the C-2 Highway Business District:
1. Lot Area.
    - a) For those areas served by a sanitary sewer system, there shall be a minimum lot area of not less than ten thousand (10,000) square feet.
    - b) For those areas not served by a sanitary sewer system, the lot area requirements shall be determined by the McMinn County Health Department, but in no case shall be less than fifteen thousand (15,000) square feet.
  2. Front Yard. The depth of the front yard shall be fifty (50) feet from the street or highway right-of-way.
  3. Rear Yard. Each lot shall have a rear yard of not less than ten (10) feet; where a commercial building is served from the rear there shall be provided a rear yard of not less than thirty (30) feet; the depth of a rear yard which abuts a residential district shall not be less than twenty-five (25) feet.
  4. Side Yard. The width of any side yard which abuts a residential district shall not be less than twenty-five (25) feet. In all other cases the side yard shall not be less than ten (10) feet.
  5. Lot Width. Each lot shall have a width of not less than seventy-five (75) feet at the building setback line.
  6. Height Requirement. No building or structure shall exceed three (3) stories or forty (40) feet, except as provided in Section 5.03.

- F. Requirement of Buffer Strip. Wherever a new use is established on property which abuts at any point upon property zoned R-1, R-2, R-3, or MH, the developer of said new use shall provide along the abutment a buffer strip as defined in Chapter 2 "Definitions".
- G. Off-Street Parking Requirements. As regulated in Section 4.03.
- H. Off-Street Loading and Unloading Requirements. As regulated in Section 4.04.
- I. Access Control. As regulated in Section 4.01.
- J. Site Plan Requirements. As required in Section 4.15.

**3.04.7. I-1 LIGHT INDUSTRIAL DISTRICT.**

- A. District Description. The I-1 Light Industrial District is established to provide a suitable area for firms engaged in light manufacturing and the storage and distribution of goods, to protect the surrounding land uses, to discourage uses incompatible to light manufacturing, and to protect the existing industries in the district.
- B. Uses Permitted. In the I-1 Light Industrial District, the following uses and their accessory uses are permitted provided that all building, health, and safety regulations are met:
  1. Light industries, provided that any industry that may cause injurious or obnoxious noise, vibrations, smoke, gas fumes, odor, dust, fire hazard, or other objectionable conditions, shall be required to show that the proposed location, construction, and operation will not injure present or prospective industrial development in the district
  2. Wholesaling, warehousing, and those businesses which are incidental thereto, including storage yards, but excluding storage of any material of any explosive nature
  3. Contractors or construction equipment dealers' yards
  4. Repair or service facilities, including, but not limited to, automobile repair, appliance repair, machine shops, cabinet shops, carpentry, plumbing, and welding
  5. Sales and service of boats, boat trailers, and mobile homes
  6. Agricultural equipment sales and service

7. Gasoline service stations
8. Veterinarian hospitals and kennels
9. Laundry and dry-cleaning establishments
10. Radio stations and transmission towers
11. Wholesale baking establishments
12. Bottling and distribution plants
13. Newspaper and printing plants
14. Truck terminals
15. Heavy equipment sales and service
16. Off-street parking lots
17. Public utility structures
18. On-site and off-site signs as regulated in Section 4.12.

C. Dimensional Regulations. All uses permitted in the I-1 Light Industrial District shall comply with the following requirements, except as provided in Chapter 5 "Exceptions and Modifications".

1. Front Yard. The minimum depth of the front yard shall be thirty (30) feet.
2. Rear Yard. The minimum depth of the rear yard shall be thirty (30) feet.
3. Side Yard. The minimum depth of the side yard shall be twenty (20) feet, except that side yards for industrial lots adjacent to residential districts shall be a minimum of fifty (50) feet.
4. Land Area. It is hoped that all industries will be served by public water and sewerage systems. Where public water and sewer service is available, there shall be required a minimum land area of fifteen thousand (15,000) square feet.
5. Lot Width. No lot shall be less than one hundred fifty (150) feet wide at the building setback line.
6. Height Requirement. No building or structure shall exceed three (3) stories or forty (40) feet in height, except as provided in Section 5.03.

- D. Requirement of Buffer Strip. Wherever a new use is established on property which abuts at any point upon property zoned R-1, R-2, R-3, or MH, the developer of said new use shall provide along the abutment a buffer strip as defined in Chapter 2 "Definitions".
- E. Off-Street Parking Requirements. As regulated in Section 4.03.
- F. Off-Street Loading and Unloading Requirements. As regulated in Section 4.04.
- G. Access Control. As regulated in Section 4.01.
- H. Site Plan Requirements. As required in Section 4.15.

#### **3.04.8. I-2 HEAVY INDUSTRIAL DISTRICT.**

- A. District Description. The I-2 Heavy Industrial District is established to provide a suitable area for the location of heavy manufacturing plants, to protect the existing industries in the district, and to discourage uses incompatible with heavy industry.
- B. Uses Permitted. In the I-2 Heavy Industrial District, the following uses are permitted provided that all building, health, and safety regulations are met:
  - 1. Light and heavy industries provided that any industry that may cause injurious or obnoxious noise, vibration, smoke, gas fumes, odor, dust, fire hazard, or other objectionable conditions, shall be required to show that the proposed location, construction, and operation will not injure present industrial development in the district
  - 2. Stockyards, livestock sales, slaughter houses, and the processing of poultry and livestock
  - 3. Bulk storage of petroleum or bottled gas
  - 4. Auto junkyards, provided that the total area be screened from all adjacent development and any public rights-of-way by a planted evergreen buffer strip as defined in Chapter 2 "Definitions"
  - 5. Newspaper and printing plants
  - 6. Heavy equipment sales and service
  - 7. Off-street parking lots
  - 8. Public utility structures

9. On-site and off-site signs as regulated in Section 4.12.

C. Conditional Uses (Added 11-27-00)

a. Adult-oriented establishments, subject to the following special restrictions:

1. Restrictions. In no case shall an adult-oriented establishment be permitted to locate within five hundred feet (500') of any boundary to a R-1, R-2 or R-3 Residential Zone or MH Mobile Home Zone, nor shall any proposed adult-oriented establishment be permitted to locate within five hundred feet (500') of a residential use with any zone, nor shall any proposed adult-oriented establishment be permitted to locate within five hundred feet (500') from the nearest property line of a site with is used for the purpose of a recreation park, playground or swimming pool (not including ornamental only parks); place of worship, public or private school, day care center, or another adult-oriented establishment. Measurements shall be made from the nearest recorded property line of the adult-oriented establishment to the nearest property line or boundary of said uses.
2. Evaluation. For the purpose of enforcing this section, it shall be the responsibility of the building inspector to measure, evaluate, and advise the Planning Commission regarding compliance of a proposed adult-oriented establishment with the restrictions set forth herein. It shall be the responsibility of the applicant to supply a site plan, as set forth in Section 4.15, and any other maps, surveys, or other such special information as might reasonably be required and requested by the planning commission or its designee for use in making a thorough evaluation of the application.
3. Adult-oriented Establishments-Unlawful Acts. It shall be unlawful for any person to own, manage, or operate an adult-oriented establishment in any zone other than I-2 or to own, manage or operate such an establishment without obtaining a conditional use permit as required herein and any other permit the City of Etowah may require. Obtaining any other required permits shall be a requirement of the conditional use permit.
4. Hours of Operation. Under the authority of *TCA 7-51-1402(b)* the hours of operation for an adult-oriented establishment shall be opening not earlier than one (1) o'clock p.m. and closing not later than eleven (11) o'clock p.m. Monday through Thursday, and not later than twelve (12) midnight on Fridays and Saturdays. No adult-oriented establishment shall be open for business on any Sunday or a legal holiday as designated in *TCA 15-1-101*.

5. Physical Design of Premises. As provided in *TCA 7-51-1403* no person shall own, operate, manage, rent, lease or exercise control over any commercial building, structure, premises or portion or part thereof, which is an adult-oriented establishment and which contains:
  - a. Partitions between subdivisions of a room, portion or part of a building structure or premises having an aperture which is designed or constructed to facilitate sexual activity between persons on either side of the partition; or
  - b. Booths, stalls, or partitioned portions of a room or individual rooms, used for the viewing of motion pictures or other forms of entertainment, having doors, curtains, or portal partitions, unless such booths, stalls, partitioned portions of a room or individual rooms so used shall have at least one (1) side open to adjacent public rooms so that the area inside is visible to persons in adjacent public rooms. Such areas shall be lighted in a manner that the persons in the areas used for viewing motion pictures or other forms of entertainment are visible from the adjacent public rooms, but such lighting shall not be so such intensity as to prevent the viewing of motion pictures or other offered entertainment.
  
6. Revocation and Hearing: Expansion, relocation, substantial misrepresentation, violation of a) any of the terms of the ordinance, b) a change in the dominant sales items or services offered to the public, or c) failure to operate the establishment in conformity with any terms and specifications set forth in the conditions attached to the special permit shall constitute grounds for revocation of the special permit after notice and hearing. Notice of the hearing before the Board of Zoning Appeals for revocation of the permit shall be given in writing setting forth the grounds of the complaint and the time and place of the hearing. Such notice shall be mailed by certified mail to the applicant's or owners last known address at least five (5) days prior to the date set for the hearing.
  
7. Signs and Other Visible Messages. Signs and visible messages based on the allowable sign area of the zoning district as shown in Section 4.12 are permitted provided:
  - a) Sign messages shall be limited to a written description of material or services available on the premises;
  - b) Sign messages may not include any graphic or pictorial depiction of material or services available on the premises;
  - c) Messages which are visible or intended to be visible from outside the property (such as on or within doors or windows) shall not

display materials, items, publications, pictures, films, or printed material available on the premises; or pictures, films, or live presentation of persons performing or services offered on the premises.

- D. Dimensional Regulations. All uses permitted in the I-1 Heavy Industrial District shall comply with the following requirements, except as provided in Chapter 5 "Exceptions and Modifications".
1. Front Yard. The minimum depth of the front yard shall be fifty (50) feet.
  2. Rear Yard. The minimum depth of the rear yard shall be thirty (30) feet.
  3. Side Yard. The minimum depth of the side yard shall be thirty (30) feet, except that side yards for industrial lots adjacent to residential districts shall be a minimum of fifty (50) feet.
  4. Land Area. It is hoped that all industries will be served by public water and sewerage systems. Where public water and sewer service is available, there shall be required a minimum land area of two (2) acres. No heavy industrial land use shall be permitted in areas where a public water supply is not available. In areas where only public water is available, the size of the lot shall meet the McMinn County Health Department requirements based on soil types and septic system design requirements.
  5. Lot Width. No lot shall be less than two hundred (200) feet wide at the building setback line.
  6. Height Requirement. No building or structure shall exceed three (3) stories or forty (40) feet in height, except as provided in Section 5.03.
- E. Requirement of Buffer Strip. Wherever a new use is established on property which abuts at any point upon property zoned R-1, R-2, R-3, or MH, the developer of said new use shall provide along the abutment a buffer strip as defined in Chapter 2 "Definitions".
- F. Off-Street Parking Requirement. (Amended 02-27-95) As regulated in Section 4.03 of this title, excepting Section 4.03F, Construction Requirement for Parking Lots which may be waived by a majority vote of the Etowah Regional Planning Commission at the time of Site Plan Approval as specified in Section 4.15 of this title.
- G. Off-Street Loading and Unloading Requirements. As regulated in Section 4.04.
- H. Access Control. As regulated in Section 4.01.



- I. Site Plan Requirements. As regulated in Section 4.15.

**3.04.9. AG AGRICULTURAL DISTRICT.**

- A. District Description. This district is intended to preserve those areas within the corporate limits of Etowah for which agriculture is a desirable and profitable use from encroachment by more intense uses. The AG Agricultural District also provides for low density residential and outdoor recreation uses. It is further intended that the AG Agricultural District prevent undesirable urban sprawl and exclude land uses which demand a level of urban services which are impossible or uneconomical to provide. The agricultural use of land shall be limited by the requirement that no significant offensive odors or dust be created. Furthermore, after the adoption of this Ordinance, no new agricultural structures shall include space for commercial poultry and swine production, cattle feeder lots, or fur-bearing animal farms.
- B. Uses Permitted. In the AG Agricultural District, the following uses and their accessory uses are permitted:
1. Detached single- and two-family dwellings
  2. Parks, playgrounds, golf courses and driving ranges, country clubs, community centers, and other public recreational facilities
  3. Public schools, colleges, libraries, fire stations, and utility structures with an approved site plan
  4. Plant nurseries and greenhouses
  5. Signs as regulated in Section 4.12.
  6. General farm uses such as cultivation of soil for food products, or animal feed or timber, and the grazing of livestock including dairy cattle
  7. Riding stables and kennels with an approved site plan
  8. Sanitary landfill operations, subject to the approval of the McMinn County Health Department and the Tennessee Department of Health and Environment
  9. One (1) roadside stand per farm for the sale of agricultural products produced on the premises provided that such stand does not exceed a total area of three hundred (300) square feet and provided it is located not nearer than thirty-five (35) feet from the roadway

10. Cemeteries, subject to the provisions of Section 4.14.

C. Dimensional Regulations. All uses permitted in the AG Agricultural District shall comply with the following requirements, except as provided in Chapter 5 "Exceptions and Modifications".

1. Front Yard. The minimum depth of the front yard shall be thirty (30) feet.

2. Rear Yard. The minimum depth of the rear yard shall be twenty-five (25) feet for the principal structure and five (5) feet for any permitted accessory structures.

3. Side Yard. The side yards shall be a minimum of twenty (20) feet for a single-story structure, plus an additional five (5) feet for each additional story.

If the side yard abuts a local street, alley, or cul-de-sac the side yard setback shall be twenty-five (25) feet.

If the side yard abuts a major thoroughfare or collector road the side yard setback shall be thirty (30) feet.

4. Land Area. No parcel of land shall be reduced in size to provide separate lots or building sites of less than one (1) acre. However, where there is an existing lot of record of less than one (1) acre at the time of adoption of this Ordinance, this lot may be used for construction of one (1) single-family dwelling provided the McMinn County Health Department approves the lot's proposed sewerage system.

5. Lot Width. No lot shall be less than one hundred (100) feet at the building setback line.

6. Height Requirement. No building shall exceed two and one-half (2 1/2) stories or thirty-five (35) feet in height, except as provided in Section 5.03. for silos, grain elevators, observation towers, and so forth.

D. Off-Street Parking Requirements. As regulated in Section 4.03.

E. Access Control. As regulated in Section 4.01.

F. Site Plan Requirements. As required in Section 4.15.

**3.04.10. M-D MEDICAL DISTRICT.**

A. District Description. It is intended that this district be used to provide for the unified development of medical facilities, nursing homes, and other facilities

related to the health care of the citizens of the City of Etowah and the surrounding region.

- B. Uses Permitted. In the M-1 Medical District, the following uses and their accessory uses are permitted:
1. Public and private hospitals, clinics, and other facilities which provide for the overnight care of patients, and medical and dental offices not equipped for overnight care of patients
  2. Public and private nursing homes
  3. Drug stores, medical supply establishments, and the like
  4. Utility facilities necessary for the provision of public services
  5. Business signs as regulated in Section 4.12.
  6. Planned unit developments (PUD's)
  7. Any other use which the Planning Commission feels is in conformance with the intent of this district shall be permitted on review
- C. Uses Prohibited. All uses except those permitted or permitted upon approval by the Planning Commission are prohibited.
- D. Dimensional Regulations. All uses permitted in the M-1 Medical District shall comply with the following requirements, except as provided in Chapter 5, "Exceptions and Modifications".
1. Front Yard. The minimum depth of the front yard shall be thirty (30) feet.
  2. Rear Yard. No building shall be located closer than twenty-five (25) feet to the rear lot line.
  3. Side Yard. Where the side yard is adjacent to a residential district, no buildings shall be located closer than twenty (20) feet to the side lot line.
  4. Lot Width. None required except to meet other requirements herein.
  5. Height Requirement. No building shall exceed three (3) stories or forty (40) feet in height, except as provided in Section 5.03.
- E. Off-Street Parking Requirements. As regulated in Section 4.03.
- F. Off-Street Loading and Unloading Requirements. As regulated in Section 4.04.

G. Access Control. As regulated in Section 4.01.

H. Site Plan Requirements. As required in Section 4.15.

**3.04.11. MUNICIPAL FLOODPLAIN ZONING ORDINANCE.**  
**(Amended 5/24/10)**

See Appendix A for Municipal Floodplain Zoning Ordinance.

## CHAPTER 4

### SUPPLEMENTARY PROVISIONS APPLYING TO ALL DISTRICTS WHERE APPLICABLE

#### **SECTION**

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#### **4.01. ACCESS CONTROL.**

In order to expedite the movement of traffic, to promote the safety of the motorist and pedestrian, and to minimize traffic congestion and conflict, it is necessary to reduce the points of vehicular contact. Therefore, to effectively control vehicular access onto the streets of Etowah, it is necessary to classify such streets as follows: major thoroughfares; collector streets; and local streets. The classification of each street shall be as shown in the Transportation Plan of Etowah, Tennessee, which is kept in City Hall.

- A. Development Requiring Access Control Plan. Developers of commercial and industrial establishments and apartment complexes of three (3) or more dwelling units must file an access control plan which meets all requirements of this section and must have such plan approved by the Etowah Regional Planning Commission prior to obtaining a building permit. This access control plan is often part of a "site plan" as specified in Section 4.15. of this Ordinance. However, in the event that such a site plan is not required, an access control plan must still be submitted and approved. Although access control plans are not

required for single-family homes and duplexes, the provisions of Section 4.01.D., items 1, 2, and 3 shall, nevertheless, be adhered to for access to these land uses.

B. General Access Regulations Applying to All Classifications of Streets.

1. Maximum Width of All Access Points. The maximum width of all access points shall be thirty (30) feet measured at the property line; except when the development requiring access generates high overall or high peak traffic volumes, the Etowah Regional Planning Commission may approve a wider channelized access point to allow various turning movements for greater traffic control and safety.
2. Temporary Access Ways. Temporary access ways may be granted by the Planning Commission at locations other than those specified for permanent access where it is expedient for the purpose of staged development. Temporary access ways shall be closed by the owner when permanent access to the property is completed.
3. Off-Street Parking Lanes Entirely Independent of Public Streets. No off-street vehicular storage or parking shall be allowed where the arrangement requires that vehicles back directly into a public street right-of-way.
4. Access for Lots Fronting on More than One (1) Street. In all commercial developments where a lot abuts more than one (1) street, the Planning Commission may require that the access be from the street of lowest classification when necessary to lessen serious congestion on the major street. If access is allowed onto two (2) or more streets, the number of access points shall conform to those allowed for each street classification (see Section 4.01.D.).
5. Gasoline Service Stations. Gasoline service stations shall be allowed two (2) access points onto the same street to allow proper circulation past the gasoline pumps. This is regardless of lot width or street classification provided the required site plan is approved by the Etowah Regional Planning Commission

C. Construction of Frontage Roads and Interior Circulation Drives. In order to limit the number of individual access points to an arterial or collector street, the Etowah Regional Planning Commission shall encourage and may require the development of frontage roads and interconnecting interior circulation drives.

1. Frontage Roads. Frontage roads are those which parallel the existing street and extend across the entire frontage of a particular large property or group of properties. Frontage roads may be required to provide safe and efficient public access to individual properties, eliminating the traffic congestion which would be caused if each parcel had its own access onto the arterial or collector street.

Access points between the frontage road and the arterial street shall be no closer together than three hundred (300) feet along collector streets. All frontage roads shall be built to the standards specified in the Etowah Subdivision Regulations and shall be dedicated as public streets and then maintained by the City of Etowah.

Access requirements for property served by a frontage road shall be the same as for property fronting a minor street; i.e., at least one hundred (100) feet apart, except that the Planning Commission may also allow a regrouping of access points onto the frontage road in accordance with an approved site plan which does not destroy the intent of these access control provisions.

- 2. Interior Circulation Drives. Interior circulation drives are needed in large developments which require large parking areas. These drives interconnect all parking lot access points with all buildings and areas of vehicular parking, loading, and servicing. They are constructed to provide safe and efficient vehicular movement between specified access points of a development or a series of developments. The Planning Commission shall encourage and may require that the interior circulation drives of adjacent developments be connected to eliminate the need to use the public streets to drive from one to another. All circulation drives shall be clearly defined and marked appropriately with arrows, et cetera, to assist public circulation into and out of the property and its parking areas.

An area of land not less than ten (10) feet deep shall be provided between the public street right-of-way line and the edge of all proposed frontage roads or interior circulation drives. This area will separate the roadways with a minimum turning radius. Such area shall be landscaped and grassed.

The width, placement, and design of frontage roads and interior circulation drives shall be reviewed by the City of Etowah and the Planning Commission staff and shall be approved by the Etowah Regional Planning Commission.

- D. Access Control. In order to promote the safety of the motorist and pedestrian and to minimize traffic congestion and conflict by reducing the points of contact, the following regulations shall apply: (Amended 11-11-96)

- 1. Minimum distance from an adjoining interior lot line and a driveway opening at the street right-of-way line:

Residential use ..... five (5) feet

Non-residential use and residential complexes  
with more than 12 units..... fifteen (15) feet

2. Minimum distance from the intersection of a street right-of-way lines on a corner lot and a driveway opening at the right-of-way line:

Residential use .....ten (10) feet

Non-residential use and residential complexes  
with more than 12 units..... twenty-five (25) feet

3. Minimum distance between two driveways serving the same property and which provide access to the same street, at the right-of-way line:

Residential use ..... twenty-five (25) feet

Non-residential use and residential complexes  
with more than 12 units..... forty-five (45) feet  
(provided where there are topographic limitations, or the frontage is insufficient, the Planning Commission may reduce this distance up to a minimum of twenty-five (25) feet.)

4. There shall be no more than two (2) points of access to any one public street for each four hundred (400) feet of lot frontage, or fraction thereof, provided, however, that lots of less than one hundred (100) feet in width shall have no more than one point of access to any public street.

5. For the purposes of this section, dual one-way access drives shall be considered to be one (1) driveway.

**4.02. ACCESSORY USE REGULATIONS.**

The uses of land, buildings, and other structures permitted in each of the Districts established by this Ordinance are designated by listing the principal uses. In addition to such principal uses, accessory uses which are customarily incidental to the permitted principal uses are also permitted in each district. Each accessory use shall:

1. Be customarily incidental to the principal use established on the same lot
2. Be subordinate to and serve such principal use
3. Be subordinate in area, intent, and purpose of such principal use
4. Contribute to the comfort, convenience, or necessity of users of such principal use



#### **4.03. OFF-STREET PARKING REQUIREMENTS.**

- A. Amount Required. Off-street automobile parking shall be provided on each lot upon which any of the following uses are hereafter established. One (1) passenger vehicle space shall be determined as two-hundred (200) square feet of parking area that is at least ten (10) feet by twenty (20) feet for regular parking spaces and ten (10) feet by twenty-two (22) feet for parallel parking spaces. All parking areas shall have access to a street or alley. The number of parking spaces provided shall meet the minimum requirements for the specific uses as set forth below. (*Amended 9-28-2015 – Ord. #773*)
1. Dwellings. Not less than two (2) spaces for each family dwelling unit.
  2. Boarding Houses and Rooming Houses. Not less than one and one-half (1 1/2) spaces for each two (2) rooms occupied by boarders or roomers.
  3. Tourist Accommodations, Hotels, or Motels. Not less than one (1) space for each room offered for tourist accommodation.
  4. Any Auditorium, Church, Stadium, or Other Place of Public Assembly. Not less than one (1) space for every four (4) seats provided in such places of assembly. For places of public assembly where seating is not a measure of capacity, such as clubhouses, funeral parlors, et cetera, at least one (1) space for each one hundred (100) square feet of floor space devoted to that particular use shall be provided.
  5. Manufacturing or Other Industrial Use. Not less than one (1) space for every three (3) persons employed or intended to be employed on a single shift, with a minimum of six (6) spaces provided for any establishment.
  6. Commercial Building or Use. One (1) space for each one hundred seventy-five (175) square feet of usable floor space in the C-2 zone. Usable floor space is to be determined by the Etowah Regional Planning Commission based on the nature of the business.
  7. Medical or Dental Clinics and Hospitals. Four (4) spaces per doctor, plus one (1) additional space for each employee.
  8. Service Stations. Five (5) spaces for each grease rack or similar facility, plus one (1) space for each gasoline pump.
  9. Offices. One (1) space for each two hundred (200) square feet of office space.
  10. Restaurants. One (1) space per one hundred fifty (150) square feet of usable floor area, plus one (1) space for every two (2) employees. For drive-in restaurants, one (1) space per fifty (50) square feet of usable floor area.

- B. Certification of Minimum Parking Requirements. Each application for a building permit shall include information as to the location and dimensions of off-street parking and loading space and the means of ingress and egress to such space. This information shall be in sufficient detail to enable the Building Inspector to determine whether or not the requirements of this section are met.
- C. Combination of Required Parking Space. The required parking space for any number of separate uses may be combined in one (1) lot, but the required spaces assigned to one (1) use may not be assigned to another use except that the parking space required for churches, theaters, or assembly halls whose peak attendance will be at night or on Sundays may be assigned to a use which will be closed at night or on Sundays.
- D. Remote Parking Space. If the off-street parking space required by this Ordinance cannot be reasonably provided on the same lot on which the principal use is located, such space may be provided on any land within five hundred (500) feet of the main entrance to such principal use provided such land is in the same ownership as the principal use. Such land shall be used for no other purpose so long as no other adequate provision of parking space meeting the requirements of this Ordinance has been made for the principal use.
- E. Requirements for Design of Parking Lots. (*Amended 9-28-2015 – Ord. #773*)
1. Except for parcels of land devoted to one- and two-family residential uses, all areas devoted to off-street parking shall be so designed and be of such size that no vehicle is required to back into a public street to obtain egress.
  2. Each parking space shall be no less than two-hundred (200) square feet in area and a parking space shall be at least ten (10) feet by twenty (20) feet for regular parking spaces and ten (10) feet by twenty-two (22) feet for parallel parking spaces.
  3. Isle ways to parking spaces shall be at least twenty-four (24) feet wide, and no parking lot shall be designed so as to force drivers to back into a public street.
  3. Entrances and exits for all off-street parking lots shall comply with the requirements of Section 4.01.
  4. The parking lot shall be contoured to drain surface water to an approved collection area; otherwise, storm water runoff shall be detained on site for evaporation or absorption into the ground.
  5. Handicap spaces should meet the requirements of the ADA.
  6. Parking lots shall be drained to eliminate storm water generated by impervious surfaces. For every ten thousand (10,000) square feet of parking area, a minimum of one thousand (1,000) square feet must utilize pervious paving materials with an appropriate drainage system.

7. Installation of median swales in the design of parking lots which allow for the infiltration of surface water is required between parallel parking blocks.
  8. Surface water drainage shall be directed to natural drainage landscapes along the perimeter of the parking lot, to swales between parking rows, and/or to rain gardens at the end of parking bays.
  9. Similar green infrastructure designs to manage surface and storm water will also be considered.
  10. All systems shall be engineered to provide an overflow system for excessive drainage beyond the parking lot's infiltration capacity, up to the ability to sustain a 25 year storm event.
- F. Construction Requirements for Parking Lots. (Amended 12-12-94) Except for parcels of land devoted to one and two family residential uses, all areas devoted to off-street parking shall be constructed of Asphaltic Concrete (hot mix) or Ready Mix Concrete.
- G. Reduction of Minimum Parking Requirements. (Added 9-28-2015 – Ord. #773)  
 For uses in industrial and commercial zones, the minimum amount of parking may be reduced up to twenty (20) percent if the applicant can provide information for one or more of the following circumstances. The Planning Commission shall consider such evidence and make a determination of the reduction in parking spaces. In all applications, the burden of proof is on the applicant to justify the proposed reduction.
1. A study from a transportation engineer or otherwise qualified professional research/study showing that a proposed lower minimum parking requirement would be sufficient for the use;
  2. Information submitted by the applicant of the use in a similar market area and - population demographic to that of the City of Etowah in which fewer parking spaces have been adequate;
  3. Provision of a dedicated overflow parking area which utilizes pervious or permeable pavers or other low impact landscaping;
  4. Shared parking arrangement with an adjacent property in which the minimum parking standards can be met. A shared parking arrangement in a form approved by the Planning Commission must be completed between the relevant property owners and the City of Etowah.
- H. Maximum Parking Requirements. (Added 9-28-2015 – Ord. #773)  
 For use in industrial and commercial zones, a maximum amount of parking may be imposed on new development which disturbs more than one (1) acre of land. In this case, when the developer submits the building permit application including a summary of the

proposed use and number of parking spaces, the building inspector in conjunction with Planning Commission will analyze the following factors to determine if a maximum amount of parking will be placed on the development:

1. Development type and size: Specific characteristics of the project such as the development's footprint and the type of land use.
2. Population and development density: Looks at the density of the proposed development in terms of units, residents, customers, and employees.
3. Availability of transportation options: Modes of transportation of employees, visitors and residents. Proximity of public transportation, walkable neighborhoods, and bicycle amenities may reduce maximum parking amount.
4. Surrounding land use mix: The land uses around the proposed development including what shared parking may be available, surrounding uses hours of operation, and availability of on-street parking.

#### **4.04. OFF-STREET LOADING AND UNLOADING REQUIREMENTS.**

Every building or structure hereafter constructed and used for industry, or business, or trade in any district shall provide space for the loading and unloading of vehicles off the street or public alley. This space shall not be considered as part of the space requirements for off-street automobile storage.

1. Behind every building or structure used for business or trade, there shall be a rear yard of not less than twenty (20) feet in depth to provide space for loading and unloading vehicles, except as provided in Chapter 5 "Exceptions and Modifications".
2. The Board of Zoning Appeals may hereafter reduce this requirement where unusual or special conditions are due consideration.

#### **4.05. TEMPORARY USE REGULATIONS.**

The following regulations are necessary to govern the operation of certain necessary or seasonal uses non-permanent in nature. Application for a Temporary Use Permit shall be made to the Building Inspector. Said application shall contain a graphic description of the property to be utilized and a site plan, a description of the proposed use, and sufficient information to determine yard requirements, setbacks, sanitary facilities, and parking space for the proposed temporary use. The following uses are deemed to be temporary uses and shall be subject to the specific regulations and time limits which follow and to the regulations of any district in which such use is located.

1. Carnival or Circus. In the C-1 or C-2 districts a Temporary Use Permit may be obtained; however, such permit shall be issued for a period of not longer than fifteen (15) days.
2. Christmas Tree Sales. In any district a thirty (30) day Temporary Use Permit for the display of Christmas trees on open lots may be obtained.

3. Temporary Building. In any district a Temporary Use Permit may be issued for a contractor's temporary office and equipment sheds incidental to a construction project. Such permit shall not be valid for more than one (1) year, but may be renewed for six (6) month extensions; however, not more than three (3) extensions shall be granted to a particular use. Such use shall be removed upon completion of the construction project or upon expiration of the Temporary Use Permit, whichever occurs sooner.
4. Real Estate Sales Office. In any district a Temporary Use Permit may be issued for a temporary real estate sales office in any new subdivision which has been approved by the Planning Commission under the Etowah Subdivision Regulations. Such office shall contain no living accommodations. The permit will be valid for one (1) year, but may be granted two (2) six (6) month extensions. Such office shall be removed upon completion of the development of the subdivision or upon expiration of the Temporary Use Permit, whichever occurs sooner.
5. Religious Tent Meetings. In the C-2 district a Temporary Use Permit may be issued for a tent or other temporary structure to house a religious meeting. Such permit shall be issued for not more than a thirty (30) day period.
6. Seasonal Sale of Farm Produce. In the AG, C-2, and I-1 districts a Temporary Use Permit may be issued for the sale of farm produce grown on the premises. Structures utilized for such sales shall be removed when not in use. The permit shall be issued for a five (5) month period. All structures must be off the right-of-way and set back from the edge of the pavement a minimum of twenty-five (25) feet.
7. Miscellaneous Assemblies. In any district a Temporary Use Permit may be issued for any lawful assembly, such as an outdoor music concert, political rally, et cetera. Such permit shall be issued for not more than a seven (7) day period. Noise levels shall be considered when deciding whether to issue the Temporary Use Permit near residences.

#### **4.06. CUSTOMARY HOME OCCUPATIONS.**

A customary home occupation is a gainful occupation or profession conducted by members of a family residing on the premises and conducted entirely within the principal dwelling unit. In connection with a home occupation, no stock in trade shall be displayed outside the dwelling, and no alteration to any building shall indicate from the exterior that the building is being utilized in whole or in part for any purpose other than a residential unit, including permitted accessory buildings. When questions arise regarding the legality of specific home occupations, the Board of Zoning Appeals shall determine whether said home occupation is in compliance with the above restrictions and is compatible with the district in which said home occupation is located. However, activities such as dance instruction, band instrument instruction (except piano instruction), tea rooms, tourist homes, real estate offices, convalescent homes, mortuaries, animal clinics, retail sales business, or any other activity deemed by the Board to be incompatible with the district or a potential nuisance to the surrounding area shall not constitute an acceptable home occupation.

#### **4.07. GENERAL LOT RESTRICTIONS.**

The following general lot restrictions shall be complied with in all districts.

A. One (1) Principal Structure for Each Lot.

1. Only one (1) principal building and its customary accessory buildings may be erected on any lot. This provision does not prohibit PUD complexes as permitted in Section 4.09. of this Ordinance.
2. No building shall be erected on a lot which does not abut at least one (1) street for at least forty (40) feet, unless the lot is a flag lot in which case it must have at least twenty-five (25) feet of frontage at the end of an access strip which is twenty-five (25) feet wide throughout its length. Such building shall conform to the lot and yard requirements of the district in which it is located.

B. Reductions in Lot Area Prohibited. No lot, even though it may consist of one (1) or more adjacent lots of record, shall be reduced in area so that yards, lot area per family, lot width, building area, or other requirements of this Ordinance are not maintained. This section shall not apply when a portion of a lot is acquired for a public purpose.

No yard or other open space provided about any building for the purpose of complying with these regulations shall be considered as providing a yard or other open space for any other building.

C. Rear Yard Abuts a Public Street. When the rear yard of a lot abuts a public street, all structures built in that rear yard shall observe the same setback from the street right-of-way line as required for adjacent properties which front on that street. In addition, any structure located within twenty-five (25) feet of that setback line shall be no closer to any side property line than the distance required for side yards on adjoining properties fronting on that street.

D. Front Entrance of Residences Shall Face a Public Street. The front yard of a residential structure shall abut a public street, and the front entrance to the structure shall abut the front yard. The Planning Commission may permit residences on corner lots to have the front entrance facing a side street (side yard) where this is compatible with the setbacks and other aspects of the neighborhood. Multifamily (3 dwelling units or more) structures may be allowed to have entrances facing a direction other than a public street; provided the facade facing the public street gives the aesthetic appearance of the front of a residence, and the general appearance and layout is consistent with adjoining properties. When a proposed building orientation is questionable, the Board of Zoning Appeals shall issue a ruling at the request of the property owner. (Amended 8/20/2012)

E. Minimum Setback from Drainage Ditch/Canal. The minimum setback from any drainage ditch or drainage canal for a principal or accessory structure shall be ten (10) feet. **(Added 07-23-01)**

#### **4.08. VISION ON STREET INTERSECTIONS.**

On a corner lot in any district, within the area formed by the center lines of the intersecting or intercepting streets and a line joining points on such center lines at a distance of seventy-five (75) feet from their intersection, there shall be no obstruction to vision between the height of three and one-half (3 1/2) feet and a height of ten (10) feet above the average grade of each street at the center line thereof. The requirements of this section shall not be construed to prohibit any necessary retaining wall.

#### **4.09. PLANNED UNIT DEVELOPMENT (PUD) REGULATIONS.**

In any zoning district where PUD's are allowed, the Etowah Regional Planning Commission may approve PUD complexes which include certain dimensional or density features that vary from the requirements outlined in Chapter 3. The intent is to encourage or provide for planned unit development that is compatible with the nature of the district, yet offers an environment which is not typical of these districts, such as condominiums and cluster housing in the residential zones and multi-use complexes in the business and industrial zones. The following restrictions shall apply to PUD complexes.

1. No use will be permitted which is not specifically permitted within the district in which the complex is to be located.
2. No parcel of land without an adequate public water supply shall be approved for a PUD.
3. No PUD will be approved unless an adequate sanitary sewer system, as defined in Chapter 2, is included in the plans and approved by the Tennessee Department of Health and Environment and the McMinn County Health Department.
4. All access roads within the PUD complex shall be constructed to the standards set forth in the Etowah Subdivision Regulations. (Road areas shall not be used as a part of the required area per dwelling unit in residential PUD's.)
5. Commercial and industrial PUD's shall have a buffer strip as defined in Chapter 2 along any abutment with property zoned R-1, R-2, R-3, or MH.
6. In the residential zones, the Planning Commission shall approve only usable areas to be considered as open spaces or recreational areas within the complex.
7. The following dimensional requirements shall be imposed on all planned unit development:
  - a) The exterior yards of the complex must meet the setback and yard requirements of the district in which the complex is located
  - b) Although the developer will be allowed to deviate from the density requirements for the individual lots or areas on which the structures are located, the complex itself must meet the minimum density requirements for the district in which it is located; this may be accomplished through the provision of open spaces, open-type recreational areas, and consolidated parking areas

- c) A parking area of one hundred sixty-two (162) square feet shall be provided at a ratio of one (1) space for every five (5) dwelling units in the R-1, R-2, R-3, and MH zones, in addition to those provided for in Section 4.03; in other zones, the requirements of Section 4.03. shall apply.
8. The following plans and schedules shall be submitted to the Etowah Regional Planning Commission for preliminary approval (preliminary and final approval may be given at the same time if the plans and schedules meet the requirements for final approval):
  - a) Map showing location of the PUD in relation to the rest of Etowah
  - b) Preliminary site plan showing the location of the buildings, lot lines, setbacks, open space areas, utilities, parking spaces, and other use facilities
  - c) Location and dimensions of all points of entry and exit for motor vehicles and pedestrians and the interior circulation pattern
9. The following plans and schedules shall be submitted to the Etowah Regional Planning Commission for final approval:
  - a) The location of the PUD on the tax maps of Etowah
  - b) Names and addresses of the applicant and the developer or engineer
  - c) Topographic information at five (5) foot contours
  - d) A site plan of the complex including the location of all buildings, lot lines, setbacks, recreation and open space areas (residential), utilities, parking spaces, and certain common-use facilities
  - e) The location and dimensions of all points of entry and exit for motor vehicles and pedestrians and the complete interior circulation pattern
  - f) Such architectural, engineering, and geographic data as may be required to permit the Planning Commission and the Department of Public Health to determine if their regulations are being complied with and if the character of the district is being preserved
  - g) A time schedule for development shall be prepared and presented which shall demonstrate the applicant's readiness and ability to develop the proposed project
10. An application for a permit to develop and construct a PUD shall be filed in accordance with Section 6.03. of this Ordinance and shall be accompanied by all plans, schedules, and other information herein required.



#### **4.10. GASOLINE SERVICE STATION RESTRICTIONS.**

The following regulations shall apply to all gasoline service stations.

1. To allow for vehicular circulation there shall be a building setback from all street right-of-way lines of a distance of not less than forty (40) feet, except for canopies designed to cover the gasoline pump islands
2. Gasoline pumps shall not be located closer than fifteen (15) feet to any street right-of-way line
3. Sign requirements as established in Section 4.12. shall be met

#### **4.11. SWIMMING POOL RESTRICTIONS. (Amended 04-24-00)**

The following regulations shall apply to outdoor swimming pools:

1. A private swimming pool is a permitted accessory use in the R-1, R-2, R-3 and MH districts. Such pool shall be intended for and used solely for the enjoyment of the residents' of the premises and their guests.
2. No swimming pool or part thereof, excluding aprons, patios, and walks, shall protrude into any required front yard in the R-1, R-2 and MH districts.
3. The swimming pool area shall be walled or fenced with a self-closing and self-latching gate to prevent uncontrolled access by children and animals from the street or adjacent properties. The fence and gate shall be maintained in good condition.
4. All outdoor swimming pools shall be completely enclosed by a fence not less than four (4) feet in height. Openings in the fence shall not permit the passage of a 4-inch diameter sphere; provided however, the maximum mesh size for a chain link fence shall be a 2 ¼-inch square.
5. Every swimming pool shall have a setback of not less than eight (8) feet from the property line and other structures with no less than a four (4) foot separation between pool and fence.
6. No swimming pool shall be located underneath an electric power line.
7. Public outdoor swimming pools and indoor pools are a permitted accessory use in the C-1 and C-2 districts for clubs, private schools, hotels and motels, golf courses and country clubs, outdoor recreation facilities and amusement parks, and health spas. A municipal, other governmental, or public school owned and operated swimming pool is permitted in a public park or at a public school in any district where the primary use is allowed. A site plan shall be required for any outdoor public swimming pool.

#### **4.12. SIGNS, BILLBOARDS, AND OTHER ADVERTISING STRUCTURES.**

These conditions are established as a reasonable and impartial method of regulating advertising structures in order to ensure light, air, and open space, to reduce traffic hazards at intersections, and to protect the property values of the entire community.

A. General Regulations Applying to All Districts. In any zoning district, the following general regulations shall apply as well as the regulations in Chapter 23, "Signs and Outdoor Displays", of the Southern Standard Building Code.

1. No sign shall be erected or maintained where by reason of its position, wording, illumination, size, shape, or color it may obstruct, impair, obscure, interfere with the view of, or be confused with, any authorized traffic control sign, signal, or device.
2. No sign having flashing, intermittent, or animated illumination shall be permitted within three hundred (300) feet of property in any residential district unless such sign is not visible from such property; and in no case shall such a sign be less than fifty (50) feet from residential property.
3. No illuminated sign shall be permitted within fifty (50) feet of property in any residential district unless the illumination of such sign is so designed that it does not shine or reflect onto such property
4. Reserved for Future Use. **(Amended 11-27-00)**
5. No new billboards and other similar outdoor advertising structures shall be erected within the City of Etowah.
6. No new off-site signs shall be allowed for business purposes. Off-site signs of a political nature shall be allowed with a city permit provided they are later removed.
7. Signs erected and overhanging any sidewalk must be placed at least nine (9) feet above the sidewalk and may extend over the sidewalk a distance equal to two-thirds (2/3) the width of the sidewalk, but in no case exceeding ten (10) feet.
8. Professional signs and signs for home occupations shall not exceed four (4) square feet in area in the R-1, R-2, R-3, and MH districts.
9. No building walls or roofs shall be used for display of advertising in the R-1, R-2, R-3, and MH districts.
10. Temporary signs shall not be erected or otherwise fixed to any pole, tree, stone, fence, or any object within the right-of-way of any street, nor shall any temporary sign be suspended across the public streets or other public places without the approval of the Etowah City Commission.

11. On-site portable signs shall be permitted only with the approval of the Etowah City Commission after a check for obstructions and electrical hazards.
12. In any district the following signs shall be permitted:
  - a) For parking areas, entrance and exit signs shall not exceed four (4) square feet in area and there can be only one (1) sign which shall not exceed sixteen (16) square feet in area identifying or designating the conditions of the use of such parking area
  - b) "For Sale" or "For Rent" signs not exceeding four (4) square feet in area
  - c) One (1) sign not more than twelve (12) square feet in area giving the names of the contractors, engineers, or architect, during construction of a building
  - d) Signs established by, or by order of, any governmental agency
  - e) For special events of public interest, one (1) sign not over fifty (50) square feet in area located upon the site of the event

B. Specific Regulations Applying to Residential Districts. The following regulations shall apply in the R-1, R-2, R-3, and MH Districts:

1. Nameplates indicating name, address, house number, announcement of boarders or roomers, or customary home occupations are permitted
2. For apartment buildings, identification signs not exceeding nine (9) square feet in area are permitted
3. Church, school, or public building bulletin boards or identification signs not exceeding twenty (20) square feet in area are permitted
4. Flashing or intermittent illumination is prohibited
5. Allowed signs shall be placed no closer to any property line than one-half the required building setback distance
6. On-premise ground or freestanding signs other than those specifically referred to above shall be limited to a height above the grade level of nine (9) feet to the top of the sign and sixty (60) square feet in area. **(Added 11-27-00)**

C. Specific Regulations Applying to Business Districts. In the C-1 Central Business District and the C-2 Highway Business District, the following regulations shall apply:

1. Bulletin boards or identification signs not exceeding sixty (60) square feet in area shall be permitted for public recreation uses, community facilities, and clinics
2. Business and professional signs shall be permitted subject only to the restrictions in Section 4.12.A. of this Ordinance; all ground signs shall be located no closer to any property line than one-half the required setbacks
3. No ground or freestanding sign shall be erected to exceed twenty-five (25) feet in height or two hundred (200) square feet in area. The bottom coping of such sign shall be at least three (3) feet above grade. A masonry base or light wood lattice under the coping is permitted. **(Added 11-27-00)**

D. Specific Regulations Applying to Industrial Districts. In the I-1 Light Industrial District, the following regulations shall apply:

1. Business signs shall be permitted which relate to the industry on the premises; such signs shall be located not closer than one-half the required setback from all property lines
2. Other on-site signs are permitted subject to the general restrictions set forth in Section 4.12.A of this Ordinance. No ground or freestanding sign shall be erected to exceed twenty-five (25) feet in height or two hundred (200) square feet in area. The bottom coping of such sign shall be at least three (3) feet above grade. A masonry base or light wood lattice under the coping is permitted. **(Amended 11-27-00)**

E. Specific Regulations Applying to the Agricultural District. In the AG Agricultural District, the following regulations shall apply:

1. Allowed signs shall be placed no closer than one-half the required setback distance
2. Other on-site signs are permitted subject to the general restrictions set forth in Section 4.12.A. of this Ordinance and on-premise ground or freestanding signs shall be limited to a height above the grade level of nine (9) feet to the top of the sign and sixty (60) square feet in area. **(Amended 11-27-00)**

F. Specific Regulations Applying to the Medical District. In the M-1 Medical District, the following regulation shall apply:

1. Allowed signs shall be placed no closer than one-half the required setback distance
2. No ground or freestanding sign shall be erected to exceed twenty-five (25) feet in height or two hundred (200) square feet in area. The bottom coping of such sign

shall be at least three (3) feet above grade. A masonry base or light wood lattice under the coping is permitted. (Added 11-27-00)

#### **4.13. DEVELOPMENT STANDARDS FOR WRECKED AUTO YARDS AND JUNKYARDS OR SALVAGE YARDS.**

Because of the nature and character of their operations, wrecked auto yards, junkyards or salvage yards, and similar uses of land can have a decidedly detrimental effect upon surrounding properties. Salvage and wrecking yards tend to create problems of noise, dust, traffic, and health hazards, and may adversely affect property values by their general appearance. The following standards shall be used as a guide in evaluating whether land uses such as those outlined above have properly minimized their objectionable characteristics.

##### A. General Standards for Evaluation.

1. All motor vehicles stored or kept in such yards shall be so kept that they will not catch and hold water in which mosquitoes may breed and so that they will not constitute a place or places in which rats, mice, or other vermin may be harbored, reared, or propagated.
2. Because of the tendency for salvage yards to promote the breeding of vermin, no such operation shall be permitted closer than one thousand (1,000) feet from any established residential zone.
3. All outdoor storage of salvage and wrecking operations shall be conducted entirely within an enclosed opaque fence, screen, or wall, excepting driveway areas, from eight (8) to twelve (12) feet in height. Storage between the road or street and such fence, screen, or wall is expressly prohibited. Any fence, screen, or wall for screening purposes shall be properly painted or otherwise maintained in good condition.
4. All such yards shall be so maintained as to be in a sanitary condition and so as not to be a menace to the public health or safety.

##### B. Off-Street Parking Requirements. As regulated in Section 4.03.

##### C. Ingress and Egress. The number and width of vehicular access driveways permitted in any single street frontage shall be limited to the requirements in Section 4.01.D.

##### D. Application for Wrecked Auto Yard, Junkyard, or Salvage Yard Permit. No persons shall own or maintain a new wrecked auto yard, junkyard, or salvage yard within the City of Etowah until he has secured approval from the Etowah Regional Planning Commission.

The written application, plans, and schedules and a statement of approval of the site percolation and drainage characteristics from the McMinn County Sanitarian shall be submitted to the Etowah Regional Planning Commission. The Planning Commission shall duly review these materials and makes its recommendation in the form of a motion.

#### **4.14. DEVELOPMENT STANDARDS FOR CEMETERIES.**

- A. Specific Requirements. The following standards shall be imposed upon the development and construction of cemeteries in the City of Etowah:
1. The site proposed for a cemetery shall not interfere with the development of a system of collector and larger streets in the vicinity of such site. In addition, such site shall have direct access to a thoroughfare via a safe, high-visibility intersection
  2. Any new cemetery shall be located on a site containing not less than twenty (20) acres
  3. A plan showing burial plots and pedestrian and vehicular access ways shall be prepared before lots are sold
  4. All structures, including, but not limited to, mausoleums, permanent monuments, or maintenance buildings shall be set back not less than twenty-five (25) feet from any property line or street right-of-way line
  5. All graves or burial lots shall be set back not less than twenty-five feet from any property line or street right-of-way line
  6. All required yards shall be mowed and maintained as needed
- B. Application for Cemetery Permit. No person shall develop, construct, or maintain a cemetery in the City of Etowah until he has secured approval from the Etowah Regional Planning Commission.

The written application, plans, schedules, and other information as required shall be submitted to the Etowah Regional Planning Commission. The Planning Commission shall duly review these materials and makes its recommendation in the form of a motion.

#### **4.15. SITE PLAN REQUIREMENTS.**

Except as hereinafter provided in this section and in Chapter 5 "Exceptions and Modifications", it shall be unlawful for any person to construct or erect any building or structure on any land within the City of Etowah until a site plan has been submitted and approved in accordance with the provisions of this chapter. Such plan shall delineate the overall scheme of development of a tract of land, including, but not limited to, grading; drainage; existing and proposed improvements; size, height, shape, and location of buildings; location and design of parking areas; pedestrian and vehicular circulation on site; and circulation for emergency apparatus.

- A. Exceptions. The provisions of this chapter shall not apply to:

1. Single-family dwellings, two-family dwellings, accessory buildings thereto, or to the land on which they are situated or proposed
  2. Farm structures such as barns, equipment sheds, and the like
  3. Additions to buildings where the total gross floor area of the proposed addition does not exceed one-third (1/3) of the total gross floor area of the existing building or one thousand (1,000) square feet, whichever is smaller
  4. New buildings where the total gross floor area does not exceed one thousand (1,000) square feet, provided there is no alteration of drainage flow of land or grading exceeding cut or fill of one (1) foot, the site is not in a floodplain, and the site is not in excess of ten thousand (10,000) square feet
  5. Improvements for off-street parking purposes when appurtenant only to existing buildings and where such improvement does not provide more than ten (10) additional parking spaces
  6. Grading of open areas, either by excavation or fill, for the sole purpose of bringing the land to a grade compatible with the surrounding area provided such grading does not have an adverse effect on surrounding lands by causing ponding, flooding, or erosion
- B. Development According to Site Plan. It shall be unlawful for any person to construct, erect, or alter any building or structure, or to develop, change, or improve land for which an approved site plan is required by this chapter except in accordance with the approved final site plan.
- C. Permits Not to be Issued Without Approved Site Plans. No permit shall be issued to erect or alter any building or structure until a site plan has been submitted and approved in accordance with the provisions of this chapter.
- D. Site Plan Submission. (amended 9/25/06) The owner or developer shall submit three (3) copies, or as many as may be required by the Etowah Regional Planning Commission, of his proposed site plan to the Etowah Planning Commission no later than ten (10) business days prior to the next regular meeting of the Planning Commission. The Planning Commission shall consider the site plan in light of the provisions of this chapter and approve or disapprove same as required; the plans then shall be returned to the owner or his agent with the date of such approval or disapproval noted thereon over the signature of the secretary of the Etowah Regional Planning Commission. One (1) copy of the approved plan shall be retained by the Etowah Regional Planning Commission.
- E. Site Plan Content.
1. The site plan shall show the following:

- a) Name of development and address
  - b) Name and address of owner of record and the applicant
  - c) Present zoning of the site and abutting property
  - d) Date, scale, and north point
  - e) Courses and distances of all property lines and of all street center lines
  - f) All property setback lines, easements, covenants, reservations, and rights-of-way
  - g) The total land area of site
  - h) Topography of existing ground and paved areas, and elevations of streets, alleys, utilities, sanitary and storm sewers, and buildings and structures; topography to be shown by dashed line illustrating two-foot or five-foot contours as required by the Etowah Regional Planning Commission and by spot elevation where necessary to indicate flat areas, as based on U.S.X. and G.S. datum
2. The site plan shall show the location of the following when existing:
- a) Sidewalks, streets, alleys, easements, and utilities
  - b) Buildings and structures, including signs
  - c) Public sewer systems with line sizes noted
  - d) Slopes, terraces, and retaining walls
  - e) Driveways, entrances, exits, parking areas, and sidewalks
  - f) Water mains with size noted and fire hydrants
  - g) Major tree and shrub areas
  - h) Recreational areas and swimming pools
  - i) Natural and artificial watercourses
  - j) Limits of floodplains
3. The site plan shall show the location, dimensions, size, and height of the following when proposed:



- a) Sidewalks, streets, alleys, easements, and utilities
- b) Buildings and structures, including signs
- c) Public sewer systems
- d) Dumpster sites
- e) Slopes, terraces, and retaining walls
- f) Driveways, entrances, exits, parking areas, and sidewalks
- g) Water mains with size noted and fire hydrants
- h) Landscape plan (see Sec. 4.17) (Amended 05-11-98)
- i) Recreational areas
- j) Distance between buildings
- k) Estimates of the following:
  - (1) Number of dwelling units
  - (2) Number of parking spaces
  - (3) Number of loading spaces
  - (4) Square feet of floor space
  - (5) Plans for collecting storm water and methods of treatment of natural and artificial watercourses
  - (6) Proposed grading, surface drainage, terraces, retaining wall heights, grades on paved areas, and ground floor elevations of proposed buildings and structures (proposed topography of site shall be shown by two-foot or five-foot contours as required by the Etowah Regional Planning Commission)

F. Requirements, Regulations, and Restrictions.

- 1. Any building or structure shall be reasonably accessible to fire, police, emergency, and service vehicles. When deemed necessary for access by the Building Inspector, emergency vehicle easements shall be provided. The access for fire, police, and emergency vehicles shall be unobstructed at all times.

2. The width, grade, location, alignment, and arrangement of streets, sidewalks, and alleys shall conform to the Etowah Transportation Plan and/or subdivision regulations as nearly as is reasonably practicable.
  3. Adequate water mains and fire hydrants shall be provided in accessible places in accordance with sound firefighting and fire prevention acceptable to the Etowah Building Inspector.
  4. Adequate provision shall be made for the collection and disposition of all on-site and off-site storm water and natural surface water. Natural drainage ways shall be used when it is reasonably practicable to do so, and improvements shall be made to said ways in accordance with good engineering practices.
  5. Adequate provision shall be made to control the slippage, shifting, erosion, accretion, and subsidence of soil.
  6. Adequate provision shall be made for the collection and disposition of all on- and off-site sanitary sewage.
- G. Appeals. If an applicant determines that his site plan has been unjustly disapproved or that the Etowah Regional Planning Commission has made requests for conformity to standards other than those set forth in this Ordinance, he may appeal the decision of the Planning Commission to the Etowah Board of Zoning Appeals.

#### **4.16. RESIDENTIAL TOWNHOUSE AND PATIO HOME (RT-PH) REGULATIONS.**

- A. Purpose. In certain of Etowah's zoning districts, fee-simple townhouses and patio homes are allowed to increase the variety of available housing choices. Within these districts townhouse units and patio homes can be developed and sold as individually-owned lots in fee-simple to those who desire this type of low-maintenance home, provided the developer follows the specific regulations established in this section for "zero lot line" townhouse units or patio homes.
- B. Definitions.
1. **Patio Homes:** A patio home for the purposes of the Etowah Zoning Ordinance shall be defined as a single-family residential dwelling of one (1) or more floors, which does not have any common walls shared with an adjacent unit or units, but which is located to one side of a less than standard width lot. That is, these homes have a "zero foot" setback on one side to maximize the amount of usable outdoor lot area on the other side for a patio, landscaped garden, or other outdoor living area.

2. Residential Townhouses: A single-family residential dwelling of one (1) or more floors on a lot by itself and having or appearing to have a common wall with an adjacent similar unit or units.

C. Regulations for TOWNHOUSES. All townhouse complexes shall incorporate the following features which have proved to provide the most attractive developments:

1. They shall contain between three (3) and seven (7) units in each building
2. Each townhouse shall have an architectural character that is individual yet compatible with its neighbors
3. The front facades shall be offset horizontally and the roof lines shall be offset vertically from one another to avoid the appearance of an apartment building
4. One-story units, when used, shall be placed on the end of a building

Since a townhouse complex involves common walls, unlike the patio home, some separate requirements are necessary to each type of development. (Note: The regulations in Section 4.16.E also apply to townhouses.)

5. Subdivision Plat Approval Procedure for TOWNHOUSE Construction. Since it is intended that the land in a townhouse development be used for owner-occupied townhouses, each townhouse shall occupy a separate subdivision lot. Since the townhouses are joined or appear to be joined, they shall be built as entire units.

Therefore, to prevent the sale of individual unbuilt lots, no individual lots can be recorded until the following subdivision and development process shall have been followed by the developer:

- a) Prepare a site plan and a preliminary major subdivision plat for the proposed townhouse development (major lots are those which shall each contain a row of several townhouses)
- b) Present the site plan and the preliminary subdivision plat to the Etowah Regional Planning Commission and obtain approval of both
- c) Proceed to construct the required streets, et cetera, and the building units according to these approved plans after obtaining needed building permits (this may be done for the entire development or may be done in two or more phases)
- d) Present final plat of the built-up phases to city Building Inspector for inspection and verification and then to the Etowah Regional Planning Commission for final subdivision approval (the final plat shall show the

individual lot lines exactly where the side walls of the individual units were built)

- e) If all the final subdivision requirements of the Etowah Regional Subdivision Regulations have been met or adequate bonds posted, the Planning Commission shall grant final subdivision approval for the phases that have been constructed with townhouses
- f) The developer records this final plat and can then sell these townhouse units

6. Area and Dimensional Requirements for Townhouses. All townhouses within Etowah shall conform to the following measurements:

- a) Minimum Floor Area (Amended 09-09-96)

One-Story	Two-Story	
	1st Floor	Min Total
780 sq. ft.	600 sq. ft.	960 sq. ft.

- b) Minimum Lot Width and (Amended 09-09-96)  
Public Street Frontage.....26 ft.
- c) Minimum Lot Area .....2,340 ft.  
(Amended 09-09-96)
- d) Minimum Lot Depth ..... 90 feet  
(Provided front and back setbacks  
and minimum lot areas are met.)
- e) Minimum Building Line Setbacks  
Front.....30 ft.  
(from interior<sup>1</sup> street right-of-way)  
  
Front.....35 ft.  
(from exterior<sup>2</sup> street right-of-way)  
  
Side ..... None  
(except for end units which shall have a  
15 foot side yard)  
  
Rear .....25 ft.
- f) Minimum Separation Between Buildings

<sup>1</sup> An interior street is a new street entirely within the townhouse development.

<sup>2</sup> An exterior street is an existing or new street which borders one side of the townhouse development

Containing Groups of Townhouses.

End-to-end .....	30 ft.
End-to-front.....	40 ft.
Back-to-end.....	40 ft.
Back-to-back.....	50 ft.
Front-to-front .....	60 ft.
Front-to-back.....	60 ft.

D. Regulations for PATIO HOMES. (Note: The regulations in Section 4.16.E. also apply to patio homes.)

1. Subdivision Plat Approval Procedure for Patio Home Construction. To ensure that each building is built within the proper area of its lot, these regulations shall be followed:

- a) Prepare a site plan and a preliminary subdivision plat for the proposed patio home development. The site plan, among other requirements, must indicate with a separate line the portion of each lot on which the patio houses must be built and which lot line will have a zero-foot setback.
- b) After approval of the site plan, the normal subdivision review process for preliminary and final plats must be followed. The final plat will also show the buildable lot area for each lot, so that the Building Inspector will know if a future house plan for one of these lots complies with the intent of the approved site plan.

2. Area and Dimensional Requirements for Patio Homes. All patio homes within Etowah shall conform to the following measurements:

- a) Minimum Lot Width at Building Line.
  - R-1 60 ft.
  - R-2 50 ft.
  - R-3 50 ft.
- b) Minimum Lot Area.
  - R-1.....6,000 ft.
  - R-2.....5,000 ft.
  - R-3.....5,000 ft.
- c) Minimum Public Street Frontage.....40 ft.
- d) Minimum Lot Depth .....90 ft.

(Provided front and back setbacks and lot area requirements are met)

e) Minimum Building Line Setbacks.

Front.....30 ft.  
(from interior street right-of-way)

Front.....35 ft.  
(from exterior street right-of-way)

Side ..... None on one side  
& 20 feet on other side  
(Except where a lot is on the edge of the Patio Home Development (e.g., abuts a conventional residential area, or a side street in which case either Section 4.16.E.1 or 4.16.E.2 below shall apply.)

Rear.....20 ft.  
(from another patio home lot)

Rear.....30 ft.  
(from all other types of residential development and from non-residential districts)

f) Minimum Separation Between Patio Homes.....20 ft.  
(between any part of any two buildings, except for chimneys and overhangs which shall not exceed three (3) feet).

E. Regulations Applying to Both Townhouses and Patio Homes.

1. Minimum Building Setbacks. Minimum building setbacks for side yard adjacent to side street on corner lots shall be met as specified in Chapter 3 according to the district in which the development is located.
2. Minimum Side Yard Setback from Edge of RT-PH Development. No building shall be located less than twenty (20) feet from any boundary of the RT-PH development. (Larger front and rear setbacks have already been specified.)
3. Site Plan Approval Required. The site plan referred to in Section 4.16.C.5.a) and Section 4.16.D.1.a) for the RT-PH development shall be prepared in accordance with the site plan regulations of this Ordinance (Section 4.15.).

4. Required Utilities. The RT-PH development shall be provided with adequate public water and sewerage systems.
5. Street Construction. All proposed streets shall be built in accordance with the requirements of the Etowah Regional Subdivision Regulations.
6. Required Off-Street Parking. Two (2) spaces, nine (9) feet by eighteen (18) feet in size, shall be provided for each dwelling unit. These spaces shall be located entirely upon the lot and shall be directly accessible from the public street right-of-way (a garage may count for one (1) space). To provide a guest parking, the provision in Section 4.09, item 7.c. shall be met.

Townhouses which are built facing existing public streets which are not cul-de-sacs shall have their parking provided in the rear of the fee-simple lots taking access from a new public alley to be designed and constructed by the developer. The alley or access way shall have an eighteen (18) foot minimum pavement width and a thirty (30) foot minimum right-of-way width.

7. Reconstruction. In the event that one (1) or more townhouse units are destroyed by fire or other cause, no structure or structures shall be placed on each vacant lot except another townhouse which must be built according to the original intent of these RT-PH regulations. If one (1) or more zero-lot line homes are destroyed, no structure shall be placed on each vacant lot except another zero-lot line house also built according to the original intent of these RT-PH regulations.

#### **4.17. LANDSCAPE PLAN. (Amended 10/27/03)**

- A. Purpose and Intent. The purpose and intent of this section is to preserve and promote the health, safety, and general welfare of the public; to facilitate the creation of a convenient, attractive, and harmonious community; to conserve properties and their values; and to preserve the character of an area by preventing the harmful effects of prejudicial land uses. More specifically, this section is intended to require the landscaping of large scale development and parking lots in order to reduce the harmful effects of wind and air turbulence, heat and noise, the glare of motor vehicle and other lights, the level of carbon dioxide in the atmosphere, and soil erosion, while providing shade and enhancing the appearance of large scale development and parking lots.
- B. Applicability.
  1. A Landscape Plan complying with the minimum standards set forth in this section shall be required for all new development projects requiring a site plan.
  2. A minimum of the lot area shall be landscaped to enhance site appearance. This is explicated in the Landscape Coverage chart below. Included in this coverage,

there shall be maintained a landscaped strip not less than ten (10) feet wide along the street(s) right-of-way line, exclusive of business driveways and walkways.

**Minimum Landscape Coverage by Land Use**

<b>Zoning District</b>	<b>Landscape Coverage</b>
Heavy Industrial (I-2)	20%
Light Industrial (I-1)	15%
Highway Business (C-2)	10%
Medical (MD)	10%
Residential: High Density (R-3)	10%

*(Section Amended 9-28-2015 - Ord. #774)*

- 3. A Landscape Plan is required for site plan approval and issuance of a building permit; provided the planning commission may give provisional approval of a site plan pending approval of a separate Landscape Plan. The Landscape Plan must be approved and the landscaping must be installed completely prior to issuance of a Certificate of Occupancy by the building inspector.

C. Landscape Plan.

- 1. The Landscape Plan may be included on the site plan or as a separate drawing, labeled "Landscape Plan."
- 2. All existing and proposed landscape materials shall be labeled as to size, quantity and name on the Landscape Plan.
- 3. Landscaping shall be integrated into building arrangements, topography, parking and buffering requirements. Landscaping shall include trees, shrubs, ground cover, and use of building and paving materials in a manner that respects the natural topographic features and natural resources of the site.
- 4. All existing trees 8 inches in diameter (caliper) and greater shall be denoted on the Site Plan or Landscaping Plan. Trees to be removed shall be clearly labeled. The developer shall make an effort to preserve significant trees of 8 inches diameter or greater. Conservation of trees shall be grounds for a request for a variance. Credit shall be given for trees preserved during the development and construction process. Trees marked for preservation which are damaged or destroyed during



construction, or that die within the 24 months from issuance of the certificate of occupancy, shall be replaced with an equivalent caliper of trees.

5. Trees shall not be planted within 5 feet of underground utilities. Canopy trees, i.e. trees which reach a height of 30 feet or more, shall not be planted within 10 feet of the alignment of overhead utility lines. Trees shall not be planted within 10 feet of fire hydrants, utility poles and street lights.
6. Recommended Tree List

Ash	Hemlock	Maple
Beech	Holly	Oak
Crape Myrtle	Hornbeam	Pine
Flowering Crabapple	Leyland Cypress	Redbud
Ginkgo (male only)	Linden	Spruce
Goldenrain Tree	Locust (imp. varieties)	Sweetgum
	Magnolia	Tulip Poplar

Undesirable Tree List: not to be allowed as new plantings but existing trees in good condition may be used in the Landscape Plan.

Black Locust	Siberian Elm
Black Walnut	Silver Maple
Cottonwood	Weeping Willow
Osage Orange	White Birch
Poplar (Lombardy)	

D. Landscaping Regulations.

1. Minimum Requirement

- a) Each **acre** of landscape surface area (rounded to the nearest whole number) in the residential, C-2 highway commercial and industrial zones, except as provided for section c) below not presently forested shall be landscaped with not less than 12 trees of 2-inch minimum diameter (caliper) and 25 shrubs not less than 18 inches high. Credit shall be given toward required trees for each tree 2- inch caliper or larger preserved during construction. Credit is based on the diameter of the tree(s) preserved against the minimum number of trees required, e.g. preservation of one 6- inch tree counts as 3 new 2-inch trees. **(Added 10/27/03)**
- b) **(added 10/27/03)** The planning commission may waive the landscaping requirement in the C-1, Central Business District, for zero-lot line structures.
- c) **(added 10/27/03)** The minimum requirement for a landscape plan in a recognized industrial park in the I-1 or I-2 districts shall be a minimum

of ten (10) percent of the area. Said area to be landscaped shall include only: the immediate vicinity of an administrative office(s), parking lot(s), 20 feet on either side of the entrance drive pavement, and areas of high visibility from a major public street. The minimum landscaping requirement for industrial districts is 6 trees and 12 shrubs per acre for the above listed areas. Provided however, this minimum is in addition to any buffer strip between said industry and an adjoining residential district, as provided in sections 3.04.7.D and 3.04.8.E. Credit for existing vegetation shall be given as provided in section above.

2. The landscape strip referred to in section B. 2. above shall be landscape with trees and shrubs. There shall be at least one tree for every 30 linear feet or portion thereof of street frontage however, this shall not be construed as requiring the planting of trees on thirty (30) foot centers. The preferred trees for landscape strips are canopy or shade trees and evergreen trees. However, where utilities are present 1½ inch caliper understory trees, with heights at maturity of 30 feet or less, may be used.
3. Parking lots shall be provided with landscape islands at the ends of all rows of parking and intervals of about every 15 parking spaces. Parking islands shall contain trees or shrubs and be covered with 2 to 3 inches of shredded bark, mulch or turf. Rock or pavement shall not be acceptable. Parking islands shall have a minimum of 18 inches of top soil and have a minimum interior width of 5 feet. Provided, however, that parking lots for employees of an industry or manufacturing plant in the I-1 and I-2 districts, which are located more than 150 feet from a public road shall be exempt from this requirement. **(Amended 05-22-00)**
4. Minimum plant sizes shall be:
  - a) Deciduous canopy trees (grow to a height of 30 feet or more) shall be a minimum of 2 inches in diameter (caliper).
  - b) Understory trees (grow to a height of 30 feet or less) shall be a minimum of 1½ inches in diameter
  - c) Evergreen trees shall be a minimum of 5 feet in height.
  - d) Shrubs shall be a minimum of 18 inches in height.
5. All landscaping materials shall be installed in a sound, workman like manner and according to professionally accepted good planting procedures. Any landscape material which fails to meet the minimum requirements at the time of installation shall be removed and replaced with acceptable materials. The persons in charge of or in control of the property whether as owner, lessee, tenant, occupant or otherwise, shall be responsible for the continued proper maintenance of all landscaping materials, and shall keep them in proper, neat and orderly appearance, from refuse and debris, at all times. All unhealthy or dead plant material shall be replaced within one (1) year, or by the next planting period,

whichever comes first. Other defective landscape material shall be replaced or repaired within three (3) months.

E. Landscaped Parking (*Section Added 9-28-2015 – Ord. #774*)

1. Design Criteria

- a) No parking space can be more than seventy-five (75) feet from a tree.
- b) A landscaped island or peninsula shall border ends of interior parking bays that contain a minimum of ten (10) contiguous parking spaces.
- c) A landscaped peninsula shall border ends of perimeter bays.
- d) Side and front-facing truck delivery stalls and loading bays shall be screened from the public right-of-way.

2. Dimensions/Planting Criteria

- a) Landscaped islands and peninsulas used to meet the landscaping requirements shall have a minimum width of eight (8) feet and a minimum landscaped area of two hundred (200) square feet.
- b) Landscaped islands and peninsulas used to meet the landscaping requirements shall be planted with at least one (1) tree.
- c) Trees referred to in this shall have a minimum expected maturity height of thirty-five (35) feet and a minimum canopy spread of twenty (20) feet.
- d) All landscaped islands and peninsulas shall be bordered by a curb or wheel stop.

F. Canal Buffer Requirements (*Section Added 9-28-2015 – Ord. #774*)

- 1. For any new development abutting a canal, a buffer of 3 feet is required around the canal located within the municipality.
  - a) The buffer shall begin at the edge of the stream bed.
  - b) The buffer zone will be noted on all site plans.
  - c) All buffer zones must remain undeveloped. This includes, but is not limited to:
    - i. Clearing and grading; however, mowing and keeping the area clean is required
    - ii. Construction of buildings or other structures

**4.18. DEVELOPMENT STANDARDS FOR FLEA MARKETS.** (Added 04-24-00)

A. Purpose and Intent. Because of the nature and character of their operation, flea markets may have a detrimental effect upon surrounding properties and traffic safety. Flea markets may create problems of noise, dust, traffic, safety and health hazards. The appearance and activities may adversely affect neighboring property and cause safety problems for pedestrians, and impede automotive traffic. This section is intended to establish standards and regulate this activity to reduce the harmful effects of noise, safety hazards to pedestrians and motorists, interference with neighboring businesses, and maintain the traffic flow efficiency of the street.

B. General.

1. Size:
  - a) Large Flea Market: Entirely open air or partly under roof, may include open pavilions; one acre or more in size.
  - b) Small Flea Market: Open air, less than one acre in size and with no pavilions.
  - c) Under Roof Flea Market: Any flea market operated in whole or in part in a walled structure.
  
2. Required Plans. Each applicant shall submit with their zoning application a plan as shown below:
  - a) Large Flea Market: A site plan as required under Section 4.15 of this ordinance, including required buffer areas, the proposed layout of booth spaces and the location of proposed food service areas, rest rooms and/or portable toilets, and ground cover.
  - b) Small Flea Market: A sketch plan with developer's name, and address, zoning, distances and area of the site, required buffer areas, existing buildings pavement, driveways, and drainage; and proposed booth spaces, restrooms, food service, if any, off-street parking, ground cover, and trash collection.
  - c) Under Roof Flea Market: As required for a building permit and a site plan if required under Section 4.15. If no site plan is required,  
  
then a sketch plan showing the building, off-street parking, driveways and pedestrian ways.
  
3. The ground surface in every flea market shall be graded, covered, and equipped to drain all surface water in a safe, efficient manner, without water pockets or bogs.

C. Booths.

1. Flea market booths shall be located on individual stands.
2. Each booth shall contain not more than 450 square feet of area. **(Amended 09-25-00)**
3. At least five (5) feet or more of open space shall separate flea market booths from each other and from other buildings.

D. Access and Parking.

1. Access to and parking at flea markets shall be designed to minimize congestion and hazards at the driveways and allow free movement of traffic on adjacent streets. Access control will comply with the requirements of Section 4.01.
2. Off-street parking shall be provided by the flea market. There shall be a minimum of five (5) parking spaces, as defined in Section 4.03, per one (1) thousand square feet of gross sales area.

E. Safety, Sanitation and Refuse.

1. Restrooms. Large flea markets and under roof flea markets shall have a minimum of one (1) central restroom facility located on the premises, with separate facilities for men and women. The Planning Commission may require more than one restroom and/or portable facilities. Small flea markets shall have a minimum of two (2) portable toilets on site while in operation.
2. An accessible, adequate, and safe supply of potable water shall be provided in large flea markets, under roof flea markets and any flea market where there is food service.
3. Any water service, sewer service, electrical service, food service heating and cooking installations, and structures shall be permitted and comply with appropriate city and state health and safety codes.
4. Flea markets shall be maintained free of accumulations of debris, which may provide rodent harborage, or breeding of flies, mosquitoes and other pests. The storage, collection and disposal of refuse in flea markets shall not be allowed to create health hazards and rodent harborage, insect breeding areas, accident or fire hazards or air pollution. The flea market operator shall provide refuse containers for public use when in operation and shall provide a bulk waste container(s) suitable for the size and activity of the market. Refuse containers shall be emptied at the close of each business day; bulk waste containers shall be emptied and/or removed by the close of business the next day after the market closes, or sooner if necessary.

F. Operation.

1. The person to whom the zoning permit is issued shall operate a flea market in compliance with this section and shall provide adequate supervision to maintain the market, its facilities and equipment in good repair and in a clean, sanitary condition.

2. The flea market management shall notify market tenants of all applicable provisions of this section, and inform them of their duties and responsibilities.
3. Flea market management shall supervise the placement of each booth and ensure its stability.
4. Hours of operation shall be limited to: **(Amended 09-25-00)**  
Weekdays and Saturdays: 7:00 a.m. to one-half hour before sunset  
Sundays: 11:00 a.m. to one-half hour before sunset  
Markets shall not operate on: Thanksgiving and Christmas days.
5. Where an open-air flea market is not open for business for more than 24 hours, booths and tables shall be removed.

**4.19 DEVELOPMENT STANDARDS FOR TELECOMMUNICATIONS STRUCTURES.**  
**(Amended 5/28/02)**

- A. The purpose of these regulations is to (1) protect residential areas and land uses from potential adverse impacts of telecommunications structures; (2) encourage the location of towers in non-residential areas; (3) minimize the total number of towers in the City by encouraging the joint use of telecommunications structures; (4) minimize visual pollution through careful design, siting, screening and camouflaging of towers; and (5) to minimize potential damage to adjacent properties
- B. Use on Review. Construction and operation of a telecommunications structure in any zoning district shall be considered a “use on review” by the planning commission. The commission shall ensure compliance with the standards of this section prior to granting a special use permit allowing such a structure. Factors to be considered in granting the permit include, but are not limited to: (1) height of the proposed structure, (2) proximity to residential structures, (3) nature of land uses, topography, and foliage on adjacent and nearby properties, (4) design of the tower and especially design characteristics reducing visual obtrusiveness, (5) proposed ingress and egress, and (6) availability of shared use, co-location or alternative technologies not requiring use of towers.
- C. Shared Use. The applicant shall submit documentation that the applicant has attempted to obtain shared use of an existing or planned telecommunications structure(s) in the City or McMinn County and that such shared use has been denied. Shared use is not precluded simply because a reasonable fee for shared use is charged or because of reasonable costs necessary to adapt the existing and proposed telecommunications structure(s) for shared use. The planning commission may consider expert opinion on the reasonableness of fees and modifications costs. Shared costs exceeding the cost of new tower development shall be presumed to be unreasonable. Shared use of existing telecommunications

structures may be technically impractical where supported by technical documentation from a licensed professional independent of the applicant. The applicant shall provide the planning commission a list of all contacted owner's of telecommunications structures, the date of such contact, the form and content of said contact and the results of said contacts.

- D. Buffering and Landscaping. Ground structures and buildings shall have special care to minimize the effects on adjacent areas. All ground structures shall be buffered with a minimum of an eight-(8) foot wide landscaped strip around the perimeter of the security fencing. The buffer strip shall consist of a combination of trees, shrubs, vines or other ground covers that blends and enhances the appearance of the ground structures within the buffered area. The buffer shall be installed for permanent year-round protection of adjacent property by visually shielding internal structures from adjoining property, to a height of eight (8) feet or the height of the proposed accessory structures, whichever is greater. Shrubs shall also be planted and maintained around any guy anchor for visual screening purposes. The landscaping provisions of this section may be varied or reduced by the planning commission if:
1. The proposed plan provides for unique and innovative landscaping treatment or physical features, that meet the intent and purpose of this section; or
  2. The location is in a well-forested area or shielded by topography from adjoining properties and public streets; or
  3. Where two or three sides of the site are forested or shielded as provided above, the planning commission may approve an opaque fence, not less than 8 feet high in lieu of landscaping, on the side or sides not so forested or shielded.
- E. Co-location. The co-location of towers and antennas shall be permitted only on existing and proposed telecommunications structures or on power line structures and water towers over thirty-five (35) feet in height. Where antennas or telecommunications structures are to be co-located on an existing powerline structure or water tower, the maximum height shall not exceed the height of said structure plus twenty (20) feet.
- F. Aesthetics. Towers shall have either a galvanized steel finish, be of stainless steel, or, subject to any Federal Aviation Administration regulations, be painted a neutral color so as reduce obtrusiveness. The tower site, the design of the buildings and related structures shall to the extent possible, use materials, colors, textures, screening and landscaping that will breakup the outline of the structure and blend the structure(s) into the setting, to make it as visually unobtrusive as possible

- G. Fee. A non-refundable fee of six hundred dollars (\$600) shall accompany any application for a new telecommunications structure.
- H. Security. Towers and associated ground structures shall be enclosed by security fencing not less than eight (8) feet in height, equipped with an appropriate anti-climbing device(s), provided however, the planning commission may modify this requirement as it deems appropriate. Climb-proof shields may be substituted for a security fence around guy anchors.
- I. Separation Distance. A distance of not less than fifty (50) feet shall separate a telecommunications structure from another communications structure.
- J. Setbacks. All towers and accessory structures shall be setback from the property lines a distance as required by the zoning resolution for that district or a distance equal to twenty (20) percent of the tower height, between the base of the telecommunications structure and the property line, whichever is greater. Provided however, that when a tower is constructed adjacent to any residence(s), a place of public assembly, or a public road, the minimum distance between the tower and said residence, structure or road shall be two hundred twenty-five (225) feet. Guy anchors shall meet the setback requirements of the district in which the tower is located.
- K. Height. No tower shall exceed a height of three hundred (300) feet.
- L. Site Plan. The applicant shall submit with an application for a special use permit, a site plan containing the information required in Section 4.15 above AND, except for a structure co-located on an existing tower, power line or water tower; the following additional data:
1. Be drawn by a surveyor or licensed professional engineer to a scale of 1-inch = 100 feet or larger.
  2. A letter from a professional engineer certifying the height of the tower and the structure meets all the standards prescribed in latest edition of the Southern Standard Building Code, the Electronic Industries Association, and any applicable standards and regulations of the Federal Aviation Administration and the Federal Communication Commission; and describing the tower's capacity including the number and type of antennas that can be accommodated.
  3. A letter of intent from the owner, binding successive owners, allowing for the shared use of the tower.
  4. Setbacks, distance to the nearest residence(s), and distance to the nearest telecommunications structure and the owner of said tower.



5. Landscaping and security plan.
6. Nature of uses on adjacent properties, topography and surrounding tree coverage and foliage.
7. Show type and height of the proposed tower with aesthetic design factors.
8. The location and design of driveways and/or access easements to the facility from a public street.
9. A signed and dated statement showing who has legal responsibility for dismantling and removing this tower when it is no longer in use as shown in Section N below. A copy of the approved site plan with this statement shall be recorded in the office of the Registrar of McMinn County.
10. Any other data required by this section.
11. Exceptions. The provisions of this part shall not apply to antennas or towers under 40-feet in height, or antennas or towers for use by state and local government and cooperative utility districts located by public buildings or co-located on public buildings or water towers. Pre-existing towers shall be allowed continue their use as they presently exist, however, new construction or expansion of a pre-existing tele-communications structure shall comply with this ordinance.

M. Signs. No signs shall be allowed on a telecommunications structure.

N. Removal of Obsolete Towers

1. A cellular tower and related equipment shall be removed when the facility has not been in service for a continuous period of twelve (12 ) months; or
2. If the owner decides to discontinue service, the owner shall provide the City of Etowah with a copy of the notice of intent to the Federal Communications Commission (FCC) to cease operations. They shall be given ninety (90) days from the date that operations cease to remove the obsolete tower and accessory structure(s). Provided that if another operator submits a request for a telecommunications structure during this time period, an extension for a reasonable period of time may be granted to negotiate the sale of said tower to a new operator.

O. Severability. The various parts, sections and clauses of this part are hereby declared to be severable. If a court of competent jurisdiction adjudges any part, sentence, paragraph, section or clause unconstitutional or invalid, the remainder of the Ordinance shall not be affected thereby.

**4.20. PARKING, STORAGE, AND USE OF VEHICLES, TRUCKS, HEAVY EQUIPMENT IN RESIDENTIAL DISTRICTS. (Added 8/25/08)**

The following provisions shall apply for the parking, storage, and use of vehicles, trucks, heavy equipment, and major recreational equipment in residential districts:

- A. In any residential district, no inoperable vehicle and no vehicle without current license plates shall be parked or stored unless in a completely enclosed building or covered completely non-visible from a city street.
- B. In any residential district, no major recreational equipment (including boats, campers, travel trailers, partial travel units, and the like, and equipment use for transporting such) shall be parked or stored in any front yard or city street for periods not to exceed twenty-four (24) hours during loading and unloading.
- C. No recreational equipment shall be used for living, sleeping, or housekeeping purposes when parked or stored on a residential lot, or in any location not approved for such use.
- D. In any residential district, no truck of a rated capacity of greater than one (1) ton, no parcel truck or other truck painted with any sign, and no heavy equipment, construction equipment or any other equipment not normally associated with residential uses shall be stored or parked on any lot or in the public right-of-way adjacent to any lot overnight nor stored or parked while loading or unloading for periods in excess of seven days except in an enclosed building.

**4.21. FENCES, WALLS, AND HEDGES. (Added 8/25/08)**

Fences shall be placed as to allow maintenance from either side. All Fences that are six (6) feet in height or higher shall meet all setback requirements for the specific zoning district. A building permit is required prior to the installation of any fence six (6) feet in height and higher.

**4.22. SELF-SERVICE STORAGE FACILITIES (MINI-WAREHOUSES) (Added 8/25/08)**

The following special standards shall apply to all self-service storage facilities:

- A. Parking shall be provided in parking/driving lanes adjacent to the storage buildings. These lanes shall be at least twenty (20) feet wide when storage cubicles open onto one side of the lane only and at least twenty-four (24) feet wide when cubicles open onto both sides of the lane. Said lanes shall be surfaced with asphalt or concrete.
- B. A minimum of two (2) parking spaces plus one (1) additional space for every two-hundred (200) storage cubicles or a fraction thereof shall be located adjacent to the facility's office.

- C. No self-service storage facility shall exceed eighteen (18) feet in height.
- D. Except for the sale or auction of items foreclosed upon by the owner of the facility, the sale or auction of any item is specifically prohibited.
- E. The storage of flammable liquids, highly combustible or explosive materials, or hazardous chemicals is specifically prohibited and all rental contracts shall include clauses prohibiting such storage.
- F. The servicing or repair of motor vehicles, boats, trailers, lawnmowers or any similar equipment is specifically prohibited.
- G. Any proposed outdoor storage areas shall be shown on a site plan for the facility. Outside storage of motor vehicles, boats, trailers and lawnmowers shall be governed by the specific requirements of the zone in which the facility is located. In no case shall parking areas or driveways be used for storage.
- H. All outdoor lights shall be shielded to direct light and glare only onto the self-service storage premises and may be of sufficient intensity to discourage vandalism and theft. Said lighting and glare shall be deflected, shaded, and focused away from all adjoining property.
- I. A minimum six (6) foot high opaque fence shall be provided around the perimeter of the facility and set back a minimum of five (5) feet from any side or rear property line.

**4.22.1 MOBILE STORAGE STRUCTURES REQUIREMENTS (Added 8/25/08)**

- A. In residential zoning districts, these structures should be either located in the driveway or at the rear of the residence.
- B. In commercial zoning districts, these structures should be located in a designated loading/unloading area or in an area meeting setbacks for the zoning district.
- C. In industrial zoning districts, these structures should be located in a designated loading/unloading area or in an area meeting setbacks for the zoning district.
- D. Permit required at no charge.
- E. Time of permit shall be 90 days and can be renewed for an additional 90 days upon review by the Building Inspector or his/her designee.
- F. Mobile Storage Structures shall be removed within 90 days after construction activity ceases or a certificate of occupancy is issued by the Building Inspector.

## CHAPTER 5

### EXCEPTIONS AND MODIFICATIONS

#### **SECTION**

#### **5.01. SCOPE**

#### **5.02. NON-CONFORMING USES**

#### **5.03. EXCEPTIONS TO HEIGHT LIMITATIONS**

#### **5.04. LOTS OF RECORD**

#### **5.05. EXCEPTIONS TO FRONT SETBACK REQUIREMENTS**

#### **5.06. ABSOLUTE MINIMUM LOT SIZE**

#### **5.01. SCOPE.**

Chapter 5 of this Ordinance is devoted to providing for the necessary exceptions and modifications to the specific zoning district provisions and the supplementary provisions for in Chapter 3 and Chapter 4.

#### **5.02. NON-CONFORMING USES.**

Tennessee Code Annotated, Section 13-7-208, Subsection (b), (c), (d), and (e) deal with non-conforming industrial, commercial, and business uses as follows:

In the event that a zoning change occurs in any land where such land area was not previously covered by any zoning restrictions of any governmental agency of this state or its political subdivisions, or where such land area is covered by zoning restrictions of a governmental agency of this state or its political subdivisions and such zoning restrictions differ from zoning restrictions imposed after the zoning change, then any industrial, commercial, or business establishment in operation, permitted to operate under zoning regulations or exceptions thereto prior to the zoning change shall be allowed to continue in operation and be permitted provided that no change in the use of the land is undertaken by such industry or business.

Industrial, commercial, or other business establishments in operation and permitted to operate under zoning regulations or exceptions thereto in effect immediately preceding a change in zoning shall be allowed to expand operations and construct additional facilities which involve an actual continuance and expansion of the activities of the industry or business which were permitted and being conducted prior to the change in zoning, provided that there is a reasonable amount of space for such expansion on the property owned by such industry or business situated within the area which is affected by the change in zoning, so as to avoid nuisances to adjoining landowners. No building permit or like permission for construction or landscaping shall be denied to an industry or business seeking to expand and continue activities conducted by that industry or business which were permitted prior to the change in zoning, provided that there is a reasonable amount of space for such expansion on the property owned by such industry or business situated within the area which is affected by the change in zoning, so as to avoid nuisances to adjoining landowners.

Industrial, commercial, or other business establishments in operation and permitted to operate under zoning regulations or exceptions thereto immediately preceding a change in zoning shall be allowed to destroy present facilities and reconstruct new facilities necessary to the conduct of such industry or business subsequent to the zoning change, provided that no destruction and rebuilding shall occur which shall act to change the use classification of the land as classified under any zoning regulations or exceptions thereto in effect immediately prior to or subsequent to a change in the zoning of the land area on which such industry or business is located. No building permit or like permission for demolition, construction or landscaping shall be denied to an industry or business seeking to destroy and reconstruct facilities necessary to the continued conduct of the activities of that industry or business where such conduct was permitted prior to a change in zoning, provided that there is a reasonable amount of space for such expansion on the property owned by such industry or business situated within the area which is affected by the change in zoning, so as to avoid nuisances to adjoining landowners.

The provisions of the preceding three (3) paragraphs shall apply only to land owned and in use by such affected business, and shall not operate to permit expansion of an existing industry or business through the acquisition of additional land.

Provided however, that where the operation of a non-conforming industrial, commercial, or other business establishment in a district other than that zoned for industrial or commercial use, is discontinued for a period of twelve (12) months the building and land shall lose its status as a non-conforming use and shall not be entitled to any of the special exceptions shown above. Any new use must conform to the requirements for the district in which the lot is located. **(Added 06-20-00)**

An existing non-conforming use which is NOT an industrial, commercial, or business use shall meet these criteria:

1. An existing non-conforming use of a building may be changed to a conforming use or to another non-conforming use of the same or higher classification providing, however, that establishment of another non-conforming use of the same or higher classification shall be subject to the written approval of the Board of Zoning Appeals may require in order to protect the area
2. A non-conforming use of land shall be restricted to the area occupied by such use as of the effective date of this Ordinance; A non-conforming use of a building or buildings shall not be enlarged to either additional land or buildings after the effective date of this Ordinance
3. When a non-conforming use of any structure or land, excepting non-conforming mobile home or mobile home parks, has been discontinued for a period of six (6) months, it shall not be re-established or changed to any use not in conformity with the provisions of this Ordinance; immediately upon the removal of a non-conforming mobile home or mobile home park, the non-conformity of such structure or use of land shall lapse

4. Any non-conforming building or non-conforming use which is damaged by fire, flood, wind, or other act of God or man may be reconstructed and used as before if it be done within six (6) months of such damage, unless damaged to extent of more than sixty (60) percent of its assessed value immediately prior to damage in which case any repair, reconstruction, or future use shall be in conformity with the provisions of this Ordinance
5. A non-conforming building or buildings housing a non-conforming use shall not be structurally altered except in conformance with the provisions of this Ordinance; this provision shall not be construed to prevent normal maintenance and repairs or alterations required for structural safety

### **5.03. EXCEPTIONS TO HEIGHT LIMITATIONS.**

The height limitations of this Ordinance shall not apply to church spires, belfries, cupolas, and domes not intended for human occupancy; monuments, water towers, silos, grain elevators, observation towers, transmission towers, windmills, chimneys, smokestacks, derricks, conveyors, flagpoles, radio towers, masts, and aerials.

The height limitations of this Ordinance may be exceeded for other structures provided the following conditions are met:

1. The developer must present, at the time he applies for a building permit, a copy of the building plans which have been approved by the Building Inspector. These plans must show all of the following:
  - a) A wet standpipe riser with one and a half (1 1/2) inch firehose connections
  - b) A wet automatic sprinkler protection system for the entire building
  - c) Enclosed exit stairways
  - d) Smoke and heat detection units
  - e) Any other fire protection and prevention requirements which the Building Inspector feels are necessary for the building
2. The design and installation of these fire protection measures must be in conformance with the National Fire Protection Association (NFPA) standards.
3. Before the building can be occupied, the developer must secure a statement from the Building Inspector that the fire protection systems have been installed according to the plans and that the systems are functioning properly.

**5.04. LOTS OF RECORD.**

The following provisions shall apply to all existing lots of record:

1. Where the owner of a lot consisting of one (1) or more adjacent lots of official record at the time of the adoption of this Ordinance does not own sufficient land to enable him to conform to the yard or other requirements of this Ordinance, an application may be submitted to the Board of Zoning Appeals for a variance from the terms of this Ordinance. Such lot may be used as a building site provided, however, that the yard and other requirements of the district are complied with as closely as is possible in the opinion of the Board of Zoning Appeals.
2. No lot which is now or hereafter built upon shall be so reduced in area that the yards and open space will be smaller than prescribed by this Ordinance, and no yard, court, or open space provided around any building for the purpose of complying with the provisions hereof, shall again be considered as a yard, court, or other open space for another building.
3. Where two (2) or more lots of record with a continuous frontage are under the same ownership, or where a substandard lot of record has continuous frontage with a larger tract under the same ownership, such lots shall be combined to form one (1) or more building sites meeting the minimum requirements of the district in which they are located.

**5.05. EXCEPTIONS TO FRONT SETBACK REQUIREMENTS.**

The front setback requirements of this Ordinance for dwellings shall not apply to any lot where the average depth of existing setbacks on the developed lots located within one hundred (100) feet on each side of such lot is less than the minimum required front yard depth.

**5.06. ABSOLUTE MINIMUM LOT SIZE.**

In no case shall the Board of Zoning Appeals permit a detached residence to be erected on a lot whose total lot area is less than five thousand (5,000) square feet.

## CHAPTER 6

### ADMINISTRATION AND ENFORCEMENT

#### **SECTION**

[6.01. ADMINISTRATION OF THE ORDINANCE](#)

[6.02. THE ENFORCEMENT OFFICER](#)

[6.03. BUILDING PERMITS](#)

[6.04. TEMPORARY USE PERMITS](#)

[6.05. CERTIFICATE OF OCCUPANCY](#)

[6.06. BOARD OF ZONING APPEALS](#)

[6.07. VARIANCES](#)

[6.08. AMENDMENTS TO THE ORDINANCE](#)

[6.09. REMEDIES](#)

[6.10. INTERPRETATION](#)

[6.11. SEPARABILITY](#)

[6.12. EFFECTIVE DATE](#)

#### **6.01. ADMINISTRATION OF THE ORDINANCE.**

Except as otherwise provided, no structure or land shall, after the effective date of this Ordinance, be used and no structure or part thereof shall be erected, altered, or moved unless in conformity with the regulations herein specified for the district in which it is located. In their interpretation and application, the provisions of this ordinance shall be considered minimum requirements adopted for the promotion of public health, safety, convenience, order, prosperity, and general welfare of the community. Where other ordinances, resolutions, or regulations heretofore adopted or which may be adopted hereafter impose greater restrictions than those specified herein, compliance with such other ordinances, resolutions, or regulations is mandatory.

#### **6.02. THE ENFORCEMENT OFFICER.**

The provisions of this Ordinance shall be administered by the Etowah Building Inspector. The Building Inspector shall administer and enforce this Ordinance and in addition he shall:

1. Issue all Building Permits
2. Issue all Certificates of Occupancy
3. Issue and renew, where applicable, all Temporary Use Permits
4. Conduct inspections as required in this Ordinance and such other inspections as are necessary to ensure compliance with the various other general provisions of this Ordinance; the Building Inspector shall possess the right to enter upon any premises at reasonable times for the purpose of making inspections of buildings or premises necessary to carry out his authorized duties.



The City Recorder shall keep and maintain all records, current zoning maps and amendments thereto, and collect all monies pertaining to the administration and enforcement of this Ordinance.

### **6.03. BUILDING PERMITS.**

It shall be unlawful to commence the excavation for or the construction of any building or other structure including accessory structures; to commence the moving, alteration, or repair of any structure including accessory structures; or to commence the filling of land or to cause any such work to be done with a value in excess of two thousand dollars (\$2,000.00) within the corporate limits of Etowah until the Building Inspector has issued for such work a Building Permit containing a statement that the plans, specifications, and intended use of such structure in all respects conform to the provisions of this Ordinance. When the filling or excavation of land is in the Flood Hazard District, a permit shall be obtained in accordance with the provisions of Chapter 3, Section 3.04.11.D.

Application for a Building Permit shall be made in writing to the Building Inspector on forms provided for that purpose. It shall be unlawful for the Building Inspector to approve the plans or issue a Building Permit for any excavation or construction until such plans have been inspected and found to be in conformity with this Ordinance. To this end the application for a Building Permit for excavation, construction, moving, or alteration shall be accompanied by a plan or plat drawn to a scale and showing the following in sufficient detail to enable the Building Inspector to ascertain whether the proposed excavation, construction, moving, or alteration is in conformance with this Ordinance:

1. The actual shape, location, and dimensions of the lot to be built upon
2. The shape, size, and location of all buildings or other structures to be erected, altered, or moved and of buildings or other structures already on the lot
3. The existing and intended use of all such buildings or other structures
4. Location and design of off-street parking areas and off-street loading areas; and such other information concerning the lot or adjoining lots as may be essential for determining whether the provisions of this Ordinance are being observed

If the proposed excavation, construction, moving, or alteration as set forth in the application is in conformity with the provisions of this Ordinance, the Building Inspector shall issue a Building Permit for such excavation or construction. If any application for a Building Permit is not approved, the Building Inspector shall state in writing on the application the cause for such disapproval. Issuance of a permit shall in no case be construed as waiving any provisions of this Ordinance and building permits shall be void after six (6) months from date of issue, unless substantial progress on the project has been made by that time.

**6.04. TEMPORARY USE PERMITS.**

It shall be unlawful to commence construction or development of any use of a temporary nature until a permit has been secured from the Etowah Building Inspector as provided for in Section 4.05. of this Ordinance. Application for a Temporary Use Permit shall be made in writing to the Building Inspector on forms provided for that purpose.

**6.05. CERTIFICATE OF OCCUPANCY.**

No land or building or other structures or part thereof hereafter erected, moved, or altered in its use shall be used until the Building Inspector shall have issued a Certificate of Occupancy stating that such land, structure, or part thereof is found to be in conformity with the provisions of this Ordinance. Within seven (7) days after notification that a building or premises or part thereof is ready for occupancy or use, it shall be the duty of the Building Inspector to make a final inspection thereof and to issue a Certificate of Occupancy if the building or premises or part thereof is found to conform with the provisions of this Ordinance; or, if such certificate is refused, to state the refusal in writing with the cause for such refusal.

**6.06. BOARD OF ZONING APPEALS (BZA).**

A Board of Zoning Appeals (BZA) is hereby established in accordance with Sections 13-7-205--13-7-207, Tennessee Code Annotated. The BZA shall consist of five (5) members appointed by the Board of Mayor and Aldermen.

- A. Procedure. Meetings of the BZA shall be held at the call of the chairman, and at such other times as the BZA may determine. Such chairman or, in his absence, the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of the BZA shall be open to the public. The BZA shall adopt rules of procedure and shall keep records of applications and action taken thereon which shall be public records.
  
- B. Appeals to the BZA. An appeal to the BZA may be taken by any person, firm, or corporation aggrieved, or by any governmental office, department, board, or bureau affected by any decision of the Building Inspector based in whole or in part upon the provisions of this Ordinance. Such appeal shall be taken by filing with the BZA a notice of appeal specifying the grounds thereof. The Building Inspector shall transmit to the BZA all papers constituting the record upon which the action appealed was taken. The BZA shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time. At the hearing, any person or party may appear in person, by agent, or by attorney.
  
- C. Powers of the BZA. The BZA shall have the following powers:
  - 1. Administrative Review. To hear and decide appeals where it is avowed by the appellant that there is error in any order, requirement, permit, decision, determination, or refusal made by the Building Inspector or other administrative official in the carrying out or enforcement of any provision of this Ordinance.

2. Special Exceptions. To hear and decide applications for special exceptions as specified in this Ordinance, hear requests for interpretation of the zoning map, and for decision on any special questions upon which the BZA is authorized to pass.
3. Variations. To hear and decide applications for variations from the terms of this Ordinance.

#### **6.07. VARIANCES.**

The purpose of the variance is to modify the strict application of the specific requirements of this Ordinance in the case of exceptionally irregular, narrow, shallow, or steep lots, or other exceptional physical conditions, whereby such strict application would result in practical difficulty or unnecessary hardship which would deprive an owner of the reasonable use of his land. The variance shall be used only where necessary to overcome some obstacle which is preventing an owner from using his property under this Ordinance.

- A. Application. After written denial of a permit, a property owner may make application for a variance using the standard form made available by the BZA.
- B. Hearings. Upon receipt of an application and a ten dollar (\$10.00) fee, the Board of Zoning Appeals shall hold a hearing to decide whether a variance to the Ordinance provisions is, in fact, necessary to relieve unnecessary hardships which act to deprive the property owner of the reasonable use of his land. The BZA shall consider and decide all applications for variations within thirty (30) days of such hearing and in accordance with the standards set forth below.
- C. Standards for Variations. In granting a variance, the BZA shall ascertain that the following criteria are met:
  1. Variations shall be granted only where special circumstances or conditions, fully described in the findings of the Board, do not apply generally in the district
  2. Variations shall not be granted to allow a use otherwise excluded from the particular district in which the request is made
  3. For reasons fully set forth in the findings of the BZA the aforesaid circumstances or conditions are such that the strict application of the provisions of this Ordinance would deprive the applicant of any reasonable use of his land; mere loss in value shall not justify a variance; there must be a deprivation of beneficial use of land
  4. The granting of any variance shall be in harmony with the general purposes and intent of this Ordinance and shall not be injurious to the neighborhood, detrimental to the public welfare, or in conflict with the comprehensive plan for development

5. In reviewing an application for a variance, the burden of showing that the variance should be granted shall be upon the person applying therefor

**6.08. AMENDMENTS TO THE ORDINANCE.**

- A. General. The Etowah City Commission may, from time to time, amend this Ordinance by changing the boundaries of district or by rewriting provisions wherever it is alleged that there was an error in the original zoning ordinance or whenever the public necessity, convenience, and general welfare require such amendment.
- B. Initiation of Amendment. Amendments may be initiated by the Etowah City Commission, the Planning Commission, or by citizens desiring an amendment.
- C. Application for Amendment from Citizens. A request for an amendment shall be in writing and shall also be accompanied by maps, drawings, a petition signed by the owners affected by the proposed amendment, and data necessary to demonstrate that the proposed amendment is in general conformance with the general plan of the City of Etowah and that public necessity, convenience, and general welfare require the adoption of the proposed amendment. (An accurate legal description shall be prepared in time for notice of any public hearing.)
- D. Review and Recommendation by the Planning Commission. The Planning Commission shall review and make recommendations to the Board of Mayor and Aldermen on all proposed amendments to the Zoning Ordinance.
- E. Grounds for an Amendment. The Planning Commission in its review and recommendation and the City Commission in its deliberations shall make their findings with regard to the following grounds for an amendment:
  1. The amendment is in agreement with the general plan for the area
  2. The amendment does not violate the legal grounds for zoning provisions
  3. It has been determined that there will be no adverse effects upon adjoining property owners unless such adverse effect can be justified by the overwhelming public good or welfare
  4. It has been determined that no one property owner or small group of property owners will benefit materially from the change to the detriment of the general public
  5. It has been determined that conditions affecting the area have changed to a sufficient extent to warrant an amendment to the area's general plan and, consequently, the zoning map

F. Public Hearing and Notice of Hearing. A public hearing shall be held on all proposed amendments to this Ordinance. Notice of such hearing shall be in a newspaper of general circulation within the City of Etowah at least fifteen (15) days prior to the hearing. This notice shall specify the location, date and time of the hearing, the current and proposed zoning classification, and in the case of a proposed boundary change a legal description of the change.

G. Enactment. If the amendment was disapproved by the Planning Commission, it must receive the favorable vote of a majority of the entire membership of the Board of Mayor and Aldermen in order to be enacted.

If the amendment was approved by the Planning Commission, it must only receive the favorable vote of a simple majority of the membership of the Board of Mayor and Aldermen.

H. Amendments Affecting the Zoning Map. Upon enactment of an amendment to the Zoning Map which is part of this Ordinance, the City Commission shall have such amendment placed upon the zoning map, noting thereon the ordinance number and effective date of such amendatory ordinance.

I. Effect of Denial of Application. Whenever an application for an amendment to the text of this Ordinance or for a change in the zoning classification of any property is denied, the application for such amendment shall not be eligible for reconsideration for one (1) year following such denial in the following cases:

1. Upon initiation by the Board of Mayor and Aldermen or Planning Commission
2. When the new application, although involving all or a portion of the same property, is for a different zoning district than that for which the original application was made, or
3. When the previous application was denied for the reason that the proposed zoning would not conform with the general plan and the general plan has subsequently been amended in a manner which will allow the proposed zoning

#### **6.09. REMEDIES.**

In case any building or other structure is erected, constructed, altered, repaired, converted, or maintained, or any building, structure, or land is used in violation of this Ordinance, the Building Inspector or any other appropriate authority or any adjacent or neighboring property owner who would be specifically damaged by such violation, in addition to other remedies, may seek remedy in the courts by instituting injunction, mandamus, or other appropriate action or proceeding to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use; or to correct or abate such violation; or to prevent occupancy of such building, structure, or land.

**6.10. INTERPRETATION.**

In case of conflict between this Ordinance or any part thereof and the whole or part of any existing or future ordinance of the City of Etowah, the most restrictive shall, in all cases, apply.

**6.11. SEPARABILITY.**

Should any section or provisions of this Ordinance be declared invalid or unconstitutional by any court of competent jurisdiction, such declaration shall not affect the validity of the Ordinance as a whole or any part thereof which is not specifically declared to be invalid or unconstitutional.

**6.12. EFFECTIVE DATE.**

This Ordinance shall take effect from and after the effective date of its passage and publication as required by law, the public welfare requiring it.

**DATE PASSED ON FINAL READING** \_\_\_\_\_

\_\_\_\_\_  
**Mayor, City of Etowah**

# Appendix

Ordinance No. 702

AN ORDINANCE TO AMEND THE ZONING ORDINANCE  
OF THE CITY OF ETOWAH, TENNESSEE  
SECTION 3.01.11 FL FLOOD HAZARD DISTRICT

**WHEREAS**, the authority granted in Tennessee Code Annotated (TCA), Section 13-7-201, allows for the zoning of territory within a municipality; and

**WHEREAS**, the Etowah City Commission has implemented zoning districts as provided for in TCA, Section 13-7-202; and

**WHEREAS**, TCA Section 13-7-204, authorizes amendments to the zoning ordinance; and

**WHEREAS**, in accordance with TCA, 13-7-203, subsection (A), an advertised public hearing was held prior to the adoption of this zoning ordinance amendment; and

**WHEREAS**, in accordance with TCA, Section 13-7-203, subsection (B), the Etowah Municipal Regional Planning Commission approved and recommended the zoning amendment herein described to the Etowah Board of Mayor and Commissioners;

**NOW, THEREFORE, BE IT ORDAINED** by the City Commission of the City of Etowah, Tennessee that the Etowah Zoning Ordinance be and hereby is amended as shown below:

**Section 1: Deleting Ordinance 670 Municipal Flood Damage Prevention Ordinance and replacing with the following as noted in Section 2.**

**Section 2: Amending Section 3.04.11. FL FLOOD HAZARD DISTRICT by deleting the existing language in its entirety and replacing with the following language:**

**3.04.11 Municipal Floodplain Zoning Ordinance:**

**See Appendix A for Municipal Floodplain Zoning Ordinance**

**Section 3: Appendix A: The Municipal Floodplain Zoning Ordinance (Attached to this Ordinance)**



**NOW, THEREFORE, BE IT FURTHER ORDAINED THAT** this ordinance shall become effective ten (10) days from and after its date of final passage by the Etowah Board of Mayor and Commissioners in the City of Etowah, Tennessee, the public welfare requiring it.

**PASSED ON FIRST READING:** 4-26-10

**PASSED ON SECOND READING:** 4-24-10              

**PUBLIC HEARING:** 5-24-10              

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
/s/ Joel S. Blair  
**Joel S. Blair, Mayor**

\_\_\_\_\_  
/s/ Melissa Henderson  
**Melissa Henderson, City Recorder**

**Approved as to form:** \_\_\_\_\_

\_\_\_\_\_  
/s/ . Guinn  
**Charles Guinn, City Attorney**

## APPENDIX A

### MUNICIPAL FLOODPLAIN ZONING ORDINANCE

#### AN ORDINANCE ADOPTED FOR THE PURPOSE OF AMENDING THE CITY OF ETOWAH, TENNESSEE MUNICIPAL ZONING ORDINANCE REGULATING DEVELOPMENT WITHIN THE CORPORATE LIMITS OF ETOWAH, TENNESSEE, TO MINIMIZE DANGER TO LIFE AND PROPERTY DUE TO FLOODING, AND TO MAINTAIN ELIGIBILITY FOR PARTICIPATION IN THE NATIONAL FLOOD INSURANCE PROGRAM.

#### **ARTICLE I. STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND OBJECTIVES**

##### **Section A. Statutory Authorization**

The Legislature of the State of Tennessee has in Sections 13-7-201 through 13-7-210, Tennessee Code Annotated delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the City of Etowah, Tennessee, Mayor and Commissioners, do ordain as follows:

##### **Section B. Findings of Fact**

1. The City of Etowah Tennessee, Mayor and its Legislative Body wishes to maintain eligibility in the National Flood Insurance Program (NFIP) and in order to do so must meet the NFIP regulations found in Title 44 of the Code of Federal Regulations (CFR), Ch. 1, Section 60.3.
2. Areas of the City of Etowah, Tennessee are subject to periodic inundation which could result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.
3. Flood losses are caused by the cumulative effect of obstructions in floodplains, causing increases in flood heights and velocities; by uses in flood hazard areas which are vulnerable to floods; or construction which is inadequately elevated, floodproofed, or otherwise unprotected from flood damages.

##### **Section C. Statement of Purpose**

It is the purpose of this Ordinance to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas. This Ordinance is designed to:

1. Restrict or prohibit uses which are vulnerable to flooding or erosion hazards, or which result in damaging increases in erosion, flood heights, or velocities;

2. Require that uses vulnerable to floods, including community facilities, be protected against flood damage at the time of initial construction;
3. Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of floodwaters;
4. Control filling, grading, dredging and other development which may increase flood damage or erosion;
5. Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.

#### **Section D. Objectives**

The objectives of this Ordinance are:

1. To protect human life, health, safety and property;
2. To minimize expenditure of public funds for costly flood control projects;
3. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
4. To minimize prolonged business interruptions;
5. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodprone areas;
6. To help maintain a stable tax base by providing for the sound use and development of floodprone areas to minimize blight in flood areas;
7. To ensure that potential homebuyers are notified that property is in a floodprone area;
8. To maintain eligibility for participation in the NFIP.

#### **ARTICLE II. DEFINITIONS**

Unless specifically defined below, words or phrases used in this Ordinance shall be interpreted as to give them the meaning they have in common usage and to give this Ordinance its most reasonable application given its stated purpose and objectives.

**"Accessory Structure"** means a subordinate structure to the principal structure on the same lot and, for the purpose of this Ordinance, shall conform to the following:

1. Accessory structures shall only be used for parking of vehicles and storage.
2. Accessory structures shall be designed to have low flood damage potential.
3. Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters.

4. Accessory structures shall be firmly anchored to prevent flotation, collapse, and lateral movement, which otherwise may result in damage to other structures.
5. Utilities and service facilities such as electrical and heating equipment shall be elevated or otherwise protected from intrusion of floodwaters.

**"Addition (to an existing building)"** means any walled and roofed expansion to the perimeter or height of a building.

**"Appeal"** means a request for a review of the local enforcement officer's interpretation of any provision of this Ordinance or a request for a variance.

**"Area of Shallow Flooding"** means a designated AO or AH Zone on a community's Flood Insurance Rate Map (FIRM) with one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate; and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

**"Area of Special Flood-related Erosion Hazard"** is the land within a community which is most likely to be subject to severe flood-related erosion losses. The area may be designated as Zone E on the Flood Hazard Boundary Map (FHBM). After the detailed evaluation of the special flood-related erosion hazard area in preparation for publication of the FIRM, Zone E may be further refined.

**"Area of Special Flood Hazard"** see **"Special Flood Hazard Area"**.

**"Base Flood"** means the flood having a one percent chance of being equaled or exceeded in any given year. This term is also referred to as the 100-year flood or the one (1)-percent annual chance flood.

**"Basement"** means any portion of a building having its floor subgrade (below ground level) on all sides.

**"Building"** see **"Structure"**.

**"Development"** means any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavating, drilling operations, or storage of equipment or materials.

**"Elevated Building"** means a non-basement building built to have the lowest floor of the lowest enclosed area elevated above the ground level by means of solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of floodwater, pilings, columns, piers, or shear walls adequately anchored so as not to impair the structural integrity of the building during a base flood event.

**"Emergency Flood Insurance Program"** or **"Emergency Program"** means the program as implemented on an emergency basis in accordance with Section 1336 of the Act. It is intended as a program to provide a first layer amount of insurance on all insurable structures before the effective date of the initial FIRM.

**"Erosion"** means the process of the gradual wearing away of land masses. This peril is not "per se" covered under the Program.

**"Exception"** means a waiver from the provisions of this Ordinance which relieves the applicant from the requirements of a rule, regulation, order or other determination made or issued pursuant to this Ordinance.

**"Existing Construction"** means any structure for which the "start of construction" commenced before the effective date of the initial floodplain management code or ordinance adopted by the community as a basis for that community's participation in the NFIP.

**"Existing Manufactured Home Park or Subdivision"** means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, final site grading or the pouring of concrete pads) is completed before the effective date of the first floodplain management code or ordinance adopted by the community as a basis for that community's participation in the NFIP.

**"Existing Structures"** see **"Existing Construction"**.

**"Expansion to an Existing Manufactured Home Park or Subdivision"** means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

**"Flood" or "Flooding"** means a general and temporary condition of partial or complete inundation of normally dry land areas from:

1. The overflow of inland or tidal waters.
2. The unusual and rapid accumulation or runoff of surface waters from any source.

**"Flood Elevation Determination"** means a determination by the Federal Emergency Management Agency (FEMA) of the water surface elevations of the base flood, that is, the flood level that has a one percent or greater chance of occurrence in any given year.

**"Flood Elevation Study"** means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) or flood-related erosion hazards.

**"Flood Hazard Boundary Map (FHBM)"** means an official map of a community, issued by FEMA, where the boundaries of areas of special flood hazard have been designated as Zone A.

**"Flood Insurance Rate Map (FIRM)"** means an official map of a community, issued by FEMA, delineating the areas of special flood hazard or the risk premium zones applicable to the community.

**"Flood Insurance Study"** is the official report provided by FEMA, evaluating flood hazards and containing flood profiles and water surface elevation of the base flood.

**"Floodplain" or "Floodprone Area"** means any land area susceptible to being inundated by water from any source (see definition of "flooding").

**"Floodplain Management"** means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and floodplain management regulations.

**"Flood Protection System"** means those physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the area within a community subject to a "special flood hazard" and the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees or dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

**"Floodproofing"** means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities and structures and their contents.

**"Flood-related Erosion"** means the collapse or subsidence of land along the shore of a lake or other body of water as a result of undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood, or by some similarly unusual and unforeseeable event which results in flooding.

**"Flood-related Erosion Area"** or **"Flood-related Erosion Prone Area"** means a land area adjoining the shore of a lake or other body of water, which due to the composition of the shoreline or bank and high water levels or wind-driven currents, is likely to suffer flood-related erosion damage.

**"Flood-related Erosion Area Management"** means the operation of an overall program of corrective and preventive measures for reducing flood-related erosion damage, including but not limited to emergency preparedness plans, flood-related erosion control works and floodplain management regulations.

**"Floodway"** means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

**"Freeboard"** means a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. "Freeboard" tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, blockage of bridge or culvert openings, and the hydrological effect of urbanization of the watershed.

**"Functionally Dependent Use"** means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

**"Highest Adjacent Grade"** means the highest natural elevation of the ground surface, prior to construction, adjacent to the proposed walls of a structure.

**"Historic Structure"** means any structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
3. Individually listed on the Tennessee inventory of historic places and determined as eligible by states with historic preservation programs which have been approved by the Secretary of the Interior; or
4. Individually listed on the City of Etowah, Tennessee inventory of historic places and determined as eligible by communities with historic preservation programs that have been certified either:
  - a. By the approved Tennessee program as determined by the Secretary of the Interior or
  - b. Directly by the Secretary of the Interior.

**"Levee"** means a man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control or divert the flow of water so as to provide protection from temporary flooding.

**"Levee System"** means a flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

**"Lowest Floor"** means the lowest floor of the lowest enclosed area, including a basement. An unfinished or flood resistant enclosure used solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this Ordinance.

**"Manufactured Home"** means a structure, transportable in one or more sections, which is built on a permanent chassis and designed for use with or without a permanent foundation when attached to the required utilities. The term "Manufactured Home" does not include a "Recreational Vehicle".

**"Manufactured Home Park or Subdivision"** means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

**"Map"** means the Flood Hazard Boundary Map (FHBM) or the Flood Insurance Rate Map (FIRM) for a community issued by FEMA.

**"Mean Sea Level"** means the average height of the sea for all stages of the tide. It is used as a reference for establishing various elevations within the floodplain. For the purposes of this Ordinance, the term is synonymous with the National Geodetic Vertical Datum (NGVD) of 1929, the North American Vertical Datum (NAVD) of 1988, or other datum, to which Base Flood Elevations shown on a community's Flood Insurance Rate Map are referenced.

**"National Geodetic Vertical Datum (NGVD)"** means, as corrected in 1929, a vertical control used as a reference for establishing varying elevations within the floodplain.

**"New Construction"** means any structure for which the "start of construction" commenced on or after the effective date of the initial floodplain management Ordinance and includes any subsequent improvements to such structure.

**"New Manufactured Home Park or Subdivision"** means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of this ordinance or the effective date of the initial floodplain management ordinance and includes any subsequent improvements to such structure.

**"North American Vertical Datum (NAVD)"** means, as corrected in 1988, a vertical control used as a reference for establishing varying elevations within the floodplain.

**"100-year Flood"** see **"Base Flood"**.

**"Person"** includes any individual or group of individuals, corporation, partnership, association, or any other entity, including State and local governments and agencies.

**"Reasonably Safe from Flooding"** means base flood waters will not inundate the land or damage structures to be removed from the Special Flood Hazard Area and that any subsurface waters related to the base flood will not damage existing or proposed structures.

**"Recreational Vehicle"** means a vehicle which is:

1. Built on a single chassis;
2. 400 square feet or less when measured at the largest horizontal projection;
3. Designed to be self-propelled or permanently towable by a light duty truck;
4. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

**"Regulatory Floodway"** means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

**"Riverine"** means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

**"Special Flood Hazard Area"** is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. The area may be designated as Zone A on the FHBM. After detailed ratemaking has been completed in preparation for publication of the FIRM, Zone A usually is refined into Zones A, AO, AH, A1-30, AE or A99.

**"Special Hazard Area"** means an area having special flood, mudslide (i.e., mudflow) and/or flood-related erosion hazards, and shown on an FHBM or FIRM as Zone A, AO, A1-30, AE, A99, or AH.

**"Start of Construction"** includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual



start means either the first placement of permanent construction of a structure (including a manufactured home) on a site, such as the pouring of slabs or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; and includes the placement of a manufactured home on a foundation. Permanent construction does not include initial land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds, not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

**"State Coordinating Agency"** the Tennessee Department of Economic and Community Development's, Local Planning Assistance Office, as designated by the Governor of the State of Tennessee at the request of FEMA to assist in the implementation of the NFIP for the State.

**"Structure"** for purposes of this Ordinance, means a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

**"Substantial Damage"** means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred.

**"Substantial Improvement"** means any reconstruction, rehabilitation, addition, alteration or other improvement of a structure in which the cost equals or exceeds fifty percent (50%) of the market value of the structure before the "start of construction" of the initial improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The market value of the structure should be (1) the appraised value of the structure prior to the start of the initial improvement, or (2) in the case of substantial damage, the value of the structure prior to the damage occurring.

The term does not, however, include either: (1) Any project for improvement of a structure to correct existing violations of State or local health, sanitary, or safety code specifications which have been pre-identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions and not solely triggered by an improvement or repair project or; (2) Any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure".

**"Substantially Improved Existing Manufactured Home Parks or Subdivisions"** is where the repair, reconstruction, rehabilitation or improvement of the streets, utilities and pads equals or exceeds fifty percent (50%) of the value of the streets, utilities and pads before the repair, reconstruction or improvement commenced.

**"Variance"** is a grant of relief from the requirements of this Ordinance.

**"Violation"** means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certification, or other evidence of compliance required in this Ordinance is presumed to be in violation until such time as that documentation is provided.

**"Water Surface Elevation"** means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, the North American Vertical Datum (NAVD) of 1988, or other datum, where specified, of floods of various magnitudes and frequencies in the floodplains of riverine areas.

### **ARTICLE III. GENERAL PROVISIONS**

#### **Section A. Application**

This Ordinance shall apply to all areas within the incorporated area of the City of Etowah, Tennessee.

#### **Section B. Basis for Establishing the Areas of Special Flood Hazard**

The Areas of Special Flood Hazard identified on the City of Etowah, Tennessee, as identified by FEMA, and in its Flood Insurance Study (FIS) and Flood Insurance Rate Map (FIRM), Community Panel Numbers 47107C0306D, 47107C0307D, 47107C0308D, and 47107C0309D, dated September 28, 2007, along with all supporting technical data, are adopted by reference and declared to be a part of this Ordinance.

#### **Section C. Requirement for Development Permit**

A development permit shall be required in conformity with this Ordinance prior to the commencement of any development activities.

#### **Section D. Compliance**

No land, structure or use shall hereafter be located, extended, converted or structurally altered without full compliance with the terms of this Ordinance and other applicable regulations.

#### **Section E. Abrogation and Greater Restrictions**

This Ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants or deed restrictions. However, where this Ordinance conflicts or overlaps with another regulatory instrument, whichever imposes the more stringent restrictions shall prevail.

#### **Section F. Interpretation**

In the interpretation and application of this Ordinance, all provisions shall be: (1) considered as minimum requirements; (2) liberally construed in favor of the governing body and; (3) deemed neither to limit nor repeal any other powers granted under Tennessee statutes.

#### **Section G. Warning and Disclaimer of Liability**

The degree of flood protection required by this Ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This Ordinance does not imply that land outside the Areas of Special Flood Hazard or uses permitted within such areas will be free from flooding or flood damages. This Ordinance shall not create liability on the part of the City of Etowah, Tennessee or by any officer or employee thereof for

any flood damages that result from reliance on this Ordinance or any administrative decision lawfully made hereunder.

#### **Section H. Penalties for Violation**

Violation of the provisions of this Ordinance or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance shall constitute a misdemeanor punishable as other misdemeanors as provided by law. Any person who violates this ordinance or fails to comply with any of its requirements shall, upon adjudication therefore, be fined as prescribed by Tennessee statutes, and in addition, shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the City of Etowah, Tennessee from taking such other lawful actions to prevent or remedy any violation.

### **ARTICLE IV. ADMINISTRATION**

#### **Section A. Designation of Ordinance Administrator**

The Building Inspector is hereby appointed as the Administrator to implement the provisions of this Ordinance.

#### **Section B. Permit Procedures**

Application for a development permit shall be made to the Administrator on forms furnished by the community prior to any development activities. The development permit may include, but is not limited to the following: plans in duplicate drawn to scale and showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, earthen fill placement, storage of materials or equipment, and drainage facilities. Specifically, the following information is required:

1. Application stage
  - a. Elevation in relation to mean sea level of the proposed lowest floor, including basement, of all buildings where Base Flood Elevations are available, or to certain height above the highest adjacent grade when applicable under this Ordinance.
  - b. Elevation in relation to mean sea level to which any non-residential building will be floodproofed where Base Flood Elevations are available, or to certain height above the highest adjacent grade when applicable under this Ordinance.
  - c. A FEMA Floodproofing Certificate from a Tennessee registered professional engineer or architect that the proposed non-residential floodproofed building will meet the floodproofing criteria in Article V, Sections A and B.
  - d. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

2. Construction Stage

Within AE Zones, where Base Flood Elevation data is available, any lowest floor certification made relative to mean sea level shall be prepared by or under the direct supervision of, a Tennessee registered land surveyor and certified by same. The Administrator shall record the elevation of the lowest floor on the development permit. When floodproofing is utilized for a non-residential building, said certification shall be prepared by, or under the direct supervision of, a Tennessee registered professional engineer or architect and certified by same.

Within approximate A Zones, where Base Flood Elevation data is not available, the elevation of the lowest floor shall be determined as the measurement of the lowest floor of the building relative to the highest adjacent grade. The Administrator shall record the elevation of the lowest floor on the development permit. When floodproofing is utilized for a non-residential building, said certification shall be prepared by, or under the direct supervision of, a Tennessee registered professional engineer or architect and certified by same.

For all new construction and substantial improvements, the permit holder shall provide to the Administrator an as-built certification of the lowest floor elevation or floodproofing level upon the completion of the lowest floor or floodproofing.

Any work undertaken prior to submission of the certification shall be at the permit holder's risk. The Administrator shall review the above-referenced certification data. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further work being allowed to proceed. Failure to submit the certification or failure to make said corrections required hereby, shall be cause to issue a stop-work order for the project.

**Section C. Duties and Responsibilities of the Administrator**

Duties of the Administrator shall include, but not be limited to, the following:

1. Review all development permits to assure that the permit requirements of this Ordinance have been satisfied, and that proposed building sites will be reasonably safe from flooding.
2. Review proposed development to assure that all necessary permits have been received from those governmental agencies from which approval is required by Federal or State law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.
3. Notify adjacent communities and the Tennessee Department of Economic and Community Development, Local Planning Assistance Office, prior to any alteration or relocation of a watercourse and submit evidence of such notification to FEMA.
4. For any altered or relocated watercourse, submit engineering data/analysis within six (6) months to FEMA to ensure accuracy of community FIRM's through the Letter of Map Revision process.
5. Assure that the flood carrying capacity within an altered or relocated portion of any watercourse is maintained.

6. Record the elevation, in relation to mean sea level or the highest adjacent grade, where applicable, of the lowest floor (including basement) of all new and substantially improved buildings, in accordance with Article IV, Section B.
7. Record the actual elevation, in relation to mean sea level or the highest adjacent grade, where applicable to which the new and substantially improved buildings have been floodproofed, in accordance with Article IV, Section B.
8. When floodproofing is utilized for a nonresidential structure, obtain certification of design criteria from a Tennessee registered professional engineer or architect, in accordance with Article IV, Section B.
9. Where interpretation is needed as to the exact location of boundaries of the Areas of Special Flood Hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), make the necessary interpretation. Any person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this Ordinance.
10. When Base Flood Elevation data and floodway data have not been provided by FEMA, obtain, review, and reasonably utilize any Base Flood Elevation and floodway data available from a Federal, State, or other sources, including data developed as a result of these regulations, as criteria for requiring that new construction, substantial improvements, or other development in Zone A on the City of Etowah, Tennessee FIRM meet the requirements of this Ordinance.
11. Maintain all records pertaining to the provisions of this Ordinance in the office of the Administrator and shall be open for public inspection. Permits issued under the provisions of this Ordinance shall be maintained in a separate file or marked for expedited retrieval within combined files.

## **ARTICLE V. PROVISIONS FOR FLOOD HAZARD REDUCTION**

### **Section A. General Standards**

In all areas of special flood hazard, the following provisions are required:

1. New construction and substantial improvements shall be anchored to prevent flotation, collapse and lateral movement of the structure;
2. Manufactured homes shall be installed using methods and practices that minimize flood damage. They must be elevated and anchored to prevent flotation, collapse and lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State of Tennessee and local anchoring requirements for resisting wind forces.
3. New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage;

4. New construction and substantial improvements shall be constructed by methods and practices that minimize flood damage;
5. All electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;
6. New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
7. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters;
8. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding;
9. Any alteration, repair, reconstruction or improvements to a building that is in compliance with the provisions of this Ordinance, shall meet the requirements of "new construction" as contained in this Ordinance;
10. Any alteration, repair, reconstruction or improvements to a building that is not in compliance with the provision of this Ordinance, shall be undertaken only if said non-conformity is not further extended or replaced;
11. All new construction and substantial improvement proposals shall provide copies of all necessary Federal and State permits, including Section 404 of the Federal Water Pollution Control Act amendments of 1972, 33 U.S.C. 1334;
12. All subdivision proposals and other proposed new development proposals shall meet the standards of Article V, Section B;
13. When proposed new construction and substantial improvements are partially located in an area of special flood hazard, the entire structure shall meet the standards for new construction;
14. When proposed new construction and substantial improvements are located in multiple flood hazard risk zones or in a flood hazard risk zone with multiple Base Flood Elevations, the entire structure shall meet the standards for the most hazardous flood hazard risk zone and the highest Base Flood Elevation.

**Section B. Specific Standards**

In all Areas of Special Flood Hazard, the following provisions, in addition to those set forth in Article V, Section A, are required:

1. Residential Structures

In AE Zones where Base Flood Elevation data is available, new construction and substantial improvement of any residential building (or manufactured home) shall have the lowest floor, including basement, elevated to no lower than one (1) foot above the Base Flood Elevation. Should solid foundation perimeter walls be used

to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with the standards of this section: "Enclosures."

Within approximate A Zones where Base Flood Elevations have not been established and where alternative data is not available, the administrator shall require the lowest floor of a building to be elevated to a level of at least three (3) feet above the highest adjacent grade (as defined in Article II). Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with the standards of this section: "Enclosures."

2. Non-Residential Structures

In AE Zones, where Base Flood Elevation data is available, new construction and substantial improvement of any commercial, industrial, or non-residential building, shall have the lowest floor, including basement, elevated or floodproofed to no lower than one (1) foot above the level of the Base Flood Elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with the standards of this section: "Enclosures."

In approximate A Zones, where Base Flood Elevations have not been established and where alternative data is not available, new construction and substantial improvement of any commercial, industrial, or non-residential building, shall have the lowest floor, including basement, elevated or floodproofed to no lower than three (3) feet above the highest adjacent grade (as defined in Article II). Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with the standards of this section: "Enclosures."

Non-Residential buildings located in all A Zones may be floodproofed, in lieu of being elevated, provided that all areas of the building below the required elevation are watertight, with walls substantially impermeable to the passage of water, and are built with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. A Tennessee registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions above, and shall provide such certification to the Administrator as set forth in Article IV, Section B.

3. Enclosures

All new construction and substantial improvements that include fully enclosed areas formed by foundation and other exterior walls below the lowest floor that are subject to flooding, shall be designed to preclude finished living space and designed to allow for the entry and exit of flood waters to automatically equalize hydrostatic flood forces on exterior walls.

- a. Designs for complying with this requirement must either be certified by a Tennessee professional engineer or architect or meet or exceed the following minimum criteria.

- 1) Provide a minimum of two openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding;
  - 2) The bottom of all openings shall be no higher than one (1) foot above the finished grade;
  - 3) Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.
- b. The enclosed area shall be the minimum necessary to allow for parking of vehicles, storage or building access.
  - c. The interior portion of such enclosed area shall not be finished or partitioned into separate rooms in such a way as to impede the movement of floodwaters and all such partitions shall comply with the provisions of Article V, Section B.

4. Standards for Manufactured Homes and Recreational Vehicles

- a. All manufactured homes placed, or substantially improved, on: (1) individual lots or parcels, (2) in expansions to existing manufactured home parks or subdivisions, or (3) in new or substantially improved manufactured home parks or subdivisions, must meet all the requirements of new construction.
- b. All manufactured homes placed or substantially improved in an existing manufactured home park or subdivision must be elevated so that either:
  - 1) In AE Zones, with Base Flood Elevations, the lowest floor of the manufactured home is elevated on a permanent foundation to no lower than one (1) foot above the level of the Base Flood Elevation or
  - 2) In approximate A Zones, without Base Flood Elevations, the manufactured home chassis is elevated and supported by reinforced piers (or other foundation elements of at least equivalent strength) that are at least three (3) feet in height above the highest adjacent grade (as defined in Article II).
- c. Any manufactured home, which has incurred “substantial damage” as the result of a flood, must meet the standards of Article V, Sections A and B.
- d. All manufactured homes must be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.
- e. All recreational vehicles placed in an identified Special Flood Hazard Area must either:
  - 1) Be on the site for fewer than 180 consecutive days;



- 2) Be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is licensed, on its wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached structures or additions), or
- 3) The recreational vehicle must meet all the requirements for new construction.

5. Standards for Subdivisions and Other Proposed New Development Proposals

Subdivisions and other proposed new developments, including manufactured home parks, shall be reviewed to determine whether such proposals will be reasonably safe from flooding.

- a. All subdivision and other proposed new development proposals shall be consistent with the need to minimize flood damage.
- b. All subdivision and other proposed new development proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.
- c. All subdivision and other proposed new development proposals shall have adequate drainage provided to reduce exposure to flood hazards.
- d. In all approximate A Zones require that all new subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than 50 lots or 5 acres, whichever is the lesser, include within such proposals Base Flood Elevation data (See Article V, Section E).

**Section C. Standards for Special Flood Hazard Areas with Established Base Flood Elevations and With Floodways Designated**

Located within the Special Flood Hazard Areas established in Article III, Section B, are areas designated as floodways. A floodway may be an extremely hazardous area due to the velocity of floodwaters, debris or erosion potential. In addition, the area must remain free of encroachment in order to allow for the discharge of the base flood without increased flood heights and velocities. Therefore, the following provisions shall apply:

1. Encroachments are prohibited, including earthen fill material, new construction, substantial improvements or other development within the regulatory floodway. Development may be permitted; however, provided it is demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practices that the cumulative effect of the proposed encroachments or new development shall not result in any increase in the water surface elevation of the Base Flood Elevation, velocities, or floodway widths during the occurrence of a base flood discharge at any point within the community. A Tennessee registered professional engineer must provide supporting technical data, using the same methodologies as in the effective Flood Insurance Study for the City of Etowah, Tennessee and certification, thereof.

2. New construction and substantial improvements of buildings, where permitted, shall comply with all applicable flood hazard reduction provisions of Article V, Sections A and B.

**Section D. Standards for Areas of Special Flood Hazard Zones AE with Established Base Flood Elevations but Without Floodways Designated**

Located within the Special Flood Hazard Areas established in Article III, Section B, where streams exist with base flood data provided but where no floodways have been designated (Zones AE), the following provisions apply:

1. No encroachments, including fill material, new construction and substantial improvements shall be located within areas of special flood hazard, unless certification by a Tennessee registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any point within the community. The engineering certification should be supported by technical data that conforms to standard hydraulic engineering principles.
2. New construction and substantial improvements of buildings, where permitted, shall comply with all applicable flood hazard reduction provisions of Article V, Sections A and B.

**Section E. Standards for Streams without Established Base Flood Elevations and Floodways (A Zones)**

Located within the Special Flood Hazard Areas established in Article III, Section B, where streams exist, but no base flood data has been provided and where a Floodway has not been delineated, the following provisions shall apply:

1. The Administrator shall obtain, review, and reasonably utilize any Base Flood Elevation and floodway data available from any Federal, State, or other sources, including data developed as a result of these regulations (see 2 below), as criteria for requiring that new construction, substantial improvements, or other development in approximate A Zones meet the requirements of Article V, Sections A and B.
2. Require that all new subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than 50 lots or 5 acres, whichever is the lesser, include within such proposals Base Flood Elevation data.
3. Within approximate A Zones, where Base Flood Elevations have not been established and where such data is not available from other sources, require the lowest floor of a building to be elevated or floodproofed to a level of at least three (3) feet above the highest adjacent grade (as defined in Article II). All applicable data including elevations or floodproofing certifications shall be recorded as set forth in Article IV, Section B. Openings sufficient to facilitate automatic equalization of hydrostatic flood forces on exterior walls shall be provided in accordance with the standards of Article V, Section B.

4. Within approximate A Zones, where Base Flood Elevations have not been established and where such data is not available from other sources, no encroachments, including structures or fill material, shall be located within an area equal to the width of the stream or twenty feet (20), whichever is greater, measured from the top of the stream bank, unless certification by a Tennessee registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any point within the City of Etowah, Tennessee. The engineering certification should be supported by technical data that conforms to standard hydraulic engineering principles.
5. New construction and substantial improvements of buildings, where permitted, shall comply with all applicable flood hazard reduction provisions of Article V, Sections A and B. Within approximate A Zones, require that those subsections of Article V Section B dealing with the alteration or relocation of a watercourse, assuring watercourse carrying capacities are maintained and manufactured homes provisions are complied with as required.

**Section F. Standards For Areas of Shallow Flooding (AO and AH Zones)**

Located within the Special Flood Hazard Areas established in Article III, Section B, are areas designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one (1) to three (3) feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate; therefore, the following provisions, in addition to those set forth in Article V, Sections A and B, apply:

1. All new construction and substantial improvements of residential and non-residential buildings shall have the lowest floor, including basement, elevated to at least one (1) foot above as many feet as the depth number specified on the FIRM's, in feet, above the highest adjacent grade. If no flood depth number is specified on the FIRM, the lowest floor, including basement, shall be elevated to at least three (3) feet above the highest adjacent grade. Openings sufficient to facilitate automatic equalization of hydrostatic flood forces on exterior walls shall be provided in accordance with standards of Article V, Section B.
2. All new construction and substantial improvements of non-residential buildings may be floodproofed in lieu of elevation. The structure together with attendant utility and sanitary facilities must be floodproofed and designed watertight to be completely floodproofed to at least one (1) foot above the flood depth number specified on the FIRM, with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. If no depth number is specified on the FIRM, the structure shall be floodproofed to at least three (3) feet above the highest adjacent grade. A Tennessee registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this Ordinance and shall provide such certification to the Administrator as set forth above and as required in accordance with Article IV, Section B.

3. Adequate drainage paths shall be provided around slopes to guide floodwaters around and away from proposed structures.

**Section G. Standards For Areas Protected by Flood Protection System (A-99 Zones)**

Located within the Areas of Special Flood Hazard established in Article III, Section B, are areas of the 100-year floodplain protected by a flood protection system but where Base Flood Elevations have not been determined. Within these areas (A-99 Zones) all provisions of Article IV and Article V shall apply.

**Section H. Standards for Unmapped Streams**

Located within the City of Etowah, Tennessee, are unmapped streams where areas of special flood hazard are neither indicated nor identified. Adjacent to such streams, the following provisions shall apply:

1. No encroachments including fill material or other development including structures shall be located within an area of at least equal to twice the width of the stream, measured from the top of each stream bank, unless certification by a Tennessee registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any point within the locality.
2. When a new flood hazard risk zone, and Base Flood Elevation and floodway data is available, new construction and substantial improvements shall meet the standards established in accordance with Articles IV and V.

**ARTICLE VI. VARIANCE PROCEDURES**

**Section A. Municipal Board of Zoning Appeals**

1. Authority

The City of Etowah, Tennessee Municipal Board of Zoning Appeals shall hear and decide appeals and requests for variances from the requirements of this Ordinance.

2. Procedure

Meetings of the Municipal Board of Zoning Appeals shall be held at such times, as the Board shall determine. All meetings of the Municipal Board of Zoning Appeals shall be open to the public. The Municipal Board of Zoning Appeals shall adopt rules of procedure and shall keep records of applications and actions thereof, which shall be a public record. Compensation of the members of the Municipal Board of Zoning Appeals shall be set by the Legislative Body.

3. Appeals: How Taken

An appeal to the Municipal Board of Zoning Appeals may be taken by any person, firm or corporation aggrieved or by any governmental officer, department, or bureau affected by any decision of the Administrator based in whole or in part upon the provisions of this Ordinance. Such appeal shall be taken by filing with the Municipal Board of Zoning Appeals a notice of appeal, specifying the grounds thereof. In all cases where an appeal is made by a property owner or other interested party, a fee of (Current City Fee Schedule) dollars for the cost of publishing a notice of such hearings shall be paid by the appellant. The Administrator shall transmit to the Municipal Board of Zoning Appeals all papers constituting the record upon which the appeal action was taken. The Municipal Board of Zoning Appeals shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to parties in interest and decide the same within a reasonable time which shall not be more than ten business days from the date of the hearing. At the hearing, any person or party may appear and be heard in person or by agent or by attorney.

4. Powers

The Municipal Board of Zoning Appeals shall have the following powers:

a. Administrative Review

To hear and decide appeals where it is alleged by the applicant that there is error in any order, requirement, permit, decision, determination, or refusal made by the Administrator or other administrative official in carrying out or enforcement of any provisions of this Ordinance.

b. Variance Procedures

In the case of a request for a variance the following shall apply:

- 1) The City of Etowah, Tennessee Municipal Board of Zoning Appeals shall hear and decide appeals and requests for variances from the requirements of this Ordinance.
- 2) Variances may be issued for the repair or rehabilitation of historic structures as defined, herein, upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary deviation from the requirements of this Ordinance to preserve the historic character and design of the structure.
- 3) In passing upon such applications, the Municipal Board of Zoning Appeals shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this Ordinance, and:
  - a) The danger that materials may be swept onto other property to the injury of others;
  - b) The danger to life and property due to flooding or erosion;

- c) The susceptibility of the proposed facility and its contents to flood damage;
  - d) The importance of the services provided by the proposed facility to the community;
  - e) The necessity of the facility to a waterfront location, in the case of a functionally dependent use;
  - f) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
  - g) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
  - h) The safety of access to the property in times of flood for ordinary and emergency vehicles;
  - i) The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site;
  - j) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, water systems, and streets and bridges.
- 4) Upon consideration of the factors listed above, and the purposes of this Ordinance, the Municipal Board of Zoning Appeals may attach such conditions to the granting of variances, as it deems necessary to effectuate the purposes of this Ordinance.
  - 5) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

**Section B. Conditions for Variances**

- 1. Variances shall be issued upon a determination that the variance is the minimum relief necessary, considering the flood hazard and the factors listed in Article VI, Section A.
- 2. Variances shall only be issued upon: a showing of good and sufficient cause, a determination that failure to grant the variance would result in exceptional hardship; or a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or Ordinances.
- 3. Any applicant to whom a variance is granted shall be given written notice that the issuance of a variance to construct a structure below the Base Flood Elevation will result in increased premium rates for flood insurance (as high as \$25 for

\$100) coverage, and that such construction below the Base Flood Elevation increases risks to life and property.

4. The Administrator shall maintain the records of all appeal actions and report any variances to FEMA upon request.

## **ARTICLE VII. LEGAL STATUS PROVISIONS**

### **Section A. Conflict with Other Ordinances**

In case of conflict between this Ordinance or any part thereof, and the whole or part of any existing or future Ordinance of the City of Etowah, Tennessee, the most restrictive shall in all cases apply.

### **Section B. Severability**

If any section, clause, provision, or portion of this Ordinance shall be held to be invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect any other section, clause, provision, or portion of this Ordinance which is not of itself invalid or unconstitutional.

CITY OF  
ETOWAH, TENNESSEE  
ZONING ORDINANCE  
JANUARY 1987  
(As amended through September 26, 2016)

Prepared by the  
ETOWAH REGIONAL PLANNING COMMISSION



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**ZONING ORDINANCE**  
**ETOWAH, TENNESSEE**

**January 1987**



**(As Amended Through September 26, 2016)**