

## TITLE 14

### ZONING AND LAND USE CONTROL<sup>1</sup>

#### CHAPTER

1. MUNICIPAL-REGIONAL PLANNING COMMISSION.
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#### CHAPTER 1

#### MUNICIPAL-REGIONAL PLANNING COMMISSION

#### SECTION

- 14-101. Creation and membership.  
 14-102. Organization, powers, duties, etc.

**14-101. Creation and membership.** Pursuant to the provisions of *Tennessee Code Annotated*, § 13-4-101, there is hereby created a regional planning region commission, hereinafter referred to as the municipal regional planning commission. The approved planning region encompasses the incorporated municipality limits and its urban growth area by virtue of Public Chapter 1101, Urban Growth Plan. The municipal regional planning commission shall consist of nine (9) members. One (1) of the members shall be mayor of the town and one (1) of the members shall be a member of the board of commissioners as selected by that legislative body. The other seven (7) members shall be appointed by the mayor. All members of such municipal regional planning commission shall serve as such without compensation. The terms of the appointed seven (7) members shall be for terms of three (3) years each, so arranged whereby the term of at least one (1) member will expire each year. Any vacancy in an appointed membership shall be filled for the unexpired term by the mayor, who shall have the authority to remove any appointed member at the mayor's pleasure. In making appointments, the mayor shall strive to ensure the racial composition of the municipal regional planning commission is at least proportionally reflective of the municipality's racial minority population. (1996 Code, § 14-101)

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<sup>1</sup>Municipal code reference

Engineering review and inspections: title 20, chapter 3.

**14-102. Organization, powers, duties, etc.** The municipal-regional planning commission shall be organized and carry out its powers, functions and duties in accordance with all applicable provisions of *Tennessee Code Annotated*, title 13. (1996 Code, § 14-102)

**CHAPTER 2**

**ZONING ORDINANCE**

**SECTION**

14-201. Land use to be governed by zoning ordinance.

**14-201. Land use to be governed by zoning ordinance.** Land use within the Town of Kingston Springs shall be governed by Ordinance Number 84-005, titled "Zoning Ordinance, Kingston Springs, Tennessee," and any amendments thereto.<sup>1</sup> (1996 Code, § 14-201)

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<sup>1</sup>Ordinance No. 84-005, and any amendments thereto, are published as separate documents and are of record in the office of the town recorder.

## CHAPTER 3

### FLOOD DAMAGE PREVENTION ORDINANCE

#### SECTION

- 14-301. Statutory authorization, findings of fact, purpose and objectives.
- 14-302. Definitions.
- 14-303. General provisions.
- 14-304. Administration.
- 14-305. Provisions for flood hazard reduction.
- 14-306. Variance procedures.

**14-301. Statutory authorization, findings of fact, purpose and objectives.** (1) Statutory authorization. The Legislature of the State of Tennessee has in *Tennessee Code Annotated*, §§ 6-19-101, *et seq.*, as amended, delegated the responsibility to units of local government to adopt regulations designed to promote public health, safety, and general welfare of its citizenry. Therefore, the Town of Kingston Springs, Tennessee, Board of Commissioners, the legislative body, do ordain as follows.

(2) Findings of fact. (a) The Town of Kingston Springs, Tennessee, Board of Commissioners as 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.

(b) Areas of the Town of Kingston Springs, 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.

(c) 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, flood-proofed, or otherwise unprotected from flood damages.

(3) Statement of purpose. It is the purpose of this chapter to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas. This chapter is designed to complement the town's land use and transportation policy plan, stormwater management ordinance, municipal zoning ordinance, as well as the community's municipal subdivision regulations in order to:

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

(b) Require that uses vulnerable to floods, including community facilities, be protected against flood damage at the time of initial construction;

(c) Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of floodwaters;

(d) Control filling, grading, dredging and other development which may increase flood damage or erosion; and

(e) Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.

(4) Objectives. The objectives of this chapter are:

(a) To protect human life, health, safety and property;

(b) To minimize expenditure of public funds for costly flood control projects;

(c) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

(d) To minimize prolonged business interruptions;

(e) 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;

(f) To help maintain a stable tax base by providing for the sound use and development of floodprone areas to minimize blight in flood areas;

(g) To ensure that potential homebuyers are notified that property is in a floodprone area; and

(h) To maintain eligibility for participation in the NFIP. (1996 Code, § 14-301)

**14-302. Definitions.** Unless specifically defined below, words or phrases used in this chapter shall be interpreted as to give them the meaning they have in common usage and to give this chapter its most reasonable application given its stated purpose and objectives.

(1) "Accessory structure" (building) means a subordinate structure in area, extent and purpose to the principal structure on the same lot and makes a practical and necessary contribution to said principal structure or use, and includes: garages, construction office trailers and real estate sales office, small storage sheds for lawn maintenance and pool houses for the purpose of this chapter, shall conform to the following:

(a) Accessory structures or buildings shall not be located within any special flood hazard area;

(b) Accessory structures shall be designed to have low flood damage potential;

(c) Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters; and

(d) Accessory structures shall be firmly anchored to prevent flotation, collapse, and lateral movement, which otherwise may result in damage to other structures.

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

(3) "Appeal" means a request for a review of the local enforcement officer's interpretation of any provision of this chapter or a request for a variance.

(4) "Area of shallow flooding" means a designated AO or AH zone on a community's Flood Insurance Rate Map (FIRM) with one percent (1%) or greater annual chance of flooding to an average depth of one to three feet (1'- 3') 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.

(5) "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.

(6) "Area of special flood hazard." See "special flood hazard area."

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

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

(9) "Building." See "structure."

(10) "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. A development permit as stipulated in § 14-304 of this chapter shall be prepared when any of these man-made changes are proposed in any floodplain or floodprone area as defined herein, excepting floodways.

(11) "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. For the purpose of this chapter, elevated building structures shall not be construed to include residential buildings or structures.

(12) "Emergency flood insurance program" or "emergency program" means the program as implemented on an emergency basis in accordance with section 1336 of the Act. The Act means the statutes authorizing the National Flood Insurance Program that are incorporated in 42 U.S.C. §§ 4001 to 4125. 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.

(13) "Enclosures" means fully enclosed areas formed by foundations and other exterior walls, situated below the regulatory lowest floor elevation (below the regulatory base flood elevation) that are subject to flooding.

(14) "Erosion" means the process of the gradual wearing away of land masses. This peril is not "per se" covered under the program.

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

(16) "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.

(17) "Existing manufactured home park or subdivision" means a manufactured home park or subdivision or mobile 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.

(18) "Existing structures." See "existing construction."

(19) "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 or mobile 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).

(20) "Flood" or "flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from:

(a) The overflow of inland or tidal waters;

(b) The unusual and rapid accumulation or runoff of surface waters from any source.

(21) "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 (1%) or greater chance of occurrence in any given year.

(22) "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.

(23) "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.

(24) "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.

(25) "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.

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

(27) "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.

(28) "Flood-proofing" 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. For the purposes of this chapter, flood-proofing does not apply to residential buildings and structures.

(29) "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.

(30) "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.

(31) "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. (Also see stormwater management ordinance).<sup>1</sup>

(32) "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. (Also see stormwater management ordinance).<sup>2</sup>

(33) "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.

(34) "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. Minimum freeboard as applies to the construction or reconstruction of earthen dams or levees shall be a minimum of two feet (2') above the minimum regulatory level.

(35) "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.

(36) "Highest adjacent grade" means the highest natural elevation of the ground surface, prior to construction, adjacent to the proposed walls of a structure.

(37) "Historic structure" means any structure that is:

(a) 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;

(b) 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;

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<sup>1</sup>Municipal code reference

Stormwater management: title 14, chapter 4.

<sup>2</sup>Municipal code reference

Stormwater management: title 14, chapter 4.

(c) 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

(d) Individually listed on the Town of Kingston Springs, Tennessee inventory of historic places and determined as eligible by communities with historic preservation programs that have been certified either:

(i) By the approved Tennessee program as determined by the Secretary of the Interior; or

(ii) Directly by the Secretary of the Interior.

(38) "Infrastructure" facilities and services needed to sustain residential, commercial, institutional and industrial land uses to include, but not limited to roads and streets; sidewalks; water and sewer lines; water storage tanks; drainage facilities and conveyances; erosion control structures to include retention and detention ponds; fire hydrants; street lights; street signs and directional signs; communication, electric, natural gas and telephone lines; cellular phone towers and appurtenances; control monuments; satellite dishes; water and sewage treatment facilities; parking lots; pumping stations; liquid storage tanks<sup>1</sup> such as natural gas, propane, and heating oil tanks. Not included within this definition are public, semi-public and private community facilities such as educational buildings, electric substations, fire and police stations, libraries and recreational, governmental and administrative buildings.

(39) "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.

(40) "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.

(41) "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 utilized as habitable, residential space, nor built so as to render the structure in violation of the applicable non-elevation design requirements of this chapter.

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<sup>1</sup>Please note that public, semi-public and private above ground gasoline, natural gas, or fuel oil storage tanks pose grave health, safety, and welfare dangers during significant flood events, and shall not be sited or located within special flood hazard areas.

(42) "Manufactured home" means a structure, transportable in one (1) 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" includes the term mobile home, but does not include a "recreational vehicle."

(43) "Manufactured home park or subdivision" means a parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale. As utilized herein, this is inclusive of mobile home parks or subdivisions.

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

(45) "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 chapter, 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.

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

(47) "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.

(48) "New manufactured home park or subdivision" means a manufactured home park or subdivision or mobile home park or subdivisions for which the construction of facilities for servicing the lots on which the manufactured homes or mobile 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 chapter or the effective date of the initial floodplain management ordinance and includes any subsequent improvements to such structure.

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

(50) "100-year flood." See "base flood."

(51) "Person" includes any individual or group of individuals, corporation, partnership, association, or any other entity, including state and local governments and agencies.

(52) "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.

(53) "Recreational vehicle" means a motor home or other vehicle which is:

- (a) Built on a single chassis;
- (b) Four hundred (400) square feet or less when measured at the largest horizontal projection;
- (c) Designed to be self-propelled or permanently towable by a light duty truck; and
- (d) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

(54) "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.

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

(56) "Special flood hazard area" is the land in the floodplain within a community subject to a one percent (1%) 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.

(57) "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.

(58) "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 one hundred eighty (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.

(59) "State coordinating agency" means 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.

(60) "Structure" for purposes of this chapter, means a walled and roofed building, including any type of oil, gas or liquid storage tank, that is principally above ground, as well as a manufactured home or mobile home.

(61) "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.

(62) "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:

(a) The appraised value of the structure prior to the start of the initial improvement; or

(b) In the case of substantial damage, the value of the structure prior to the damage occurring.

For the purposes of this chapter, substantial improvement is considered to occur when the alteration of any wall, ceiling, floor or other structural part of the building or structure commences, whether or not the alteration affects the external dimensions of the structure.

The term does not, however, include either:

(a) 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

(b) Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."

(63) "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.

(64) "Variance" is a grant of relief from the requirements of this chapter that does not negatively impact the public safety, health and welfare of the citizens or property within Kingston Springs.

(65) "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 a development permit, the elevation

certificate, other certification, or other evidence of compliance required in this chapter is presumed to be in violation until such time as that documentation is provided.

(66) "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.

(67) "Watercourse." See "riverine." (1996 Code, § 14-302, modified)

**14-303. General provisions.** (1) Application. This chapter shall apply to all areas within the incorporated area of the Town of Kingston Springs, Tennessee.

(2) Basis for establishing the areas of special flood hazard. The areas of special flood hazard identified on the Town of Kingston Springs, Tennessee, as identified by FEMA, and in its Flood Insurance Study (FIS) dated December 22, 2016 and Flood Insurance Rate Map (FIRM), Community 470289, Panel Number 47021C0305D dated September 17, 2010 and 47021C0282E, 47021C0285E, 47021C0301E, 47021CQ302E, 47021C0303E, 47021C0304E, and 47021C0315E dated December 22, 2016, along with all supporting technical data, are adopted by reference and declared to be a part of this chapter.

(3) Requirement for development permit. A development permit and building and zoning compliance permit shall be required in conformity with this chapter prior to the commencement of any development activities. (See definition of "development.")

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

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

(6) Interpretation. In the interpretation and application of this chapter, all provisions shall be:

- (a) Considered as minimum requirements;
- (b) Liberally construed in favor of the governing body; and
- (c) Deemed neither to limit nor repeal any other powers granted under Tennessee statutes.

(7) Warning and disclaimer of liability. The degree of flood protection required by this chapter 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 chapter 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 chapter shall not create liability on the part of the Town of Kingston Springs, Tennessee or by any officer or employee thereof for any flood damages that result from reliance on this chapter or any administrative decision lawfully made hereunder.

(8) Penalties for violation. Violation of the provisions of this chapter 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 chapter or fails to comply with any of its requirements shall, upon adjudication therefor, 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 Town of Kingston Springs, Tennessee from taking such other lawful actions to prevent or remedy any violation. (1996 Code, § 14-303, as amended by Ord. #16-009, Oct. 2016)

**14-304. Administration.** (1) Designation of ordinance administrator. The town manager or designee of the town manager is hereby appointed as the administrator to implement the provisions of this chapter.

(2) Permit procedures. Application for a development permit shall be made to the administrator on forms<sup>1</sup> furnished by the community prior to any development activities. The required development permit shall not be construed to be mutually exclusive of any other required permit(s), i.e., building-zoning compliance permit, NPDES permit, ARAP permit, UIC permit, stormwater management permit. 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. A development permit is required for development proposed within special flood hazard areas as defined herein. A development permit shall be required for development proposed within fifty feet (50') of the top of the bank (measured horizontally) along all riverine areas, small streams, and watercourses (see definition of "riverine"). Specifically, the following information is required:

- (a) Application stage. (i) 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 chapter;

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<sup>1</sup>The city manager is authorized to develop such application forms as may be necessary for the activities, requests, applications, and appeals contemplated herein.

(ii) Elevation in relation to mean sea level to which any non-residential building will be flood-proofed where base flood elevations are available, or to certain height above the highest adjacent grade when applicable under this chapter;

(iii) A FEMA flood-proofing certificate from a Tennessee registered professional engineer or architect that the proposed non-residential flood-proofed building will meet the floodproofing criteria in § 14-305(1) and (2); and

(iv) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

(b) 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 a Tennessee registered land surveyor and certified by same. The administrator and/or the town building official shall record the elevation of the lowest floor on the development permit. When flood-proofing 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 flood-proofing 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 flood-proofing level upon the completion of the lowest floor or flood-proofing.

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.

(3) Duties and responsibilities of the administrator. Duties of the administrator shall include, but not be limited to, the following:

(a) Review all development permits in conjunction with the town's building official and town engineer to assure that the permit requirements of this chapter have been satisfied, and that proposed building sites will be reasonably safe from flooding;



(b) 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. 1344;

(c) 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;

(d) For any altered or relocated watercourse, submit engineering data/analysis within six (6) months to FEMA to ensure accuracy of community FIRMs through the letter of map revision process;

(e) Assure that the flood carrying capacity within an altered or relocated portion of any watercourse is maintained;

(f) 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 subsection (2) above;

(g) 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 flood-proofed, in accordance with subsection (2) above;

(h) When flood-proofing is utilized for a non-residential structure, obtain certification of design criteria from a Tennessee registered professional engineer or architect, in accordance with subsection (2) above;

(i) 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 chapter;

(j) 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 Town of Kingston Springs, Tennessee FIRM meet the requirements of this chapter; and

(k) Maintain all records pertaining to the provisions of this chapter in the office of the building official and shall be open for public inspection. Permits issued under the provisions of this chapter shall be maintained in a separate file or marked for expedited retrieval within combined files. (1996 Code, § 14-304, modified)

**14-305. Provisions for flood hazard reduction.** (1) General standards. In all designated areas of special flood hazard, the following provisions are required:

(a) The reconstruction of existing residential and non-residential buildings including accessory structures, manufactured and mobile homes on individual zone lots and in parks, (excluding above ground gas, oil, or other type of liquid storage tank that is regulated as infrastructure within this chapter) shall be anchored to prevent flotation, collapse and lateral movement of the structure;

(b) When approved by the board of floodplain review, existing manufactured homes or mobile homes may be re-established contingent upon 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;

(c) Any approved replacement shall be constructed or facilitated with materials and utility equipment resistant to flood damage, utilizing methods and practices that minimize flood damage;

(d) All electrical, heating, ventilation, with the exception of hydrostatic flow through vents as regulated in subsection (3), plumbing, air conditioning equipment, and other service facilities shall be elevated and designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;

(e) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

(f) 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;

(g) New on-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding; and septic tanks shall not be situated within any special flood hazard area. Properly installed field lines may be located in the SFHA;

(h) Any substantial improvement to a building or structure that is in compliance with the provisions of this chapter, shall meet the requirements of "new construction" as contained in this chapter;

(i) Any alteration, repair, reconstruction or improvements to a building or structure that is not in compliance with the provision of this chapter, shall be undertaken only if said non-conformity is not further extended or replaced;

(j) All re-construction and substantial improvement proposals shall provide copies of all necessary federal, state and locally required permits, including section 404 of the Federal Water Pollution Control Act amendments of 1972, 33 U.S.C. 1344;

(k) The reconstruction of any existing subdivision is contingent upon the granting of a variance from the board of flood review, and shall meet the standards of subsection (2) above; in addition, but not limited to standards enumerated within the municipal subdivision regulations, zoning ordinance, and stormwater management ordinance;

(l) New construction and substantial improvements of infrastructure shall be anchored to prevent flotation, collapse, and lateral movement (see definition of "infrastructure");

(m) No new residential structure or building or substantial improvement to existing building structures shall be allowed within any special flood hazard area;

(n) No new non-residential or residential accessory building or structure shall be located within any special flood hazard area; and

(o) Above ground liquid storage tanks to include, but not limited to, propane heating oil, gasoline and natural gas shall not be located within special flood hazard areas.

(2) Specific standards. In all areas of special flood hazard, the following provisions, in addition to those set forth in subsection (1) above, are required:

(a) Residential structures. In AE zones where base flood elevation data is available, new construction and substantial improvement of any residential building (or manufactured home or mobile home) shall have the lowest floor, including basement, elevated to no lower than one foot (1') 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." No new residential buildings or structures may be constructed or expanded within any AE zone (one percent (1%) chance flood area) or within any approximate A zone.

Within approximate A zones where base flood elevations have not been established and where alternative data is not available, non-conforming residential structures under the terms of this chapter being rehabilitated or re-constructed following a natural disaster (with no external expansion) may be done only by way of the granting of a variance thereof from the board of floodplain appeals (board of zoning appeals). The lowest floor elevation of any such reconstruction shall be at least three feet (3') above the highest adjacent grade, as defined in § 14-302. 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: "Existing enclosures."

(b) Non-residential structures. In the A zone, 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 foot (1') 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: "Existing enclosures." No non-residential structures or buildings may be constructed or expanded within any AE zone (one percent (1%) chance of flood area) or within any approximate A zone.

In approximate A zones, where base flood elevations have not been established and where alternative data is not available, the reconstruction of any commercial, industrial, or non-residential building, shall have the lowest floor, including basement, elevated or flood-proofed to no lower than three feet (3') above the highest adjacent grade (as defined in § 14-302). 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: "Existing enclosures." All such reconstructions shall be in accordance with the provisions of *Tennessee Code Annotated*, § 13-7-208.

The reconstruction of non-residential buildings located in all A zones may be flood-proofed, 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 § 14-304(2).

(c) Existing enclosures. All reconstruction or replacement shall conform to the standards enumerated in subsections (2)(a) and (b) above, that include fully enclosed areas formed by foundation and other exterior walls below the lowest floor that are subject to flooding are strictly subject to the granting of a variance thereof by the board of floodplain review and 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.

(i) Designs for complying with this requirement must either be certified by a Tennessee professional engineer or meet or exceed the following minimum criteria:

(A) Provide a minimum of two (2) hydrostatic vents or openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding;

(B) The bottom of all hydrostatic vents or openings shall be no higher than one foot (1') above the finished grade;

(C) Hydrostatic vents or openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions; and

(D) Hydrostatic vents or openings shall be in conformance with the specifications thereof cited within title 44 of the Code of Federal Regulations (CFR).

(ii) The enclosed area shall be the minimum necessary to allow for parking of vehicles, storage or building access.

(iii) The interior portion of such enclosed area shall not be finished, converted 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 subsection (2).

(d) Standards for manufactured homes and recreational vehicles.

(i) All manufactured homes, to include mobile homes "in place" on:

(A) Individual lots or parcels; or

(B) In existing manufactured home parks or subdivisions inclusive of mobile home parks and subdivisions, shall not be expanded.

(ii) All manufactured homes placed or substantially improved in an existing manufactured home park or subdivision must be approved by the board of floodplain review (be granted a variance) and be elevated so that either:

(A) 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 foot (1') above the level of the base flood elevation; or

(B) 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 feet

(3') in height above the highest adjacent grade (as defined in § 14-302).

(iii) Any manufactured home or mobile home, which has incurred "substantial damage" as the result of a flood, must meet the standards of subsections (1) and (2).

(iv) All manufactured home or mobile home must be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.

(v) No reconstruction of existing manufactured or mobile homes on "fee-simple" lots or in parks shall be allowed without variance approval from the board of floodplain review.

(vi) Recreational vehicles in special flood hazard zones shall:

(A) Be on the site for fewer than one hundred eighty (180) consecutive days;

(B) 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

(C) No recreational vehicle or motor home shall be located within any AE zone or A zone, or riverine area, as defined in this chapter, as a permanent structure.

(e) Standards for subdivisions and other proposed new development proposals. No new residential subdivisions or non-residential subdivisions shall be allowed to be located or constructed in any special flood hazard zone, as depicted on the official Flood Insurance Rate Maps (FIRM), except for permitted infrastructure.

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

(i) All subdivision and other proposed new development proposals shall be consistent with the need to minimize flood damage.

(ii) 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.

(iii) All subdivision and other proposed new development proposals shall have adequate drainage provided to reduce exposure to flood hazards.

(3) Standards for special flood hazard areas with established base flood elevations and with floodways designated. Located within the special flood hazard areas established in § 14-303(2) 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:

(a) Encroachments are prohibited, including earthen fill material, new construction, substantial improvements or other development within the regulatory floodway.

(b) The reconstruction of non-conforming existing buildings and structures, where permitted through variances by the board of floodplain review, shall comply with all applicable flood hazard reduction provisions of subsections (1) and (2) above.

(4) 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 § 14-303(2), where streams exist with base flood data provided but where no floodways have been designated (Zones AE), the following provisions apply:

(a) No new construction of residential or non-residential structures or buildings shall be allowed in any AE zone. No non-structural 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 foot (1') at any point within the community. The engineering certification should be supported by technical data that conforms to standard hydraulic engineering principles to include watershed characteristics, probable runoff, and other topographical and hydraulic data, as is required by the administrator and town engineer. Such information shall be prepared by a professional, registered engineer; and

(b) Any reconstruction of buildings and structures, where permitted by the board of floodplain review, shall comply with all applicable flood hazard reduction provisions of subsections (1) and (2).

(5) Standards for streams without established base flood elevations and floodways (A zones). Located within the special flood hazard areas established in § 14-303(2), where streams exist, but no base flood data has been provided and where a floodway has not been delineated, the following provisions shall apply:

(a) No new construction of residential or non-residential structures or buildings shall be allowed in any approximate A zones;

(b) 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 as criteria for regulating development in approximate A zones meeting the requirements of subsections (1) and (2);

(c) Require that all new subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions or mobile home parks and subdivisions) include within such proposals base flood elevation data.

(d) Any approved reconstruction or substantial improvement to occur 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 flood-proofed to a level of at least three feet (3') above the highest adjacent grade (as defined in § 14-302). All applicable data including elevations or flood-proofing certifications shall be recorded as set forth in § 14-304(2). Openings sufficient to facilitate automatic equalization of hydrostatic flood forces on exterior walls shall be provided in accordance with the standards of § 14-305(2).

(e) 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 twice the width of the stream 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 at any point within the Town of Kingston Springs, Tennessee. The engineering certification should be supported by technical data that conforms to standard hydraulic engineering principles.

(f) The re-construction and substantial improvements of existing buildings, where permitted, shall comply with all applicable flood hazard reduction provisions of subsections (1) and (2). Within approximate A zones, require that those subsections in subsection (2) above dealing with the alteration or relocation of a watercourse, assuring watercourse carrying capacities are maintained and manufactured homes provisions are complied with as required.

(6) Standards for areas of shallow flooding (AO and AH zones).

Located within the special flood hazard areas established in § 14-303(2) are areas designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one to three feet (1' - 3') 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 subsections (1) and (2), apply:



(a) There shall be no new construction of residential and non-residential buildings, as well as accessory buildings within any AO and AH zone.

(b) The re-construction and substantial improvements of existing residential and non-residential building shall have the lowest floor, including basement, elevated to at least one foot (1') above as many feet as the depth number specified on the FIRMs, 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 feet (3') 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 § 14-305(2).

(c) Any re-construction and substantial improvements of existing non-residential buildings may be flood-proofed in lieu of elevation. The structure together with attendant utility and sanitary facilities must be flood-proofed and designed watertight to be completely flood-proofed to at least one foot (1') 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 flood-proofed to at least three feet (3') 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 chapter and shall provide such certification to the administrator as set forth above and as required in accordance with § 14-304(2).

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

(7) Standards for areas protected by flood protection system (A99 zones). Located within the areas of special flood hazard established in § 14-303(2) 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 (A99 zones) all provisions of §§ 14-304 and 14-305 shall apply.

(8) Standards for unmapped streams (riverine areas, watercourses and small streams). Located within the Town of Kingston Springs, Tennessee, are unmapped streams where areas of special flood hazard are neither indicated nor identified. Adjacent to such streams, the following provisions shall apply:

(a) No encroachments including residential and non-residential buildings and accessory buildings, 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 at any point within the locality.

(b) 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 §§ 14-304 and 14-305. (1996 Code, § 14-305, modified)

**14-306. Variance procedures.** (1) Board of floodplain review.

(a) Creation and appointment. For the purpose of this chapter, the board of zoning appeals shall serve as the board of floodplain review.

The board of floodplain review is hereby established which shall consist of five (5) appointed members. The term of membership shall be three (3) years. Vacancies shall be filled for any unexpired term by the town commission.

(b) Procedure. Meetings of the board of floodplain review shall be held at such times, as the board shall determine. All meetings of the board of floodplain review shall be open to the public. The board of floodplain review 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 board of floodplain review shall be set by the legislative body.

(c) Appeals: how taken. Procedures of floodplain review 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 chapter. Such appeal shall be taken by filing with the board of floodplain review 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 one hundred dollars (\$100.00) for the cost of publishing a notice of such hearings shall be paid by the appellant. The administrator shall transmit to the board of floodplain review all papers constituting the record upon which the appeal action was taken. The board of floodplain review 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 twenty (20) 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.

(d) Powers. The board of floodplain review shall have the following powers:

(i) 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 (i.e., building

official or town engineer) in carrying out or enforcement of any provisions of this chapter.

(ii) Variance procedures. In the case of a request for a variance the following shall apply:

(A) The Town of Kingston Springs, Tennessee Board of Floodplain Review shall hear and decide appeals and requests for variances from the requirements of this chapter.

(B) 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 chapter to preserve the historic character and design of the structure.

(C) In passing upon such applications, the board of floodplain review shall consider all technical evaluations, all relevant factors and all standards specified in other sections of this chapter as well as pertinent standards and requirements cited in the municipal zoning ordinance, the municipal subdivision regulations and/or the municipal stormwater management ordinance, and:

(1) The danger that materials may be swept onto other property to the injury of others;

(2) The danger to life and property due to flooding or erosion;

(3) The susceptibility of the proposed facility and its contents to flood damage;

(4) The importance of the services provided by the proposed facility to the community;

(5) The necessity of the facility to a waterfront location, in the case of a functionally dependent use;

(6) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;

(7) The relationship of the proposed use to the comprehensive plan, local development policies and floodplain management program for that area;

(8) The safety of access to the property in times of flood for ordinary and emergency vehicles;

(9) 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; and

(10) 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.

(D) Upon consideration of the factors listed above, and the purposes of this chapter, the board of floodplain review may attach such conditions to the granting of variance, as it deems necessary to effectuate the purposes of this chapter. In so doing, the board of floodplain review shall consider input from the local flood administrator, the town engineer, building official, regional-municipal planning commission when appropriate.

(E) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result. Engineered "no rise" certificates and other required hydraulic data by the administrator shall be required to substantiate there is no increase of the base flood elevation.

(2) Conditions for variances. (a) Variances shall be issued upon a determination that the variance is the minimum relief necessary, considering the flood hazard and the factors listed in subsection (1) above.

(b) 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.

(c) 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 twenty-five dollars (\$25.00) for one hundred dollars (\$100.00) coverage, and that such construction below the base flood elevation increases risks to life and property.

(d) The administrator shall maintain the records of all appeal actions and report any variances to FEMA upon request. (1996 Code, § 14-306)

CHAPTER 4

**STORMWATER MANAGEMENT ORDINANCE**

**SECTION**

14-401. Stormwater management to be governed by stormwater management ordinance.

**14-401. Stormwater management to be governed by stormwater management ordinance.** Regulations governing stormwater management within the Town of Kingston Springs shall be governed by "Stormwater Management Regulations" and any amendments thereto.<sup>1</sup> (1996 Code, § 14-401)

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<sup>1</sup>Ord. #93-007, and all amending ordinances, are published as separate documents and are of record in the office of the town recorder.

## CHAPTER 5

### GRADING, SOIL EROSION, AND SEDIMENTATION CONTROL REGULATIONS

#### SECTION

- 14-501. Title.
- 14-502. Purpose.
- 14-503. Rules applying to text.
- 14-504. Definitions.
- 14-505. Application procedure.
- 14-506. Objectives and criteria for erosion and/or sediment control planning.
- 14-507. Inspection and enforcement.
- 14-508. Performance bonds.
- 14-509. Violations and penalty.

**14-501. Title.** This chapter will be known as the Kingston Springs Grading, Soil Erosion and Sedimentation Control Regulations Ordinance. (1996 Code, § 14-501)

**14-502. Purpose.** (1) Kingston Springs has in the past experienced development causing the displacement of large quantities of earth. Significant problems resulting from such development are erosion and sedimentation. The erosion is a dangerous activity in that it is the cause of contamination of water supplies and water resources. A buildup of sediment clogs watercourses, storm sewers, road ditches, and sinkholes or natural drainageways, resulting in reduced drainage capacities and causing flooding which produces substantial damage to public and private lands. In addition, sediment is unsightly, expensive to remove, and limits the use or disposition of water for most beneficial purposes. The result is a serious threat to the health, safety, and general welfare of the community.

(2) The general purpose of these regulations is to substantially reduce existing and future erosion and sedimentation damage in Kingston Springs and is designed to safeguard the health, safety and welfare of the citizens; to establish reasonable and flexible criteria for development to minimize potential erosion and sedimentation damage; to minimize the pollution by sediment of streams, ponds, and other watercourses; to minimize the danger of flood damage; and to preserve the natural beauty and esthetics of the community. (1996 Code, § 15-502)

**14-503. Rules applying to text.** For the purpose of these regulations certain rules of construction apply herein as follows.

(1) Words used in the present tense include the future tense; and the singular includes the plural, unless the context clearly indicates the contrary.

(2) The term "shall" is always mandatory and not discretionary, the word "may" is permissive.

(3) Except as specifically defined herein, all words used in these regulations have their common dictionary definitions. (1996 Code, § 15-503)

**14-504. Definitions.** The following definitions shall apply in the interpretation and enforcement of these regulations, unless otherwise specifically stated.

(1) "Accelerated erosion." Any increase over the rate of natural erosion as a result of land-distributing activities.

(2) "Board of town commissioners." The Kingston Springs Board of Commissioners.

(3) "Buffer zone." The strip of land adjacent to a lake or natural watercourse, the width of which is measured from the water to the nearest edge of the disturbed area. This buffer zone shall be at a minimum of twenty-five feet (25') wide and shall contain undisturbed natural vegetation which will confine, trap or deposit sediment or visible siltation. The width or nature of the buffer zone shall be based on its ability to trap and hold silt.

(4) "Certification." A signed, written statement by the town engineer or his designated representative, that specific work or construction, inspections or tests which were required have been performed and that such comply with the applicable requirements of these regulations.

(5) "County health department." The Cheatham County Health Department.

(6) "Cut." Portion of land surface or area from which earth has been removed or will be removed by excavation. The depth below original ground surface to excavated surface.

(7) "Debris basin." An impoundment area created by a barrier or dam built across a waterway, watercourse or at other suitable locations to retain rock, sand, gravel, silt, or other erodible material.

(8) "Developer." Any individual, firm, corporation, association, partnership, or other entity involved in commencing proceedings under this chapter to effect development of land for himself or another.

(9) "Diversion swale (ditch)." An excavated drainageway used above or below disturbed areas to intercept runoff and divert it to a desirable outlet across or at the bottom of a slope.

(10) "Embankment." A man-made or natural structure of soil, rock, or other erodible materials.

(11) "Erosion." The wearing or washing away of land surface by the action of wind, water, ice, or gravity.

(12) "Excavation." See cut.

(13) "Existing grade." The elevation of the existing ground surface prior to cutting or filling.

(14) "Fill." See embankment.

(15) "Finished grade." The final grade or elevation of the ground surface conforming to the proposed design.

(16) "Government agency." Any department, commission, independent agency, or instrumentality of the United States and of the State of Tennessee, and any county, city, authority, district, or other general unit.

(17) "Grading." Any operation or occurrence by which the existing site elevations are changed by cutting, filling, borrowing, stockpiling, or where any ground cover, natural or man-made, is removed, or any building or other structures are removed, or any water course or body of water, either natural or man-made, is relocated on any site, thereby creating an unprotected area. "Grading" shall be interchangeable with "land-disturbing activity."

(18) "Grading permit." A permit issued to authorize excavation and/or fill to be performed under these regulations.

(19) "Grassed waterway." A natural or constructed waterway, usually broad and shallow, established with approved erosion-resistant vegetation which conducts surface water from a field, diversion or other site feature.

(20) "Lake." Any water body, normally man-made by excavation or impoundment, fed by or along a perennial stream.

(21) "Mulching." The application of plant or other suitable materials on the soil surface to conserve moisture, hold soil in place, and aid in establishing plant cover.

(22) "Natural ground surface." The ground surface is in its original state before any grading, excavating or filling.

(23) "Off-site area." As used in this chapter, off-site area shall refer to that area outside the site area that is or may be adversely affected by sedimentation and siltation because of construction or work activity which is being or has been conducted on the site. The off-site area may be adjacent property or property some distance away.

(24) "Perennial stream." Any watercourse, regardless of size, which has flow of sufficient quantity and duration to support aquatic life. Reference to "stream" in this chapter is to be construed as reference to a perennial stream.

(25) "Permittee." Any person, firm, or entity to whom a permit is issued in accordance with these regulations.

(26) "Planning commission." The Kingston Springs Planning Commission.

(27) "Pond." Any water body, normally man-made by excavation or impoundment, along a wet-weather conveyance.

(28) "Professional architect." An architect duly registered or otherwise authorized by the State of Tennessee to practice in the field of architecture, including licensed landscape architects.

(29) "Professional engineer." An engineer duly registered or otherwise authorized by the State of Tennessee to practice in the field of engineering.



(30) "Regulated grading." Any grading performed with the approval of and in accordance with criteria established by the Kingston Springs Grading Code.

(31) "Sediment." Solid material, both mineral and organic that is in suspension, is being transported, or has been moved from its site of origin by air, water, ice, or gravity as a product of erosion.

(32) "Sediment barrier." Any artificial, temporary low dike built to prevent sediment from entering a water course and consisting of straw bales, silt fence (fabric), earthen berm, or similar approved material.

(33) "Sediment basin." See debris basin.

(34) "Sediment pool." The reservoir space allotted to the accumulation of trapped sediment during the life of the structure.

(35) "Site." Any tract, lot or parcel of land or combination of tracts, lots of parcels of land which is or are in one (1) ownership or are contiguous and in diverse ownership where grading, construction or development is to be performed or where such grading, construction or development is to be performed as part of a unit, subdivision or project.

(36) "Slope." Degree of ground surface inclination from the horizontal, usually expressed in percent or ratio.

(37) "Soil." All unconsolidated material and organic material or whatever origin that overlies bedrock which can be readily excavated.

(38) "Soil engineer." A professional engineer who is qualified by education and experience to practice applied soil mechanics and foundation engineering.

(39) "Stripping." Any activity which removes or significantly disturbs the vegetative surface cover including clearing and grubbing operations in preparation for development without the alteration of the prevailing topography.

(40) "Structural rock fills." Fills constructed predominantly of rock materials for the purpose of supporting structures.

(41) "Temporary protection." Stabilization of erosive or sediment producing areas using methods such as planting grass or wood chip or similar material mulching.

(42) "Town." The Town of Kingston Springs, Tennessee or Town of Kingston Springs or town or town herein.

(43) "Town engineer." A professional engineer employed or retained by the Town of Kingston Springs.

(44) "Universal soil loss equation." A method developed by the Agricultural Research Service, USDA, and used to estimate soil erosion based on rainfall, soil erodibility, slope of the land, length of slope, area size, and cover characteristics.

(45) "Vegetative protection." Stabilization of erosive or sediment producing areas by covering the soil with:

(a) Permanent seeding which produces long-term vegetative cover;

(b) Short-term seeding which produces temporary vegetative cover;

(c) Sodding which produces areas covered with a turf or perennial sod-forming grass; or

(d) Tree planting.

(46) "Watercourse." Any natural or artificial watercourse, stream, river, creek, channel, ditch, canal, conduit, culvert, drain, waterway, gully, ravine, street, roadway, or wash in which water flows in a definite direction or course, either continuously or intermittently, and which has a definite channel, bed or banks, and shall include any area adjacent thereto subject to inundation by reason of overflow of surface water. Wet weather conveyances and perennial streams are watercourses.

(47) "Wet weather conveyance." A watercourse, regardless of size, which exhibits water flow in response to precipitation. A wet weather conveyance normally does not have flow in sufficient quantity or duration to support aquatic life. (1996 Code, § 14-504)

**14-505. Application procedure.** The developer should consult the general development plans and detailed plans of any unit of government that affect the tract to be developed and the area surrounding it before development. He shall also become acquainted with the zoning ordinance, subdivision regulations, this chapter and other ordinances which regulate the development of land in the Town of Kingston Springs.

(1) Erosion and sediment control plan. No building permit, site plan, preliminary or final subdivision plat shall be issued or approved for a site or development, as defined herein, unless an erosion and sediment control plan for said site, prepared in accordance with the criteria described in *Tennessee Erosion and Sediment Control Handbook*, Tennessee Department of Health and Environment, November 1990, or as same may be amended, or other engineering procedures or methods adopted by the town, has been prepared and certified by a professional engineer or professional architect and submitted to and approved by the town engineer. The submission to said town engineer shall include an outline of design computations. Upon approval of said plan a grading permit, as hereinafter described, will be issued by the town engineer or his designee. It shall be the responsibility of the property owner to implement the erosion and sediment control plan. However, with residential subdivisions, the developer shall be responsible for implementation of the entire plan including drainage ways and erosion and sedimentation control measures that go through or across several lots in the subdivision with the homebuilder or contractor being responsible only for implementation of on-lot erosion and sedimentation control measures.

In order to insure that the developer implements these measures, the planning commission shall require these measures to be made a part of the performance and maintenance bonds of the subdivision. The erosion and

sediment control plan shall provide for erosion and sediment control measures or procedures in contemplation of grading or development of the entire site. If the development or grading substantially or adversely deviates from the erosion and sediment control plan, the planning commission may require:

- (a) Amendments to the plan;
- (b) Implementation of the original plan by the developer; or
- (c) Calling of the bond of the developer to implement the plan.

With single-family home sites, the erosion and sediment control plan may be prepared and certified for submission by a qualified person approved by the town engineer or his designee other than a professional engineer or professional architect. Once an erosion and sediment control plan has been approved by the town engineers or his designee for a particular site area, construction and improvements by contractors and homebuilders may proceed within the site without any further preparation or submission of erosion and sediment control plans. However, such construction and improvements shall be done in such a manner as to minimize erosion and sedimentation and shall be in accordance with the approved erosion and sediment control plan and grading permit.

In commercial and industrial subdivisions, planned unit developments, or planned areas containing more than one (1) proposed commercial or industrial enterprise the long term erosion and sediment control plan shall be prepared and certified by a professional engineer or professional architect and the developer of these sites shall post a bond with the planning commission to insure compliance with the plan during the development of the site. For individual commercial or industrial sites, the short term or temporary erosion and sediment control plan during the construction and/or grading period shall be prepared and certified by a professional engineer or professional architect, and the developer at these sites shall post a performance bond during development of the site. Where in the professional engineering opinion of the town engineer or his designee, proposed grading or land disturbance activity on a single commercial, industrial or residential lot will be so minimal or negligible as far as the effect on erosion, drainage or sedimentation. Town engineer or his designee, upon written application and administrative hearing, may grant a variance and exception to the requirement of preparation, certification and submission of an erosion and sediment control plan.

Whenever an area is to be disturbed or a subdivision plat or site plan is submitted to the town building inspector, a copy of an erosion and sediment control plan shall be filed with the town building inspector, ten (10) days prior to beginning any land-disturbing activity or contemporaneous with the filing of the subdivision plat or site plan. A copy of the plans shall also be on file at the job site.

If after approval of the erosion and sediment plan, the town engineer or his designee determines, upon an inspection of the job site, that there is a failure of the plan to adequately address the erosion or sediment problems of the site due to a physical condition not disclosed on the plan or man-made condition that

alters the effectiveness of the plan at the site and that this is causing a significant risk of off-site sedimentation or erosion, then the town engineer or his designee shall cause the developer, contractor, or person responsible for the activity ongoing at the site to submit a revised erosion and sediment control plan to the town or prove to the town engineer or his designee that the original plan will alleviate the problem. Pending the preparation of the revised plan, the work shall be suspended.

An amendment to a plan may be made at any time under the same procedure as followed for the original plan.

(2) Plan data required. Erosion and sediment control plans shall contain architectural and engineering drawings, maps, assumptions, calculations, and narrative statements as needed to describe adequately the proposed development of the site and the measures planned to meet the objectives and criteria of § 14-506 and the other requirements within § 14-505, erosion and sediment control plan content may vary to meet the needs of specific site conditions. The developer must submit the following information for the entire tract of land, whether or not the tract will be developed in stages:

- (a) Compliance with § 14-506 of these regulations.
- (b) A plan showing the property boundary.
- (c) Description of general soil conditions on the site available from the soil conservation district or acceptable soil scientist.
- (d) Location and description of existing physical features on the site of importance to soil erosion and sediment production.
- (e) Plans and specifications of soil erosion and sedimentation control measures for the entire site and individual building sites.
- (f) The engineering analysis for developing the erosion control and sediment control plan.
- (g) A timing schedule indicating the anticipated starting and completion dates of the development sequence and the estimated time of exposure of each disturbed area.

(3) Permits. A valid grading permit must be issued by the town engineer or his designee prior to the start of any activity which will cause an exposed or disturbed area on a site. The grading permit application must conform to and be based upon the erosion and sediment control plan for that particular parcel, lot, section, unit or site of the approved plan for that site. The erosion and sediment plan specifications and timing schedules as approved for the site shall be submitted with each application for grading permit. The town engineer shall review such plan and permit application within ten (10) working days and issue or deny the applicant's permit. If the town engineer or his designee fails to either issue or deny said permit within the ten (10) working days, then said permit shall be deemed approved and the applicant shall be allowed to proceed with the work as outlined upon his application.

Where a site plan or final subdivision plat has been approved by the planning commission or the lot or parcel is a lot of record prior to the adaptation

of this sediment and erosion control chapter, the applicant for a grading permit shall submit to the building inspector of Kingston Springs a simple sketch drawing of the individual site showing the area where earth disturbing activities will take place and that sediment barriers shall be placed around the disturbed area during the construction upon the site.

(4) **Exclusions.** No grading permit or erosion and sediment control plan shall be required for:

(a) Nursery operations, such as the removal and/or transplanting of cultivated sod, shrubs and trees;

(b) Garden plots and/or lawn preparation or landscaping activities on existing lots or parcels (unless the possibility for erosion and sedimentation or alteration of drainage is such to necessitate a grading permit as determined by the town building inspector);

(c) Agricultural practices such as plowing or cultivation. Construction of agricultural access roads is not excluded; or

(d) Sanitary landfills operated and conducted in accordance with the requirements, rules, and ordinances adopted by the Town of Kingston Springs and the State of Tennessee. (1996 Code, § 14-505)

**14-506. Objectives and criteria for erosion and/or sediment control planning.** Persons engaged in land disturbing activities shall take all reasonable measures to protect all public and private property from damage by such activities. The intent of these criteria is to provide the developer and the architect or engineer with a range of acceptable control measures for meeting the needs of each situation and for allowing opportunity for professional design judgment.

(1) **Basic control objectives.** The basic control objectives which are to be considered in developing and implementing an erosion and sedimentation control plan are to:

(a) Identify critical areas. On-site areas which are subject to severe erosion, and off-site areas which are especially vulnerable to damage from erosion and/or sedimentation, are to be identified and receive special attention.

(b) Limit time of exposure. All land-disturbing activities are to be planned and conducted to limit exposure to the shortest feasible time.

(c) Limit exposed areas. All land-disturbing activities are to be planned and conducted to minimize the size of the area to be exposed at any one (1) time.

(d) Control upgrade surface water. Surface water runoff originating upgrade of exposed areas should be controlled to reduce downgrade erosion and sediment loss during the period of exposure.

(e) Control sedimentation. All land-disturbing activities are to be planned and conducted so as to minimize both on-site and off-site sedimentation damage.

(f) Manage stormwater runoff. When the increase in the peak rates and velocity of stormwater runoff resulting from a land-disturbing activity is sufficient to cause accelerated erosion of the receiving watercourse, plans are to include measures to control both the velocity and rate of release so as to minimize accelerated erosion and increased sedimentation of the watercourse.

(2) Criteria for erosion and sediment control practices. (a) Performance criteria. Erosion sedimentation control measures, structures, and devices shall be planned, designed, constructed, operated and maintained as to provide effective soil erosion control from the calculated peak runoff rates using a ten (10) year frequency storm, or where warranted by local controlling factors and approved by the town engineer, different storm frequency. Runoff rates shall be calculated using procedures in the USDA Soil Conservation Service *National Engineering Handbook*, Section 4, Hydrology (NEH-4), USDA Technical Paper No. 149. *A Method for Estimating Volume and Rate of Runoff in Small Watersheds*, USDA Technical Release No. 55, *Urban Hydrology for Small Watersheds*, or other generally accepted calculation or engineering procedures. Runoff computations shall be based on rainfall data published by the National Weather Service for the Kingston Springs area, criteria from the Department of Environment and Conservation, and other references. The foregoing publications shall also apply as same may be amended.

(b) Retention of existing natural vegetation. Existing natural vegetation on any site forms a high degree of erosion control during and after construction activities. Therefore it is the intent of this chapter that any grading plan formulated pursuant to this chapter retain existing natural vegetation to the maximum extent permitted by erosion control principles. At the least there shall be within a buffer zone a natural barrier of vegetation which shall be left adjacent to all perennial streams, rivers and watercourses. This natural barrier of vegetation shall be at least twenty-five feet (25') wide measured from the top of bank to the stream, river or watercourse and no cuts, fills or construction shall be allowed within this area.

(c) Operations in lakes or perennial streams. Land-disturbing activity in connection with construction in, on, over, or under a lake or perennial stream shall be planned and conducted in such a manner as to minimize the extent and duration of disturbance of the lake or stream. The relocation of a stream shall be avoided, but where relocation is the only feasible alternative or where relocation is proven to reduce a hazardous condition and if the relocation is to be planned and executed so as to minimize changes in the stream flow characteristics, then relocation may be allowed. Aquatic Resource Alteration Permits (ARAP), issued by the State of Tennessee, may be required in addition to the permit(s) issued by the Town of Kingston Springs.

(d) Borrow and waste areas. When the person conducting the land-disturbing activity is also the person conducting the borrow or disposal activity, areas from which borrow is obtained and which are not regulated by state statutes and waste areas for surplus materials other than sanitary landfills regulated by the Town of Kingston Springs and the State of Tennessee shall be considered as part of the land-disturbing activity where the borrow material is being used or from which the waste material originated. When the person conducting the land-disturbing activity is not the person obtaining the borrow and/or disposing of the waste, these areas shall be considered a separate land-disturbing activity. Such separate borrow or waste areas may require separate permits.

(e) Access and haul roads. Temporary access and haul roads, and planned streets, accesses, drives or roads, constructed or used in connection with any land-disturbing activity shall be considered a part of such activity.

(f) Requirements. Any land-disturbing activity subject to this chapter shall be undertaken in accordance with the following requirements.

(i) No land-disturbing activity shall be permitted in proximity to a lake or perennial stream unless a buffer zone is provided along the margin of the watercourse of sufficient width to confine visible siltation or sediment deposit. This buffer shall be no less than twenty-five feet (25') wide and contain natural undisturbed vegetation. This subsection (i) shall not apply to a land-disturbing activity in connection with the construction of facilities to be located on, over, or under a lake or perennial stream.

(ii) The angle for graded slopes and fills shall be no greater than the angle which can be retained by vegetative cover or other adequate erosion control devices or structures. In any event, slopes left exposed will, within ten (10) working days of completion of any phase of grading, be planted or otherwise provided with ground cover, devices, or structures sufficient to restrain erosion.

(iii) Whenever land-disturbing activity is undertaken, a ground cover sufficient to restrain erosion must be planted or otherwise provided within thirty (30) working days on that portion of the land upon which further active construction is not being undertaken, including the watershed and drainage basin of a functioning sediment control basin. This subsection (iii) shall not apply to cleared land forming the basin of a reservoir later to be inundated.

(iv) A sediment basin or basins properly located and of adequate size to control soil erosion shall be constructed and

maintained in accordance with the criteria developed by the Tennessee Department of Environment and Conservation on all grading sites subject to this chapter except where the applicant can show in the grading plan that equal or better performance can result from other control techniques.

(A) No sediment basin or similar control shall be removed until all disturbed areas of the site in the watershed of the basin have been protected or permanently stabilized.

(B) All fill not located in the watershed of a sediment basin shall be protected by a sediment barrier left at the edge of the fill after each working day. The sediment barrier shall be of sufficient height so that no runoff water from the surface areas above will spill over the edge of the fill. Water retained by the barrier shall be diverted on a gentle grade to the nearest sediment basin or allowed to evaporate or percolate prior to the removal of the barriers. All cuts shall be protected from erosion effects of runoff from watersheds above them. The sediment barrier may consist of earthen material, straw bales, stakes and silt fence (fabric) or other such effective materials.

(g) Responsibility for maintenance. The person, firm or entity engaged in or conducting the land-disturbing activity shall be responsible for maintaining all temporary and permanent erosion and sedimentation measures and facilities during development of the site and for a period of one (1) year thereafter. If during the one (1) year repairs or maintenance are required to said measures and facilities, then there shall be a further period of responsibility of one (1) year for maintenance or repairs following such repairs of maintenance during the one (1) year period. Thereafter, such responsibility shall lie with the landowner.

(h) Failure of protective practices. If the Kingston Springs Town Engineer or his designee, determines that significant erosion or related problems are occurring on a graded site despite application and maintenance of the approved protective practices, he shall require the permit holder: to cease any land disturbing activities, to take immediate additional corrective actions to protect the disturbed area, and to prepare an amended erosion and sediment plan which will be presented at the town commission meeting. The town commission shall then approve, disapprove, modify, or decide to allow the former plan to stand. The permit holder may not proceed except in accordance with the decision of the town commission as to work that may be undertaken that does not disturb soil, create additional erosion or sediment, or that is corrective in nature. In the event that the permit is no longer in effect and the surety, if any, has been released, or there is no responsibility under subsection



(g), above, the town engineer shall give written notice to the property owner stating the conditions that are not in conformance with this chapter and that such must be corrected. The property owner shall have thirty (30) calendar days after the date of issuance of notice to present a plan for corrective action to bring the property into conformance. Upon approval of the plan by the town engineer or his designee, a development permit shall be issued for a period not to exceed sixty (60) days. Failure of the property owner to present such a plan within thirty (30) calendar days after the date of issuance shall constitute a violation of this chapter.

(i) Existing uncovered areas. All uncovered areas, existing on the effective date of this chapter, which resulted from land-disturbing activities and are experiencing continued accelerated erosion, and are causing off-site damage from sedimentation shall be provided with a ground cover or other protective measures, structures, or devices sufficient to restrain accelerated erosion and control off-site sedimentation.

(ii) The town commission shall serve upon the landowner, by certified mail, written notice to comply. The notice shall set forth the measures needed to comply. In determining the measures required, the commission shall take into consideration the technology and quantity of work required. Within thirty (30) days after such notice, the town commission shall hold a public hearing, during which the landowner shall be allowed to participate, to determine whether and to what extent corrective measures are necessary. Upon such a finding by the town commission, the landowner shall develop and submit a plan for such correction within thirty (30) days thereafter. Upon approval of the plan by the town engineer or his designee, the landowner shall have forty-five (45) days to implement the plan. Failure to submit a plan as required shall constitute a violation of this chapter.

(iii) This section shall not require that ground cover be provided on cleared land forming the basin of a reservoir later to be inundated. (1996 Code, § 14-506)

**14-507. Inspection and enforcement.** The requirements of this chapter shall be enforced by the town building inspector with aid from the town engineer, who shall inspect all such work, grading or construction so involved. If the town building inspector finds any person, firm or entity engaged in land-disturbing activities who fails to file a plan in accordance with this chapter, or who conducts land-disturbing activity in violation of these regulations or any approved plan, he may refuse to approve further work or issue a stop order, pending a hearing before the town commission. (1996 Code, § 14-507)

**14-508. Performance bonds.** Where erosion and sediment control techniques are required by the standards of this chapter, the town engineer shall require that sufficient security be posted with the town commission as will insure the construction and maintenance of such erosion and sediment control devices within the period set forth by the timing schedule of the plan. The security may be in the form of a performance and maintenance surety bond guaranteed by a bonding company licensed to do business in the State of Tennessee, a cash deposit to be held in escrow by the town commission, or a letter of credit. All such forms of security shall be in an amount not less than one hundred percent (100%) of the estimated cost of the control devices required with said estimates to be determined by the town engineer. (1996 Code, § 14-509)

**14-509. Violations and penalty.** Any person who violates any provision of this chapter, or rule or order adopted or issued pursuant to this chapter, or who knowingly or willfully initiates or continues a land-disturbing activity for which an erosion control plan is required except in accordance with the terms, conditions, and provision of an approved plan, shall upon conviction thereof by a court of competent jurisdiction be subject to a fine of not more than fifty dollars (\$50.00) together with the cost of the action. Every day of violation shall constitute a separate offense. Compliance therewith may also be enforced by injunctive process. (1996 Code, § 14-508, modified)

## CHAPTER 6

### SIGN ORDINANCE<sup>1</sup>

#### SECTION

- 14-601. Purpose, scope.
- 14-602. Definitions.
- 14-603. General provisions.
- 14-604. Permitted signs in residential districts.
- 14-605. Permitted signs in commercial and industrial districts.
- 14-606. Temporary sign provisions.
- 14-607. Nonconforming and noncomplying sign provisions.
- 14-608. Administration.
- 14-609. Legal status provisions.

**14-601. Purpose, scope.** (1) Legislative purpose. The purpose of these regulations is to promote the well-being of the community by establishing standards that assure the provision of signs adequate to meet essential communication needs while safeguarding the rights of the people in the community to a safe, healthful and attractive environment. Within this overall framework, it is the intent of these regulations to:

- (a) Protect the right to the use of signs for the identification of activities and any related products, services and events and for non-commercial messages;
- (b) Protect the right of individuals to privacy and freedom from nuisances;
- (c) Protect the value of property and improvements thereon;
- (d) Permit signs that are appropriate to their surroundings;
- (e) Assure that signs are constructed and maintained in a safe condition;
- (f) Encourage design that enhances the readability and effectiveness of signs;
- (g) Prevent signs from interfering with traffic regulatory devices or otherwise obstructing motorist or pedestrian vision;
- (h) Reduce traffic hazards;
- (i) Eliminate obsolete signs; and

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<sup>1</sup>The Town of Kingston Springs Board of Commissioners shall establish a schedule of fees due and collection procedure for appeals arising under this chapter. The schedule of fees due shall be as set forth in Appendix A to the Town of Kingston Springs Municipal Code, as amended by the board of commissioners from time to time.

(j) Provide an efficient and effective means of administration and enforcement.

(2) Scope. Except for signs permitted in all districts in § 14-603(4) herein, these regulations shall apply to all signs and their appurtenances that are visible from the outside of buildings including interior window signs and all exterior signs except those located within and visible only from within enclosed courtyards, malls, or similar enclosures.

These regulations shall not in any manner attempt to censure the written or depicted copy on any permitted sign. Any sign allowed under this chapter may contain, in lieu of any other copy, any otherwise lawful non-commercial message that does not direct attention to a business operated for profit, or to a commodity or service for sale, and that complies with size, location, height, lighting, and spacing requirements of this chapter. (1996 Code, § 14-601)

**14-602. Definitions.** For the purpose of this chapter the following definitions, terms, phrases, words, and their derivation shall have the meaning given herein.

(1) "Appeals board." The duly appointed board authorized by the town council to hear and act upon appeal of a decision of the enforcement officer or any request for a variance from any provision of this sign ordinance.

(2) "Area." The area or square footage enclosed by the perimeter of the sign face. With respect to signs which are composed of individual symbols, letters, figures, illustrations, messages, forms or panels, sign area shall be considered to include all lettering, wording, and accompanying designs and symbols, together with the background on which they are displayed, any frame around the sign and any "cut-outs" or extensions, but shall not include any supporting structure or bracing.

(3) "Building face or wall." All window and wall area of a building in one place or elevation.

(4) "Candlepower." The amount of light that will illuminate a surface one foot (1') distant from a light source to an intensity of one (1) footcandle. Maximum (peak) candlepower is the largest amount of candlepower.

(5) "Commercial complex." A building or group of buildings located upon a lot used or designed to be used for two (2) or more occupancies.

(6) "Copy." The wording or graphics on a sign surface.

(7) "Copy area." The smallest area within a contiguous single perimeter composed of one or more circles, triangles and/or rectangles that enclose the extreme limits of the actual copy of the sign.

(8) "Display surface area." The entire area within a single continuous perimeter enclosing the extreme limits of wording, representation, emblem, or any figure of similar character, together with any background materials, color, or area defined by a border or frame, any of which forms an integral part of the display or serves to differentiate such display from the structure to which it is affixed.

(9) "District." A zoning district as defined and established by the Kingston Springs Zoning Ordinance.

(10) "Enforcing officer." The chief enforcing officer or official appointed to enforce the terms of this chapter.

(11) "Establishment." A lawful entity, incorporated or unincorporated, that owns, rents, or leases space to conduct a commercial or noncommercial activity.

(12) "Facade." The entire building wall, including the main street wall face, parapet, facis, windows, doors, canopy and roof on any complete elevation.

(13) "Face." The part of the sign that is or can be used to identify, advertise, communicate information or for visual representation which attracts the attention of the public for any purpose. Sign face includes any background material, panel, trim, color and direct or self-illumination used that differentiates the sign from the building, structure, backdrop surface or object upon which or against which it is placed. The sign structure shall not be included as a portion of the sign face provided that no message, symbol, or any of the aforementioned sign face criteria are displayed on or designed as part of the sign structure.

(14) "Footcandle." A unit of illumination produced on a surface, all points of which are one foot (1') from a uniform point source of one (1) candle.

(15) "Height (of sign)." The vertical distance measured from the surrounding grade to the highest point of a sign. (The height of a sign shall be computed as the distance from the base of the sign at normal grade to the top of the highest attached component of the sign. Normal grade shall be construed to be the lower of:

(a) Existing grade prior to construction; or

(b) The newly established grade after construction exclusive of any filling, mounting and/or berming which occurs directly due to the construction of the sign.)

(16) "Item of information." The name of a business, service, product, or individual.

(17) "Lambert." The CGS unit of brightness of a perfectly diffusing surface that radiates or reflects light at a rate of one (1) lumen per square centimeter.

(18) "Lot." A lot, parcel, or piece of land which meets the legal requirements for use as a lot under the adopted zoning ordinance.

(19) "Major street or thoroughfare." Any street shown as such on the official major thoroughfare plan.

(20) "Major street or thoroughfare plan." A plan for future streets and street rights-of-way adopted by the Kingston Springs Planning Commission.

(21) "Noncomplying (sign)." Any sign which does not comply with one (1) or more standards or regulations in this chapter.

(22) "Nonconforming (sign)." Any sign which is not permitted within the district in which it is located.

(23) "Occupancy or premises site." Any principal or accessory use of or activity occurring upon the subject premises (zone lot).

(24) "Right-of-way." The proposed right-of-way as indicated on the official major street or thoroughfare plan, or as set forth by plat or plan for existing streets not planned for widening. Also defined as the line where the property meets the public street or public roadway provided that this definition shall not include unimproved alleys, easements or other similar dedicated uses.

(25) "Sign." Any writing (including letter, word or numeral), pictorial representation (including illustration or decoration); emblem (including device, symbol, or trademark); flag (including banner, streamer, or pennant); inflatable devices; or any other figure of similar character, which:

(a) Is a structure or any part thereof or is attached to, painted on, or in any other manner represented on a building or other structure;

(b) Is used to announce, direct attention to, or advertise; and

(c) Is visible from outside a building.

(26) "Signs, (types)":

(a) Abandoned. Any sign in which the functions of direction and/or identification of a bona fide business, lessor, owner, product or activity conducted or product available are obsolete.

(b) Accessory. Any sign that directs attention to a person, activity, or commodity on the same zone lot.

(c) Advertising (billboard). A sign which directs attention to a business, profession, commodity, service or entertainment conducted, sold or offered elsewhere than upon the same zone lot, including any expressive sign larger than fifteen (15) square feet; or directs attention to any brand name or trade name product that may be incidentally available on the same zone lot as the sign, provided the establishment offering the product is not associated with the brand or trade name of the product being advertising.

(d) Animated. A sign that is animated, moving, rotating or appears to be animated, moving or rotating.

(e) Area. The area or square footage enclosed by the perimeter of the sign face. With respect to signs which are composed of individual symbols, letters, figures, illustrations, messages, forms or panels, sign area shall be considered to include all lettering, wording, and accompanying designs and symbols, together with the background on which they are displayed, any frame around the sign and any cut-outs or extensions, but shall not include any supporting structure or bracing.

(f) Back to back. A sign constructed on a single set of supports with messages visible on any side, provided that double message boards are physically continuous.

(g) Balloon. Any inflatable, non-stationary, animated type of advertising sign.

(h) **Banner.** A sign having the copy applied to cloth, paper, or fabric of any kind with only such material for a backing. Banner shall include animated and/or fluttering devices designed to attract attention.

(i) **Building mounted.** Any sign attached to or supported by any building or other structure that has a purpose other than solely to support a sign, except a sign attached to any upright pole or support when the sign is wider than said pole or support, which shall be considered a freestanding sign.

(j) **Business.** A type of accessory sign that identifies or provides related information about commercial and manufacturing activity types.

(k) **Changeable copy.** A sign designed so the copy can be changed while the display surface remains unchanged; includes such signs as manually or electronically changed readerboards and fuel price displays.

(l) **Civic.** A type of accessory sign that identifies or provides related information about community facility activity types. More specifically such signs shall include:

(i) A sign, permanently erected or permitted in the public right-of-way or private property by the Town of Kingston Springs, Cheatham County, State of Tennessee, or other governmental agency to denote the name of any thoroughfare; the route to any city, town, village, educational institution, public building, historical place, shrine or hospital; to direct and regulate traffic; and to denote any railroad crossing, bridge, or other transportation or transmission company for the direction of safety of the public.

(ii) An on-premise temporary sign which contains information regarding the time and place for regular meetings of civic or religious groups.

(m) **Development.** A type of incidental sign that denotes the future facility, the architect, the engineer, the contractor, the lending agency and/or the developer on a construction site.

(n) **Dilapidated.** Any sign which is structurally unsound, has defective parts, or is in need of painting, or other maintenance.

(o) **Direct illumination.** All illuminated signs not included in the definition of Sign, Luminous Background or Sign, Indirect Illumination.

(p) **Directional.** Any sign which provides information relative to safely identifying vehicular entrances and exits to parking lots or traffic circulation areas for activities. Directional signs may include logo, symbols or a business name and shall not exceed three (3) square feet in size nor thirty inches (30) in height. Such signs shall be located on the private premises and only one shall be installed per driveway.

(q) Directory. A sign which lists the names of individuals, businesses, or products available at a single site.

(r) Double-faced. A sign with two (2) faces which are usually but not necessarily parallel.

(s) Electrical. A self-illuminated sign or sign structure in which electrical wiring, connections, and/or fixtures are used as part of the sign proper.

(t) Expressive. Any sign that expresses an opinion, feeling or point of view, such as political, ideological, religious, campaign, and good will signs. Depending on its size, an expressive sign may be an incidental, temporary, or a permanent advertising sign.

(u) Face. The part of the sign that is or can be used to identify, advertise, communicate information or for visual representation which attracts the attention of the public for any purpose. Sign face includes any background material, panel, trim, color and direct or self-illumination used that differentiates the sign from the building, structure, backdrop surface or object upon which or against which it is placed. The sign structure shall not be included as a portion of the sign face provided that no message, symbol, or any of the aforementioned sign face criteria are displayed on or designed as part of the sign structure.

(v) Festoon. A wreath of paper, flowers, leaves, strings of fringe or flags, etc., hanging in a loop or curve, or any carved or molded decoration resembling this, as hung or strung on poles, street furniture, buildings, or any object.

(w) Flashing. Any lighted or electrical sign which emits light in sudden transitory bursts.

(x) Ground. A sign permanently affixed to the ground by a foundation pedestal or other structure, such foundation, pedestal, or other structure being greater than three feet (3') in width or twelve inches (12) in diameter and not attached to any building.

(y) Handtacked. A temporary advertising sign commonly attached, tacked, hung, or suspended from any available structure, usually intended to announce an upcoming event such as a music performance, garage sale, or church bazaar.

(z) Height. The height of a sign shall be computed as the distance from the base of the sign at normal grade to the top of the highest attached component of the sign. Normal grade shall be construed to be the lower of existing grade prior to construction, or the newly established grade after construction exclusive of any filling, mounting and/or berming which occurs directly due to the construction of the sign.

(aa) Illuminated. A sign designed to give forth any artificial light or reflect such light from an artificial source.

(bb) Incidental. An accessory sign intended primarily for the convenience or direction of the public including: accessory residential



signs smaller than four (4) square feet that indicate name, address or home occupation; signs that indicate the types of credit available at a business; realty signs; signs with information that is warning in nature, such as danger, no trespassing or beware of dog, signs indicating temporary events such as a garage sale or open house; political yard signs; and expressive signs smaller than six (6) square feet.

(cc) Indirect illumination. Is any illuminated sign which is either a sign illuminated entirely from an external artificial source or an illuminated sign which all attached or internal artificial sources of illumination are not directly visible or are shielded by an opaque material.

(dd) Inflatable. A sign that is either expanded to its full dimensions, or supported by gasses contained within the sign, or sign parts, at pressure greater than atmospheric pressure.

(ee) Large residential. A type of accessory sign larger than three (3) square feet that indicates the name and/or address of a residential activity type that contains four (4) or more dwelling or rooming units; and shall include a sign at the principal entrance to any subdivision or residential planned unit development that contains more than twelve (12) dwelling units.

(ff) Luminous background. A sign created by trans-illuminating or backlighting of a translucent plastic or glass panel, or panels of similar material, which may be integrally pigmented, painted, or opaqued.

(gg) Moving message board. Any electrical sign having a continuous message flow across its face by utilization of lights, or other electrical impulses forming various words or designs, such as time and temperature.

(hh) Neon wall sign. Any use of neon or gas tubular lighting on the exterior building facade or canopy for the purpose of providing a wall sign for the business and/or to outline the exterior of the building or structure so as to draw visual attention to the business.

(ii) Off-premises. Any sign located or proposed to be located at any place other than within the same platted parcel of land on which the specific business or activity being promoted on such sign is itself located or conducted. For the purpose of this chapter, easements and other appurtenances shall be considered to be inside such platted parcel of land. Signs identifying public service, religions or civic club organizations not to exceed four (4) square feet as approved by the enforcing officer (sign) are exceptions to this definition.

(jj) On-premises. Any sign located or proposed to be located at any place, if otherwise permitted by this chapter, within the plat of record for the business or other activity identified on such sign.

(kk) Pennant. Any lightweight plastic, fabric, or other material, whether or not containing a message of any kind, suspended from a rope, wire, or string, usually in a series, designed to move in the wind.

(ll) Pole. A sign permanently affixed to the ground by means of one (1) or more poles, columns, uprights, or braces and not attached to a building.

(mm) Political. A sign erected by a political candidate, group, or agent thereof, for the purpose of advertising a candidate regarding an issue on which there will be a public vote.

(nn) Portable. Any sign which is movable, portable, or designed to be portable which is in the shape of an A frame, panel, or mounted on wheels or legs of any kind, whether or not permanently affixed to the ground or buildings.

(oo) Projecting. Any sign that:

(i) Is attached to a wall and projects outward from the wall more than twelve inches (12); or

(ii) Is suspended from any structure that constitutes a covering or shelter such as a canopy, portico, or marquee. Usually, though not always, the face of a projecting sign will be perpendicular to or from a wide angle with the surface to which it is attached.

(pp) Public service. A type of sign which is noncommercial that provides community service information or identification and includes church directional signs and civic club symbol or identification signs.

(qq) Realty. A type of incidental sign that temporarily provides information regarding the sale, lease, or rent of the premises or any improvements thereon which is no larger than six (6) square feet. All realty signs and auction sale signs shall be considered as being temporary signs.

(rr) Roof. Any sign attached to or mounted on any surface defined as a roof.

(ss) Structure. A structure, including uprights, supports, frames, display surfaces, and other appurtenances, intended to support and display one or more signs.

(tt) Temporary. Any sign that has a specific limitation in the amount of time that it can be displayed. Expressive signs with between six (6) and fifteen (15) square feet of display surface area shall be treated as temporary signs.

(uu) Vehicle. A permanent or temporary sign affixed, painted on, or placed in or upon any parked vehicle, parked trailer, or other parked device capable of being towed, which is displayed in public view such that the primary purpose of said display is to attract the attention of the public, rather than to serve the business of the owner thereof in the manner which is customary for said vehicle.

(vv) Wall. A type of building mounted sign:

(i) That is attached to a wall (including parapet wall) or other structure that supports a roof, including any sign that is part of or attached to a canopy or awning and any sign attached to any side face of a marquee;

(ii) That does not project outward more than twelve inches (12") from the surface to which it is attached; and

(iii) In which the sign face is parallel to the plane of the surface to which it is attached.

(27) "Tent." A collapsible shelter of canvas or other material stretched and sustained by poles, usually made fast by ropes attached to pegs hammered into the ground.

(28) "Town." When used herein shall mean the Town of Kingston Springs, Tennessee.

(29) "Travelway." That portion of public right-of-way that is improved for use by self-propelled vehicles, including paved or gravel areas and any other area intended for vehicle movement or storage.

(30) "Zone lot." A lot, parcel, or piece of land which meets the legal requirements for use as a lot under the adopted zoning ordinance. (1996 Code, § 14-602, modified)

**14-603. General provisions.** The following requirements apply to all signs in all districts.

(1) General standards. (a) No sign except for those specified in § 14-603(4) shall be erected until a permit has been obtained in accordance with § 14-608 of this chapter.

(b) No sign shall resemble or approximate the size, shape, form, or color of any official traffic control sign, signal, or device.

(c) No sign shall be placed so as to obstruct or interfere with the visibility or effectiveness of any traffic control sign, or with driver vision at any access points.

(d) On any corner lot no sign shall be erected or placed in a manner to impede or obstruct vision between a height of two and one-half (2-1/2) and ten feet (10') above the center line grades of the intersecting streets in the area bounded by the street lines of such corner lots and a line joining points along said street lines seventy-five feet (75') from the point of the intersection.

(e) No sign other than duly authorized governmental signs shall be erected or maintained within any public street right-of-way except those signs permitted by § 14-603(4) provided that incidental signs are not permitted within such public right-of-way.

(f) No sign shall be painted on or attached to any trees, rocks, fence posts, utility poles, or similar structures or objects.

(g) No sign shall obstruct any doorway, window, or fire escape.

(h) The light from any illuminated sign shall be so directed, shaded, or shielded that the light intensity or brightness shall not adversely affect surrounding or facing premises nor affect in any way the safe vision of operators of moving vehicles. Light shall not be permitted to shine or reflect on or into any residential structure.

(i) All signs shall be maintained in good condition at all times. Signs which are defaced, missing some or all illumination or characters, and whose finishes or facings are chipping, peeling, cracking, or broken in any way shall be deemed to be in disrepair. The owner shall be given ten (10) days written notice to comply with this chapter. Should the owner and/or property occupant fail to comply within the prescribed period, the continued use of such sign shall be a violation of this chapter.

(j) Signs shall conform to all national, state, and local electrical codes. All required permits shall be obtained.

(2) Calculation of display surface area. (a) The supports or uprights and any covering thereon on which one or more signs is mounted shall not be included in the display surface area.

(b) On signs in which the copy together with the background are designed as an integrated unit separate from the structure on which the sign is mounted, the display surface area shall be the total area within a perimeter that encloses the entire sign copy of background.

(c) On signs that do not have a distinct background separate from the structure on which the sign is mounted, the display surface area shall be the area within a continuous single perimeter composed of one (1) or more rectangles, circles, and/or triangles that enclose the extreme limits of the copy considered to be the sign.

(d) When two (2) sign faces of the same shape and dimensions are mounted back to back on the same sign structure and are either parallel or form an angle not exceeding thirty degrees ( $30^\circ$ ), only one of the sign faces shall be used to compute the display surface area. If the angle of the sign faces exceeds thirty degrees ( $30^\circ$ ), then both faces shall be used to compute the display surface area.

(e) In any district which permits advertising signs, the computation of display surface area shall include both advertising and accessory signs.

(f) On a corner lot, a permitted sign may be located along each street frontage according to the rules as cited within this chapter.

(3) Height of signs. The following general rules shall apply in the determination of the height of signs:

(a) The height of any sign shall be measured to the topmost point of the sign or sign structure from the average grade level at the base of the supports, or the base of any sign directly attached to the ground.

(b) The height of signs placed on berms, mounds, or similar landscape features or on hills or mounds left after a lot is graded shall be measured from the finished or established grade around such features.

(4) Signs permitted in all districts. The following signs are permitted in all districts and do not require a permit except as specifically noted:

(a) Official federal, state, and local government traffic, directional, or informational signs and notices issued by the court, person, or officer in the performance of an official public duty, provided such sign does not exceed four (4) square feet per sign face;

(b) Temporary signs warning of construction, excavation, or similar hazards, so long as the hazard may exist;

(c) Signs in the nature of decorations which are seasonal, clearly incidental and customarily associated with any national, local, or religious holiday;

(d) Commemorative or historical plaques and tablets. Such signs shall be authorized by the enforcing officer, and shall not exceed nine (9) square feet per face and six feet (6') in height;

(e) The official flag of a government, governmental agency, public institution, religious corporation, or other similar entity, or flags flown on a temporary basis for the purpose of honoring declared national or civic holidays. Flags may also be used as a part of a professionally designed and permanently maintained and landscaped entrance or design feature of a residential or commercial development, provided that the number of flags shall not exceed three (3). Flags mounted on poles shall meet the height and size requirements of the district in which they are located.

(f) Incidental signs subject to the following restrictions:

(i) Political signs shall not exceed 24 square feet and shall be removed no later than seven (7) days after the election;

(ii) Yard or garage sale signs shall be removed within twenty-four (24) hours after the sale, and shall not be erected longer than two (2) days; and

(iii) Expressive signs shall be removed within seven (7) days after an election, campaign, or event.

(g) Street names and addresses stamped or painted on sidewalks or curbs only by the proper governmental representative(s);

(h) Directional signs not exceeding four (4) square feet per face;

(i) Public service signs subject to the following standards:

(i) Church directory signs shall be located on private property and only with the owner's permission. Each church using such signs shall obtain a blanket permit covering all signs and specifying their locations;

(ii) Civic club signs for all such organizations in the town shall utilize single sign structure(s) with individual names or

symbols mounted thereon. Said structures may be located on the right-of-way or private property near the various entrances to the town on the major highways. All signs or symbols mounted on the sign structure may utilize unique colors or logos but shall be made of a standard type of material. Each site for a sign structure shall be landscaped. The sign structure, locations, materials, and landscaping shall be approved by the local enforcement official prior to their construction.

(j) Works of art that do not include any commercial messages, symbols, or references;

(k) No trespassing, no hunting, no fishing, no loitering, and like signs not exceeding one (1) square foot in area;

(l) Residential or commercial real estate signs not exceeding six (6) square feet per face, and two faces, and located only on the property that is for sale.

(5) Signs prohibited in all districts. The following signs or types of signs are prohibited in all districts and are hereby declared to be illegal.

(a) Any sign that is abandoned, deteriorated, unsafe, or not otherwise identified as defined in this chapter. An abandoned sign shall be removed within thirty (30) days of the notification of the owner of the property of the violation;

(b) Any sign which is painted on or attached to a vehicle or a vehicular trailer unless such vehicle is in operable condition, carrying all current and valid licenses, and used primarily for the transportation of goods and/or persons in the everyday and ordinary course of business of the owner thereof. Any sign constructed in the bed of a pick-up truck advertising the identity of a business or products available on or off the premises shall be included herein as a prohibited sign;

(c) Signs which are made structurally sound by guy wires or unsightly bracing;

(d) Signs which contain any kind of strobe or pulsating lights;

(e) Animated signs;

(f) Banner signs, festoons, and tents except as specifically permitted in § 14-106;

(g) Any sign with direct illumination provided by exposed bulbs or lamps;

(h) Flashing signs;

(i) Handtacked signs;

(j) Portable signs;

(k) Roof signs;

(l) Inflatable signs or tethered balloons of all shapes and types;

and

(m) No signs advertising goods and products not being sold on the occupancy site or property (see definition of occupancy). (1996 Code, § 14-603)

**14-604. Permitted signs in residential districts.** Within the residential districts as delineated by the Kingston Springs Zoning Ordinance, permanent accessory signs are permitted subject to the provisions as set forth herein:

(1) Accessory civic signs. (a) A community facility activity may have one (1) civic sign constructed as a ground sign or a wall sign.

(b) A ground sign shall not exceed four feet (4') in height and twenty-five (25) square feet in size. Ground signs which are integrated into an attractive brick, stone, or wood architectural feature or an earth berm, all of which shall be permanently landscaped, may exceed four feet (4') in height to a maximum of seven feet (7').

(c) A wall sign shall not exceed twenty-five (25) square feet in size.

(d) Civic signs may be illuminated by indirect means or with luminous background. Indirect lighting shall not exceed fifty (50) footcandles, and a luminous background shall not exceed ninety-foot (90') lamberts in brightness. In no event shall the light from any sign exceed one (1) footcandle at the lot line.

(e) Civic signs shall be set back from the street right-of-way a minimum of fifteen feet (15').

(2) Large residential signs. (a) Large residential signs may be permitted at the main entrances to a subdivision or to a planned unit or multi-family development containing twelve (12) or more dwelling units subject to the approval of the planning commission.

(b) One (1) sign may be permitted, on either side of the entrance, if such sign is on private property. If there is a median in the entrance street, such sign may be located in the median.

(c) All large residential signs shall be integrally designed as a part of a permanently constructed and maintained wall, fence, or similar feature or shall be a ground sign. All such areas shall be attractively landscaped.

(d) A large residential sign shall not exceed twenty-five (25) square feet in size.

(e) The maximum height of such sign shall be four feet (4') when constructed as a ground sign. A ground sign which is integrated into an attractive brick, stone, or wood architectural feature or an earth berm, all of which shall be permanently landscaped, may exceed four feet (4') in height to a maximum of seven feet (7').

(f) Any large residential sign and the attendant landscaped area shall be owned and maintained either by the owner/developer or by a legally established homeowners association.

(g) Any lighting on such signs shall be integrated into the entrance feature and shall be subdued and shall light only such sign. No light shall shine or reflect on or into any nearby residential structure. (1996 Code, § 14-604)

**14-605. Permitted signs in commercial and industrial districts.**

(1) Within the commercial and industrial districts, as delineated by the Kingston Springs Zoning Ordinance, the following provisions shall apply.

(a) Projecting signs are permitted subject to the following standards:

(i) A use may be permitted to have one (1) projecting sign attached to the front of the building.

(ii) Such sign shall not exceed forty (40) square feet in display surface area.

(iii) In all districts, except C-1, such sign shall not project into the public right-of-way and in no case shall such sign be closer than five feet (5') from the curb or edge of pavement of the travel way, or no less than fifteen feet (15') from the right-of-way, whichever is more restrictive. In a C-1 district, a projecting sign shall be no closer than five feet (5') from the curb or edge of pavement of the travel way.

(iv) Such sign shall not exceed twenty feet (20') in height measured from the bottom of the sign provided that in no case shall such sign extend above the roof line of the building to which it is attached.

(v) In all districts, except C-1, such sign shall clear the established grade by a minimum of ten feet (10'). In a C-1 district, this minimum clearance is eight feet (8').

(vi) Such sign shall be no closer than thirty feet (30') to any other projecting sign.

(b) Wall signs are permitted subject to the following standards:

(i) The display surface area of such sign shall not exceed ten percent (10%) of the square footage of the wall to which it is attached, and occupy more than forty (40) square feet of said surface area.

(ii) Such sign shall be located on the front wall of the building which is oriented to the street from which access is derived. For uses with two street frontages, wall signs may be located on a wall for each frontage. For uses not oriented to a public street, the wall considered to be the front of the use shall be used for location of such signage.



(iii) Such sign shall not extend above the roof line of the building to which it is attached nor shall such sign project outward from the building more than twelve inches (12").

(iv) Such sign placed in the horizontal space between windows of a two (2) story building shall not exceed in height more than two-thirds ( $2/3$ ) of the distance between the top of the window below and the sill of the window above.

(v) Such sign shall not cover or interrupt major architectural features of the building.

(vi) If a use utilizes both wall and projecting signs, the total display surface area for each type of sign shall not exceed forty (40) square feet.

(c) Pole or ground signs are permitted subject to the following standards:

(i) A use shall be permitted to have one (1) ground or pole sign for each street frontage.

(ii) Such sign shall have a maximum display surface area of forty (40) square feet.

(iii) The maximum height of a pole sign shall be thirty feet (30') and of a ground sign four feet (4'). Ground signs which are integrated into an attractive brick, or stone, or wood architectural feature or an earth berm, all of which shall be permanently landscaped, may exceed four feet (4') in height to a maximum of seven feet (7').

(iv) The number of signs permitted on a sign structure shall be limited to one (1) sign, except that an additional sign which is a changeable copy sign may be permitted with a maximum display surface area of twenty (20) square feet.

(v) Such sign shall be set back from the right-of-way a minimum of fifteen feet (15').

(d) Development signs are permitted subject to the following standards:

(i) A development sign may be located at the major entrance to a new development. Said sign shall be removed within one (1) year of the approval of the development by the enforcing officer, provided that in the case of a multi-year development the time for removal may be extended by the enforcing officer one (1) additional year for each year the development is under continuous construction. Such signs may be either a pole or ground sign.

(ii) A development sign shall not exceed two hundred (200) square feet in size or fifteen feet (15') in height.

(iii) A development sign shall not be lighted.

(iv) Any development sign shall be set back from the street right-of-way a minimum of twenty feet (20').

(e) The following provisions and standards shall apply to commercial complexes.

(i) A commercial complex may be permitted one (1) pole or ground sign for each street frontage identifying the name of the complex or business. In the event a street frontage is in excess of two hundred-fifty feet (250') in length, one (1) additional sign shall be permitted. The maximum size of each such sign shall be a ratio of one-half (1/2) of one (1) of square footage of sign area to the length of the street frontage, or the front facade of the building, whichever is greater, with a maximum aggregate sign area of one hundred (100) square feet. No single type of sign shall exceed fifty (50) square feet in size. Such sign shall not exceed thirty feet (30') in height or the height of the building, whichever is less, if a pole sign; or four feet (4') in height if a ground sign. Ground signs which are integrated into an attractive brick, stone, or wood architectural feature or an earth berm, all of which shall be permanently landscaped, may exceed four feet (4') in height to a maximum of seven feet (7'). In the event the above ratio results in a sign less than fifty (50) square feet in size, then a minimum size sign of fifty (50) square feet shall be permitted.

(ii) Additional signage may be permitted on the building(s) within the complex and shall be either wall signs, projecting signs, or signage painted on glass windows, or a combination thereof. Such signage shall be in scale with the size of the wall of the building upon which it is located and be architecturally compatible. The display surface area of such signage shall not exceed ten percent (10%) of the square footage of such wall and may be apportioned for multiple occupants, with each occupant being entitled to an equal share of the display surface area. Signs attached to the inside of windows and intended to be viewed from the exterior of the building shall cover no more than twenty-five percent (25%) of such window.

(iii) In lieu of a pole or ground sign identifying the name of the complex, such commercial complex may utilize a directory sign identifying individual occupancies subject to the same size requirements as in subsection (i) above with each occupant being entitled to one (1) directory panel. This provision may also apply to businesses on any cul-de-sac street in a C-2 zone not exceeding one-quarter mile in length with two or more businesses addressed to that street.

(iv) A commercial complex may also be permitted entrance identification signage. Two (2) signs may be permitted, one (1) on either side of the entrance and both shall be on private property. If there is a median, a sign may be located on the subject

property in the median. All such signs shall be integrally designed as a part of a permanently constructed and maintained brick, stone, or wood architectural feature or earth berm, all of which shall be permanently and attractively landscaped and privately maintained. No sign shall exceed twenty-five (25) square feet in size nor seven feet (7') in height.

(f) Signs may be illuminated subject to the following standards.

(i) Exposed bulbs are prohibited.

(ii) No sign shall change color or intensity.

(iii) The brightness and surface illumination shall not exceed:

(A) Luminous background - one hundred fifty (150) foot lamberts; and

(B) Indirect illumination - fifty (50) footcandles.

(iv) In no event shall the light from any illuminated sign exceed one (1) footcandle at the property line of any lot that is zoned residential.

(v) The light from any illuminated sign shall be shaded, shielded, or directed so that the light intensity or brightness shall not adversely affect the surrounding or facing premises nor adversely affect safe vision of operators of vehicles moving on public or private streets or parking areas. Light shall not shine or reflect on or into any residential structure.

(g) This section shall apply only to those uses engaged in the retail petroleum and petroleum products business. The following additional (supplemental) provisions shall apply. Each such use shall be permitted:

(i) One (1) permanent price sign per street frontage. Such sign shall be affixed to or made part of the permitted pole sign and shall not exceed twenty (20) square feet in size. Such sign shall be set back from the right-of-way a minimum of fifteen feet (15').

(ii) Two (2) non-illuminated self-service or full-service signs per pump island. Such signs shall not exceed one hundred sixty (160) square inches per sign and shall be located at the ends of the pump island perpendicular to the street. Also, a "pump topper" sign no larger than eighty (80) square inches per sign shall be allowed on each pump.

(h) This section shall be applicable only to movie houses or theaters. The following additional (supplemental) provisions shall apply.

(i) In lieu of a wall sign or in combination therewith, a marquee structure may be permitted which may have signage thereon. Such marquee may project over a private sidewalk or driveway but not over a public right-of-way. Such marquee

structure shall be permanently attached to the principal building, and be located no closer than five feet (5') from the edge of curb or edge of pavement.

(ii) Where the building contains more than one (1) theater, additional display surface area may be permitted up to a maximum of thirty (30) square feet of sign area for each theater. This sign area shall be in addition to an identification sign for the theater(s).

(2) Advertising signs (billboards). Advertising signs may be permitted only within the C-2, and I-1 zoning districts, and oriented thereto and subject to the standards that follow below. No new billboard or off-site sign can be located within the corporate limits of Kingston Springs with the exception of such signs which are addressed in (2)(c) below:

(a) All advertising signs shall be freestanding and mounted upon a single support pole, and shall not be double stacked or constructed side by side.

(b) The maximum display surface area shall be six hundred (600) square feet.

(c) An advertising sign shall not be located on the same lot as any other use.

(d) No advertising sign shall be located on or extend across any public right-of-way.

(e) No new advertising signs shall be erected by a sign company under any circumstances until it has removed an equal number of non-conforming advertising signs which it operates. Hence, no new billboards or advertising signs shall be constructed except to replace already existing advertising signs or billboards that were currently in existence at the time this chapter was officially adopted. In all such cases they can be no larger than six hundred feet (600') in area.

(f) The minimum distance between advertising signs located along and oriented toward the same public street shall be no less than two thousand feet (2,000') and shall be applied as follows:

The spacing requirements shall be applied separately to each side of a public street.

The spacing requirements shall be applied continuously along the side of a street to all signs oriented toward that street in either direction whether the signs are in the same block or are in different blocks separated by an intersecting street.

(g) No advertising sign shall be located closer than one thousand five hundred feet (1,500') from any other such sign regardless of location or orientation.

(h) The spacing between signs oriented toward and located along the same side of a street shall be measured along the public street line and shall be the distance between points "A" and "B" as illustrated

by the dashed lines shown on diagrams 1 and 2 within the appendix of this chapter.<sup>1</sup>

(i) The spacing between signs oriented toward different streets and between those oriented toward but located on opposite sides of the same street shall be the straight line distance between the nearest point of each sign.

(j) The maximum height of advertising signs shall be thirty-five feet (35') above the elevation of the pavement nearest the sign.

(k) The illumination standards contained in § 14-605(1)(e) shall apply, provided that the brightness and surface illumination shall not exceed:

(i) Luminous background - two hundred (200) foot lamberts; and

(ii) Indirect illumination - seventy-five (75) footcandles.

(l) No advertising sign shall be located closer than six hundred feet (600') from any property zoned residential. (1996 Code, § 14-605)

**14-606. Temporary sign provisions.** Temporary signs shall be permitted for any lawful activity on a lot or parcel subject to the provisions set forth herein.

(1) **General requirements.** (a) A permit shall be required for all temporary signs except yard sale signs and pointer signs for such sales and real estate.

(b) Banners may be used as temporary signs provided that such banners shall be securely affixed to the principal building.

(c) One (1) temporary sign may be permitted for each three hundred feet (300') of street frontage on a public street.

(d) All such signs shall be securely installed or fastened and positioned in place so as not to constitute a hazard of any kind.

(e) No temporary sign shall be displayed on a roof.

(f) No temporary sign shall be permitted to project into or over any public street right-of-way, except a banner or festoon announcing a fair, festival, parade, Christmas festivities, town sponsored activity, or similar activity that will be open to the general public.

(g) Temporary signs are permitted at construction sites for the purpose of identifying names of contractors, consultants, etc., and shall be limited to four (4) items of information.

(h) Tents, but only when fireworks may legally be sold within the town limits. These are subject to all provisions related to fireworks within the town code.

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<sup>1</sup>Diagrams 1 and 2 are located at the end of this chapter.

(i) Temporary development signs are permitted to announce the name, developer, and type of development for a new development which has either a plot (site) plan, or preliminary master plan approval. (See § 14-605(1)(d) for applicable design standards).

(j) Pointer/directional signs are permitted only when the sale or special event is to take place within the municipal boundaries of the Town of Kingston Springs.

(k) It is explicitly understood that any property owner who allows a pointer/directional sign to be posted on their property is thereby held responsible for the removal of said sign at the conclusion of the sale or special event.

(2) Duration of temporary signs. Display of temporary signs shall be limited as follows:

(a) Construction signs permitted in § 14-606(1)(g) shall be removed upon completion of the project.

(b) Signs for special events open to the general public shall be limited to thirty (30) days.

(c) Signs for special sales or business promotions shall be limited to fifteen (15) days.

(d) Display of all temporary signs on a lot or parcel except for those in § 14-606(2)(a)(i) shall be limited to a maximum of ninety (90) days per calendar year.

(e) Temporary development signs shall be limited to the period of time that the project is under development, as limited by the zoning ordinance, subdivision regulations, and/or Standard Building Code.

(f) Pointer/directional signs may only be posted on the day of the sale or special event.

(3) Display surface area, height, and illumination. Maximum display surface area shall be thirty (30) square feet except for street banners which shall not be limited:

(a) Maximum height shall be twelve feet (12'), except that banners displayed over a public street shall have a minimum clearance of fifteen feet (15'). This shall also apply to festoons and lights during the Christmas season.

(b) Temporary signs shall not be illuminated except in commercial or industrial districts, with the exception of the Christmas season.

(c) The maximum display surface area for a temporary development sign shall be forty (40) square feet.

(d) The maximum display surface area for a pointer/directional sign shall be four (4) square feet.

(4) Location of temporary signs. No temporary sign shall be located on public right-of-way, public property, utility pole, or fence:

(a) The minimum distance between any two (2) such signs on the same lot shall be one hundred fifty feet (150').

(b) No temporary signs shall be closer than fifty feet (50') from any permanent sign.

(c) Pointer/directional signs may be posted on the property that the sale or special event is to take place on as well as up to two (2) additional properties with the maximum number of signs on those two (2) additional properties being one (1) sign per property. (1996 Code, § 14-606)

**14-607. Nonconforming and noncomplying sign provisions.**

(1) Any sign lawfully existing at the time of the enactment of this chapter but which is not permitted either by type of sign, location, or district or which fails to meet the standards on regulations shall be classified as either nonconforming or noncomplying as per definitions. Nonconforming signs shall be classified as "grand-fathered" signs, and shall be removed only when the enforcing officer utilizing certain appropriate sections of the adopted building code, the adopted building code, the town code of Kingston Springs, and/or various provisions of this chapter deem such signs as being dilapidated and constituting a definite health hazard to the public, however, that any advertising sign located within six hundred sixty feet (660') of a federal highway as defined by the Federal Highway Beautification Act, 23 U.S.C. § 131, and oriented to that highway shall not be removed until compensation can be made to the extent required by law. Nonconforming portable and hand-tacked signs and signs in a public right-of-way shall be removed within forty-five (45) calendar days. Nonconforming flashing or animated signs shall be caused to stop flashing or animation within forty-five (45) days.

(2) Alterations to nonconforming and non-complying signs. A nonconforming or non-complying sign may be altered subject to the following conditions:

(a) That the degree of nonconformance or noncompliance is not increased as apply to on-premises signs. Such alterations are limited to the changing of a copy of a permitted changeable copy sign, or the painting or refinishing of the surface of a sign face or sign structure so as to maintain an adequate appearance. The alterations of advertising signs which are nonconforming or non-complying must adhere to all the requirements cited in § 14-605(2). In all cases, the business owner shall obtain a sign permit in accordance with the terms of this chapter.

(b) If any nonconforming sign is removed as per the requirements cited in subsection (1) above or for any other reason, with the exception of advertisement signs (billboards), it shall not be allowed to be replaced.

(c) If any non-complying sign is removed with the exception of advertisement signs (billboards), it can only be reconstructed if it is

brought into compliance with all applicable yard, setback, size, and height requirements as stipulated within this chapter. (1996 Code, § 14-607, modified)

**14-608. Administration.** (1) Sign permit application. (a) An application for a sign permit must be filed at town hall at the enforcing officer's office.

(b) An application for a sign permit shall be made upon forms provided by the enforcing officer. The application shall be accompanied by a signage plan for the lot which shall include all signs, existing and proposed.

(c) For any lot on which the owner proposes to erect any sign requiring a permit, signage plan shall be submitted containing the following:

- (i) An accurate surveyed plot plan of the lot;
- (ii) Location of all buildings on the lot;
- (iii) Computations of the total sign area, the area of individual signs, height and dimensions of individual signs, and locations of signs on the lot and/or buildings; and
- (iv) Standards for consistency among all signs on the lot and/or buildings with regard to color scheme, graphic style, lighting, materials, location on buildings, and proportions.

(d) The signage plan may contain such other restrictions as the owner of the lot may determine which are in conformity with the provisions of this chapter and shall be signed by all owners of the property.

(e) A signage plan may be amended by filing a new plan with the enforcing officer which conforms to all requirements of this chapter.

(f) After approval of a signage plan by the enforcing officer, no sign shall be erected, placed, painted, or maintained, except in conformance with such plan, and such plan may be enforced in the same way as any provision of this chapter. In case of any conflict between the provisions of this chapter and the provisions of any sign plan, this chapter shall control.

(g) An application for a sign permit shall contain the following:

- (i) Name, address, and phone number of the property owner;
- (ii) Name of persons or firms, as well as its town business license number thereof erecting the sign and all structures;
- (iii) Written consent of the owner of the building or lot, if different from the applicant, where such sign is to be erected or attached.
- (iv) The approximate value of the sign to be installed including the installation cost.



(h) The Town of Kingston Springs Board of Commissioners shall establish a schedule of fees and collection procedure for sign permits. The schedule of fees due pursuant to this section shall be as set forth in Appendix A to the Town of Kingston Springs Municipal Code, as amended by the board of commissioners from time to time. Said fees may cover all signs included on the plan or may apply to any sign being changed. See subsection (7) of this section for the penalties associated with a failure to obtain a sign permit.

(i) A sign permit shall become null and void if construction has not begun within three (3) months of the date of issuance of the permit.

(2) Exceptions. The following signs shall be exempt from the payment of fees:

(a) Incidental signs, with the exception that a cash bond or escrow must be filed with the enforcing officer to ensure that such signs will be removed promptly as mandated in § 14-603(4) of this chapter.

(b) Official federal, state, and local government signs.

(c) Commemorative or historical plaques.

(3) Appeals. Any person aggrieved by any action of the enforcing officer in denying or issuing a sign permit as herein described may, within thirty (30) days, appeal for a variance or other relief in writing to the board of sign appeals through the enforcing officer. Action on any permit, the issuance of which has been appealed, shall be suspended pending final decision of the said board on the appeal. The board may set such appeal for public hearing giving such notice to the public or to persons concerned with such appeal as the board deems advisable and in keeping with state law.

(4) Creation of the board of sign appeals. There is hereby created a board of sign appeals. Said board shall consist of five (5) members appointed by the mayor for a term of three (3) years. Members shall first be appointed for terms of one (1), two (2), and three (3) years with two (2) members receiving a two (2) year term and two (2) members a three (3) year term. The board shall elect a chairman from its members.

The town shall provide a secretary to keep all records of the board.

(5) Powers and duties of the board. The board of sign appeals shall have the following powers and duties:

(a) To hear and decide appeals where it is alleged by the appellant that there is an error in any order, requirement, decision, determination, or refusal made by the enforcing officer.

(b) To hear and decide requests for variances from the provisions of this chapter according to the criteria cited within subsection (6)(b)(vi) below.

(6) Standards for appeal decisions. Before granting any relief from the application of the provisions of this, the board shall make specific findings of fact justifying the case under appeal:

(a) For a finding of error, the board shall state the section of the ordinance that is being appealed and how the enforcing officer erred in the application of the ordinance requirements.

(b) For an action granting a variance, the board shall state the provisions being varied and shall grant the minimum variance to satisfy the relief of hardship, and shall state the specific hardship which justifies the variance.

The board shall not grant a variance unless it makes findings based upon evidence presented to it as follows:

(i) The particular physical surroundings, shape, or topographic conditions of the specific property involved that would result in an exceptional hardship upon the owner as distinguished from an inconvenience.

(ii) The conditions upon which the petition for a variance is based would not be applicable to other similarly situated properties.

(iii) The hardship has not been created by any person having an interest in the property.

(iv) Financial returns only shall not be considered as a basis for granting the variance.

(v) The variance will not be detrimental to the public welfare, injurious to other property, or to the intent and spirit of this chapter.

(vi) The variance does not confer a special privilege to the applicant that is denied to others.

(c) Under no circumstances shall the board grant a variance to allow a sign which is not permitted by this chapter.

(d) The board may impose such conditions and restrictions upon the premises benefitted by the variance as may be necessary to reduce or minimize any injurious effect upon adjoining uses or property, and to better carry out the general intent of this chapter.

(7) Violations and penalty. Any person, firm, or corporation violating any provisions of this chapter shall be guilty of a misdemeanor, and upon conviction thereof, shall be fined not more than fifty dollars (\$50.00) per offense. Each day that a violation continues shall be considered a separate offense and an additional violation. If within seven (7) days, the owner of a sign fails to contact the enforcing officer in order to bring said sign into compliance with this chapter, or to obtain a permit for said sign, the enforcing officer is herein empowered to have the sign removed and impounded without any further notice.

(8) Impoundment of signs. The enforcing officer shall have the authority to remove all signs, without notice to the owners thereof, placed within any street right-of-way, or attached to trees, fence posts, telephone poles, utility poles, or other natural features, or signs otherwise prohibited within this chapter, and to impound them for a period of ten (10) days. The owner of a sign

impounded may recover same upon the payment of fifty dollars (\$50.00) for each sign, prior to the expiration of ten (10) days.

The owner, tenant, or occupant of any building, structure, premises, or any part thereof, and any contractor, builder, architect, engineer, agent, or other person who commits, aids or participates in, or maintains such violation may be found guilty of a separate offense and suffer the penalties as provided herein. (1996 Code, § 14-608, as amended by Ord. #21-001, Feb. 2021)

**14-609. Legal status provisions.** (1) Exercise of police power. This entire ordinance shall be deemed and construed to be an exercise of the police power of the Town of Kingston Springs, Tennessee, adopted under the authority of *Tennessee Code Annotated*, § 6-19-101, for the preservation and protection of the public's health, safety, morals, and general welfare and pursuant to all other powers and authorities for the aforesaid purposes and all of its provisions shall be liberally construed with a view toward effectuation of such purposes.

(2) Severability. If any section, clause, provision, or portion of this chapter is 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 chapter which is not of itself invalid or unconstitutional.

(3) Conflict with other ordinance. In case of conflict between this chapter or any part hereof, and the whole or part of any existing or future ordinance of the town, the most restrictive provision shall in all cases apply.

(4) Interpretation. Words herein in the singular number shall include the plural, the present tense shall include the future, and the masculine gender shall include the feminine and neuter.

(5) Effective date. This chapter shall take effect and be in force form and after its passage, the public welfare demanding it.

(6) Failure to comply. Failure to comply with the sign ordinance of the Town of Kingston Springs may lead to the removal of the sign(s) that are not in compliance with said ordinance, a citation to municipal court, or both. (1996 Code, § 14-609)

**APPENDIX ILLUSTRATIONS  
SEE NEXT PAGE**

LOCATION OF ADVERTISING SIGNS

DIAGRAM 1

Spacing of Signs  
Along Curved Streets

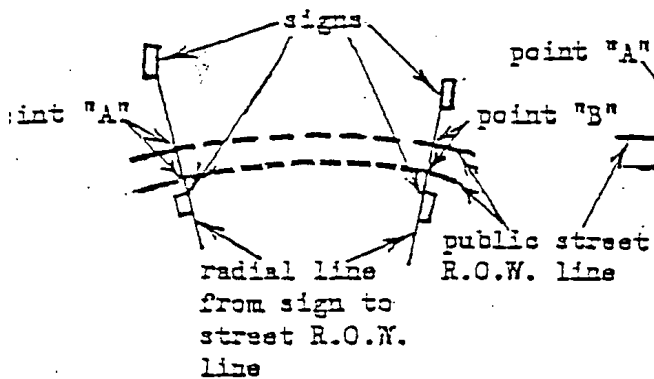
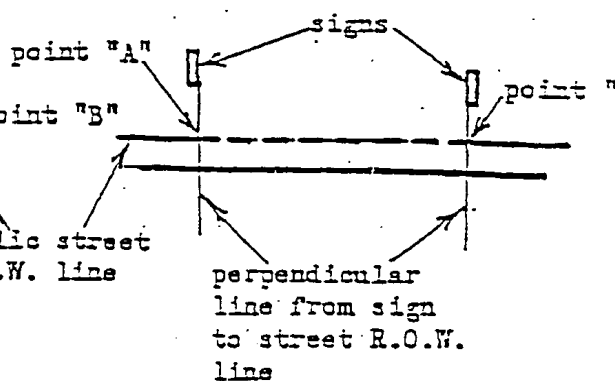


DIAGRAM 2

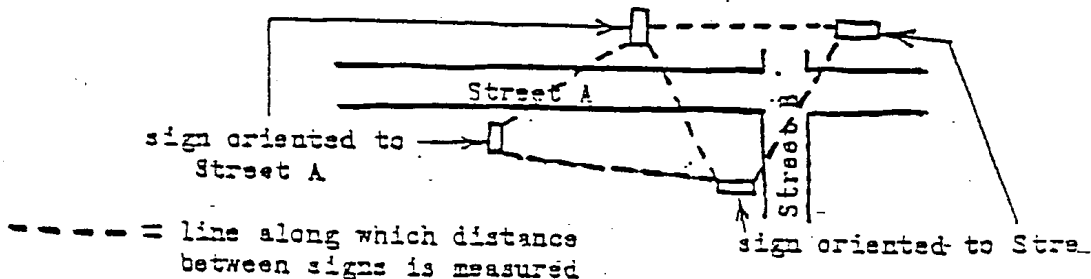
Spacing of Signs  
Along Straight Streets



----- = line along which distance between signs is measured

DIAGRAM 3

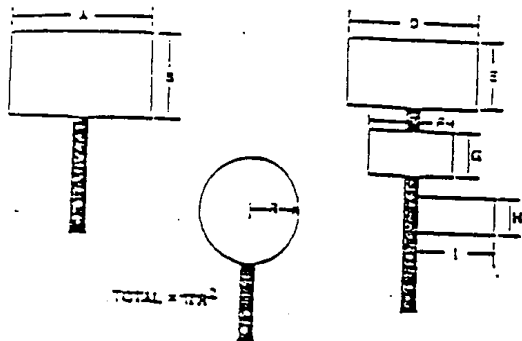
Measurement of Distance Between  
Signs Oriented Toward Different Streets



----- = line along which distance between signs is measured

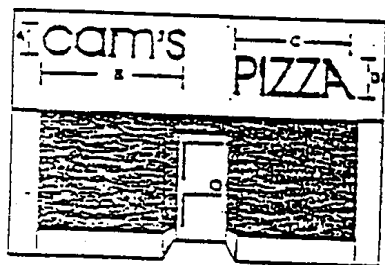
Signs - How Measured

A. AREA OF SIGN



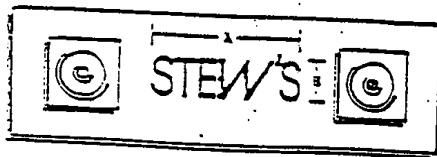
Sign area shall include the area within a perimeter enclosing the limits of lettering, writing, representation, emblem, figure, character and lighted surface but excluding essential sign structure, foundations or supports. For a multiple face sign, the sign area shall be computed for the largest face only. If the sign consists of more than one section or module, all areas will be totaled.

B. AREA OF COPY



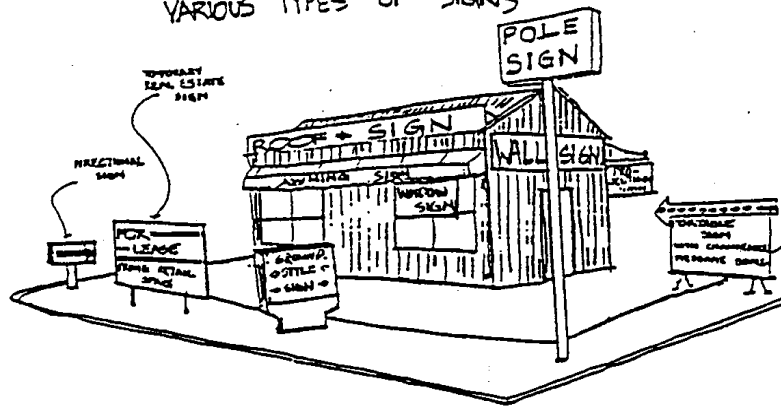
Copy area includes the entire area within a single, continuous perimeter composed of squares or rectangles, which enclose the extreme limits of the advertising message on a wall sign.

C. NEUTRAL SURFACE



Neutral surfaces intended only to integrate and harmonize a wall sign with the architecture of the building to which it is attached, shall not be included in the calculation of sign area.

### VARIOUS TYPES OF SIGNS



### VARIOUS TYPES OF SIGNS

