

TITLE 14**ZONING AND LAND USE CONTROL****CHAPTER**

1. MUNICIPAL PLANNING COMMISSION.
2. ZONING ORDINANCE.
3. FLOOD DAMAGE PREVENTION.
4. PROHIBITION ON GROUNDWATER WITHDRAWALS IN CERTAIN AREAS.

CHAPTER 1**MUNICIPAL PLANNING COMMISSION****SECTION**

- 14-101. Creation and membership.
- 14-102. Organization, powers, duties.
- 14-103. Regional planning powers.

14-101. Creation and membership. Pursuant to the provisions of *Tennessee Code Annotated*, § 13-4-101 there is hereby created a municipal planning commission, hereinafter referred to as the planning commission. The planning commission shall consist of seven (7) members; two (2) of these shall be the mayor and another member of the board of commissioners selected by the board of commissioners; the other five (5) members shall be appointed by the mayor. All members of the planning commission shall serve as such without compensation. Except for the initial appointments, the terms of the five (5) members appointed by the mayor shall be for five (5) years each. The five (5) members first appointed shall be appointed for terms of one (1), two (2), three (3), four (4), and five (5) years, respectively so that the term of one (1) member expires each year. The terms of the mayor and the member selected by the board of commissioners shall run concurrently their terms of office. Any vacancy in an appointive membership shall be filled for the unexpired term by the mayor, who shall also have the authority to remove any appointive member at his pleasure.

Members other than ex officio members shall be appointed from among persons in a position to represent the general public interest, and no person shall be appointed with private or personal interests likely to conflict with the general public interest. If any person appointed shall find that his private or personal interests are involved in any matter coming before the commission, he shall disqualify himself from taking part in action on the matter. (1995 Code, § 14-101)

14-102. Organization, powers, duties, etc. The planning commission shall be organized and shall carry out its powers, functions, and duties in accordance with all applicable provisions of *Tennessee Code Annotated*, title 13. (1995 Code, § 14-102)

14-103. Regional planning powers. At such time as the Tennessee State Planning Office, acting pursuant to *Tennessee Code Annotated*, §§ 13-3-102 and 13-1-106 may designate the Waynesboro Municipal Planning Commission as a regional planning commission with planning jurisdiction over a planning region which includes the territory of the City of Waynesboro, then the Waynesboro Municipal Planning Commission shall have the additional powers granted by and shall otherwise be governed by the provisions of *Tennessee Code Annotated*, title 13 relating to regional planning commissions. To the extent that the State Planning Office may require initiative by the City of Waynesboro in creating a planning region containing the territory of the City of Waynesboro and in granting regional planning powers within such region to the Waynesboro Municipal Planning Commission, then such local initiative shall be within the powers hereby granted to and at the discretion of the Waynesboro Municipal Planning Commission. (1995 Code, § 14-103)

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 City of Waynesboro shall be governed by Ordinance Number 646, titled "Zoning Ordinance, Waynesboro, Tennessee," and any amendments thereto.¹ (1995 Code, § 14-201)

¹Ordinance #646, and any amendments thereto, are published as separate documents and are of record in the office of the recorder.

CHAPTER 3

FLOOD DAMAGE PREVENTION

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.
- 14-307. Legal status provisions.

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*, §§ 13-7-201 to 13-7-210, delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the City of Waynesboro, Tennessee, mayor and city commission, do ordain as follows:

(2) Findings of fact. (a) The City of Waynesboro, Tennessee, mayor and its legislative body wishes to maintain eligibility in the National Flood Insurance Program (NFIP) and in order to do so must meet the NFIP regulations found in title 44 of the Code of Federal Regulations (CFR), ch. 1, section 60.3.

(b) Areas of the City of Waynesboro, 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, floodproofed, 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:

(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 erosion of 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, street and bridges located in flood prone areas;

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

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

(h) To maintain eligibility for participation in the NFIP. (Ord. #766, July 2009)

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

(a) Accessory structures shall only be used for parking of vehicles and storage;

(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;

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

(e) Utilities and service facilities such as electrical and heating equipment shall be elevated or otherwise protected from intrusion of floodwaters.

(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.

(11) "Elevated building" means a nonbasement 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.

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

(14) "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.

(15) "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.

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

(17) "Existing structures" see "existing construction."

(18) "Expansion to an existing manufactured home park or subdivision" means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

(19) "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.

(20) "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.

(21) "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.

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

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

(24) "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.

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

(26) "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.

(27) "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.

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

(29) "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.

(30) "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.

(31) "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.

(32) "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.

(33) "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.

(34) "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.

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

(36) "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;

(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 City of Waynesboro, 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.

(37) "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.

(38) "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.

(39) "Lowest floor" means the lowest floor of the lowest enclosed area, including a basement. An unfinished or flood resistant enclosure used solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is

not built so as to render the structure in violation of the applicable non-elevation design requirements of this chapter.

(40) "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" does not include a "recreational vehicle."

(41) "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.

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

(43) "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 purposes of this chapter, the term is synonymous with 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.

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

(45) "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.

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

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

(48) "100-year flood" see "base flood."

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

(50) "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.

(51) "Recreational vehicle" means a 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.

(52) "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.

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

(54) "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.

(55) "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.

(56) "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.

(57) "State coordinating agency" the Tennessee Department of Economic and Community Development's, Local Planning Assistance Office, as designated by the Governor of the State of Tennessee at the request of FEMA to assist in the implementation of the NFIP for the state.

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

(59) "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.

(60) "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.

(a) This term includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The market value of the structure should be

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

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

(b) The term does not, however, include either:

(i) 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

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

(61) "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.

(62) "Variance" is a grant of relief from the requirements of this chapter.

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

(64) "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. (Ord. #766, July 2009)

14-303. General provisions. (1) Applications. This chapter shall apply to all areas within the incorporated area of the City of Waynesboro, Tennessee.

(2) Basis for establishing the areas of special flood hazard. The areas of special flood hazard identified on the City of Waynesboro, Tennessee, as identified by FEMA, and in its Flood Insurance Study (FIS) Number 47181CV000A and Flood Insurance Rate Map (FIRM), Community Panel Numbers 470201, 0184, 0185, 0192, 0195, 0203, 0205, dated, August 3, 2009, 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 shall be required in conformity with this chapter prior to the commencement of any development activities.

(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 City of Waynesboro, 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) Violations and penalty. 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 therefore, be fined as prescribed by Tennessee statutes, and in addition, shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the City of Waynesboro, Tennessee from taking such other lawful actions to prevent or remedy any violation. (Ord. #766, July 2009)

14-304. Administration. (1) Designation of administrator. The city 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 furnished by the community prior to any development activities. The development permit may include, but is not limited to the following: plans in duplicate drawn to scale and showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, earthen fill placement, storage of materials and equipment, and drainage facilities. 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;

(ii) Elevation in relation to mean-sea-level to which any nonresidential 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 floodproofing certificate from a Tennessee registered professional engineer or architect that the proposed nonresidential floodproofed 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 or under the direct supervision of, a Tennessee registered land surveyor and certified by same. The administrator shall record the elevation of the lowest floor on the development permit. When floodproofing is utilized for a nonresidential building, said certification shall be prepared by, or under the direct supervision of, a Tennessee registered professional engineer or architect and certified by same.

Within approximate A Zones, where base flood elevation data is not available, the elevation of the lowest floor shall be determined as the

measurement of the lowest floor of the building relative to the highest adjacent grade. The administrator shall record the elevation of the lowest floor on the development permit. When floodproofing is utilized for a nonresidential building, said certification shall be prepared by, or under the direct supervision of, a Tennessee registered professional engineer or architect and certified by same.

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

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

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

(a) Review of all development permits to assure that the 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. 1334;

(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 FIRM's 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 § 14-304(2);

(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 floodproofed, in accordance with § 14-304(2);

(h) When floodproofing is utilized for a nonresidential structure, obtain certification of design criteria from a Tennessee registered professional engineer or architect, in accordance with § 14-304(2);

(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 City of Waynesboro, 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 administrator 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. (Ord. #766, July 2009)

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

(a) New construction and substantial improvements shall be anchored to prevent flotation, collapse and lateral movement of the structure;

(b) Manufactured homes shall be installed using methods of 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) New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage;

(d) New construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;

(e) All electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed

and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;

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

(g) 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;

(h) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding;

(i) Any alteration, repair, reconstruction or improvements to a building that is in compliance with the provisions of this chapter, shall meet the requirements of "new construction" as contained in this chapter;

(j) Any alteration, repair, reconstruction or improvements to a building 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;

(k) All new construction and substantial improvement proposals shall provide copies of all necessary federal and state permits, including section 404 of the Federal Water Pollution Control Act amendments of 1972, 33 U.S.C. 1334;

(l) All subdivision proposals and other proposed new development proposals shall meet the standards of subsection (2);

(m) When proposed new construction and substantial improvements are partially located in an area of special flood hazard, the entire structure shall meet the standards for new construction; and

(n) When proposed new construction and substantial improvements are located in multiple flood hazard risk zones or in a flood hazard risk zone with multiple base flood elevations, the entire structure shall meet the standards for the most hazardous flood hazard risk zone and the highest base flood elevation.

(2) Specific standards. In all areas of special flood hazard, the following provisions, in addition to those set forth in § 14-305(1), 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) 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 the standards of this section: "enclosures."

Within approximate A Zones where base flood elevations have not been established and where alternative data is not available, the administrator shall require the lowest floor of a building to be elevated to a level of at least three 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: "enclosures."

(b) Non-residential structures. In AE Zones, where base flood elevation data is available, new construction and substantial improvement of any commercial, industrial, or nonresidential 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: "enclosures."

In approximate A Zones, where base flood elevations have not been established and where alternative data is not available, new construction and substantial improvement of any commercial, industrial, or nonresidential building, shall have the lowest floor, including basement, elevated or floodproofed 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: "enclosures."

Nonresidential buildings located in all A Zones may be floodproofed, in lieu of being elevated, provided that all areas of the building below the required elevation are watertight, with walls substantially impermeable to the passage of water, and are built with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. A Tennessee registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions above, and shall provide such certification to the administrator as set forth in § 14-304(2).

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

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

(A) Provide a minimum of two (2) 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 openings shall be no higher than one foot (1') above the finished grade; and

(C) Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.

(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 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 placed, or substantially improved, on:

(A) Individual lots or parcels,

(B) In expansions to existing manufactured home parks or subdivisions, or

(C) In new or substantially improved manufactured home parks or subdivisions, must meet all the requirements of new construction.

(ii) All manufactured homes placed or substantially improved in an existing manufactured home park or subdivision must 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, which has incurred "substantial damage" as the result of a flood, must meet the standards of subsections (1) and (2).

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

(v) All recreational vehicles placed in an identified special flood hazard area must either:

(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) The recreational vehicle must meet all the requirements for new construction.

(e) Standards for subdivisions and other proposed new development proposals. Subdivisions and other proposed new developments, including manufactured home parks, shall be reviewed to determine whether such proposals will be reasonably safe from flooding.

(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.

(iv) In all approximate A Zones require that all new subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than fifty (50) lots or five (5) acres, whichever is the lesser, include within such proposals base flood elevation data (See subsection (5)).

(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. Development may be permitted however, provided it is demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practices that the cumulative effect of the proposed encroachments or new development shall not result in any increase in the water surface elevation of the base flood elevation, velocities, or floodway widths during the occurrence of a base flood discharge at any point within the community. A Tennessee registered professional engineer must provide supporting technical data, using the same methodologies as in the effective flood insurance study for the City of Waynesboro, Tennessee and certification, thereof.

(b) New construction and substantial improvements of buildings, where permitted, shall comply with all applicable flood hazard reduction provisions of subsections (1) and (2).

(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 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.

(b) New construction and substantial improvements of buildings, where permitted, 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) The administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from any federal, state, or other sources, including data developed as a result of these regulations (see (b) below), as criteria for requiring that new construction, substantial improvements, or other development in approximate A Zones meet the requirements of subsections (1) and (2).

(b) Require that all new subdivision proposals and other proposed developments (including proposals for manufactured home

parcs and subdivisions) greater than fifty (50) lots or five (5) acres, whichever is the lesser, include within such proposals base flood elevation data.

(c) Within approximate A Zones, where base flood elevations have not been established and where such data is not available from other sources, require the lowest floor of a building to be elevated or floodproofed to a level of at least three feet (3') above the highest adjacent grade (as defined in § 14-302). All applicable data including elevations or floodproofing 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 subsection (2).

(d) Within approximate A Zones, where base flood elevations have not been established and where such data is not available from other sources, no encroachments, including structures or fill material, shall be located within an area equal to the width of the stream or twenty feet (20'), whichever is greater, measured from the top of the stream bank, unless certification by a Tennessee registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot (1') at any point within the City of Waynesboro, Tennessee. The engineering certification should be supported by technical data that conforms to standard hydraulic engineering principles.

(e) New construction and substantial improvements of 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 of subsection (2), 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) All new construction and substantial improvements of residential and nonresidential buildings 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 FIRM's, in feet, above the highest adjacent grade. If no flood depth number is specified on the FIRM, the lowest floor, including basement, shall be elevated to at least three 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 subsection (2).

(b) All new construction and substantial improvements of nonresidential buildings may be floodproofed in lieu of elevation. The structure together with attendant utility and sanitary facilities must be floodproofed and designed watertight to be completely floodproofed to at least one 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 floodproofed 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).

(c) 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 (A-99 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 (A-99 Zones) all provisions of §§ 14-304 and 14-305, shall apply.

(8) Standards for unmapped streams. Located within the City of Waynesboro, 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 fill material or other development including structures shall be located within an area of at least equal to twice the width of the stream, measured from the top of each stream bank, unless certification by a Tennessee registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot (1') at any point within the locality; and

(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. (Ord. #766, July 2009)

14-306. Variance procedures. (1) Municipal board of zoning appeals.

(a) Authority. The City of Waynesboro, Tennessee Municipal Board of Zoning Appeals shall hear and decide appeals and requests for variances from the requirements of this chapter.

(b) Procedure. Meetings of the municipal board of zoning appeals shall be held at such times, as the board shall determine. All meetings of the municipal board of zoning appeals shall be open to the public. The municipal board of zoning appeals shall adopt rules of procedure and shall keep records of applications and actions thereof, which shall be a public record. Compensation of the members of the municipal board of zoning appeals shall be set by the legislative body.

(c) Appeals; how taken. An appeal to the municipal board of zoning appeals may be taken by any person, firm or corporation aggrieved or by any governmental officer, department, or bureau affected by any decision of the administrator based in whole or in part upon the provisions of this chapter. Such appeal shall be taken by filing with the municipal board of zoning appeals a notice of appeal, specifying the grounds thereof. In all cases where an appeal is made by a property owner or other interested party, a fee of zero (0) dollars for the cost of publishing a notice of such hearings shall be paid by the appellant. The administrator shall transmit to the municipal board of zoning appeals all papers constituting the record upon which the appeal action was taken. The municipal board of zoning appeals shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to parties in interest and decide the same within a reasonable time which shall not be more than fifteen (15) 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 municipal board of zoning appeals 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 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 City of Waynesboro, Tennessee Municipal Board of Zoning Appeals 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 application, the municipal board of zoning appeals shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this chapter, 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 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;

(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;

(11) Upon consideration of the factors listed above, and the purposes of this chapter, the municipal board of zoning appeals may attach such conditions to the granting of variances, as it deems necessary to effectuate the purposes of this chapter; and

(12) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

(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).

(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 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. (Ord. #766, July 2009)

14-307. Legal status provisions. In case of conflict between this chapter and the whole or part of any existing or future ordinance of the City of Waynesboro, Tennessee, the most restrictive shall in all cases apply. (Ord. #766, July 2009)

CHAPTER 4

PROHIBITION ON GROUNDWATER WITHDRAWALS IN CERTAIN AREAS

SECTION

- 14-401. Purpose and intent.
- 14-402. Definitions.
- 14-403. Connection of real properties in identified area to public drinking system.
- 14-404. Prohibitions on installation of new wells and use of groundwater for potable and nonpotable water purposes in identified area.
- 14-405. Prohibition on cross-connection to publically provided water supply.
- 14-406. Permanent closure of existing wells located on any portion of real property in identified area.
- 14-407. Enforcement.
- 14-408. Costs incurred by city for violation shall be lien on property.
- 14-409. Powers of public officers.
- 14-410. Administrative appeal.
- 14-411. Miscellaneous.

14-401. Purpose and intent. (1) The purpose of this chapter is to provide for and protect the health, safety, and general welfare of the citizens of Waynesboro through the regulation of groundwater withdrawals and groundwater use in certain areas of the city (see subsection (4)). This chapter identifies the areas where groundwater withdrawal and use will be prohibited; prohibits the installation of any new groundwater withdrawal wells and the use of groundwater in those areas; requires the decommissioning of all existing groundwater withdrawal wells in those areas, prohibits the cross-connection of certain groundwater withdrawal wells in those areas; sets forth the methods and the timeframe within which the decommissioning of existing groundwater water withdrawal wells must occur, and establishes the legal authority to carry out all inspection, surveillance and monitoring necessary to ensure compliance with this chapter.

(2) This chapter is not intended to interfere with, abrogate, or annul any other ordinance, rule or regulation, statute, or other provision of law. The requirements of this chapter should be considered minimum requirements, and where any provision of this chapter imposes restrictions different from those imposed by any other ordinance, rule or regulation, or other provision of law, whichever provisions are more restrictive or impose higher protective standards for human health or the environment shall be considered to take precedence.

(3) The city manager or designee shall administer, implement, and enforce the provisions of this chapter.

(4) See legal description and map as Exhibit A.¹ (Ord. #794, May 2014)

14-402. Definitions. The following words, terms and phrases, when used in this division, shall have the meaning ascribed to them under the Tennessee Safe Drinking Water Act, the Tennessee Water Wells Act, and the Water Withdrawal Registration Act and as described in this section, except where the context clearly indicates a different meaning:

- (1) "City" means Waynesboro, Wayne County, Tennessee;
- (2) "Decommissioning" means the conversion of a nonpublic water well to a monitoring well or plugging and abandoning the well in accordance with Tennessee law;
- (3) "Groundwater" means "ground water" as defined by Tennessee law;
- (4) "Identified area" means the area identified in Exhibit A, and any additional area as identified by future resolution of the city;
- (5) "Nonpotable water" means groundwater that is unsuitable for direct human contact but is appropriate for other uses such as irrigation, landscaping, laundering, heating and cooling systems, fire control, street cleaning and controlling dust at construction sites;
- (6) "Owner" means the holder of the title in fee simple and every mortgagee of record of real property in the identified area;
- (7) "Person" means any individual, partnership, copartnership, firm, company, limited liability company, corporation, association, joint stock company, trust, estate, political subdivision, or any other legal entity, or their legal representatives, agents or assigns;
- (8) "Potable water" means groundwater that is suitable for direct human contact and uses such as drinking, cooking, bathing, and some construction activities such as making concrete;
- (9) "Properly abandoned" means plugged and abandoned in accordance with Tennessee law;
- (10) "Public officer" means the building inspector or any other officer who is authorized by the city to exercise the powers provided in this chapter, or any agent of such officer; and
- (11) "Well" means a "well" as defined by Tennessee law, and may include a dewatering well, drilling or drilling operation, engineering borehole, individual water well, industrial well, irrigation well, monitoring well, nonpublic water well, and other water well; but for the purposes of this chapter alone, "well" shall not include any monitoring well, geoprobe, or other similar device or measuring instrument necessary to be installed or undertaken to comply with applicable local, state or federal environmental laws and regulations. (Ord. #794, May 2014)

¹Exhibit A to Ord. #794 may be found on file in the office of the recorder.

14-403. Connection of real properties in identified area to public drinking system. All portions of real property located within the identified area shall be served by and connected to the public water supply system. (Ord. #794, May 2014)

14-404. Prohibitions on installation of new wells and use of groundwater for potable and nonpotable water purposes in identified area. No new wells shall be installed or constructed on any portion of real property in the identified area. No groundwater beneath any portion of real property located within the identified area may be used for potable water purposes or for nonpotable water purposes, including but not limited to irrigation. This prohibition on use shall apply regardless of the manner in which the groundwater is brought to surface for use, including but not limited to natural artesian pressure in a well or in a spring or other natural feature. (Ord. #794, May 2014)

14-405. Prohibition on cross-connection to publically provided water supply. No connection or cross-connection shall be permitted between an existing, abandoned or closed well located on any portion of real property in the identified area and any public water supply system or piping for any potable water purposes. The construction, connection, use, maintenance, or continued existence of any illicit connection to a well located on any portion of real property in the identified area shall be prohibited. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection. (Ord. #794, May 2014)

14-406. Permanent closure of existing wells located on any portion of real property in identified area. Within sixty (60) calendar days after the effective date of this chapter, all wells located on any portion of real property in the identified area, whether currently or formerly used for potable or nonpotable purposes, shall be permanently decommissioned, either by converting to a monitoring well or by being properly plugged and abandoned in accordance with Tennessee law and all applicable guidance from the Tennessee Division of Water or the Tennessee Geological Survey. The city will decommission all applicable wells located on any portion of the identified area at the city's cost and expense, provided the property owner requests such decommissioning within thirty (30) days after the effective date of this chapter. In the event any well on any portion of property located within the identified area is required to be decommissioned under this chapter, the owner of such property shall notify the county within thirty (30) days of the permanent closure of such well, certifying that the well has been decommissioned in accordance with this chapter. (Ord. #794, May 2014)

14-407. Enforcement. (1) It shall be unlawful for any person to violate any provision, or to fail to comply with any of the requirements, of this chapter. Any person who has violated or continues to violate the provisions of this chapter may be subject to the enforcement actions outlined in this chapter or may be restrained by injunction or otherwise abated in a manner provided by law.

(2) Whenever the city manager or designee finds that a person has violated a provision or failed to meet a requirement of this chapter, the city manager shall provide written notice of violation to the responsible person. The notice of violation shall contain:

(a) The name and address of the resident or lessee at the property;

(b) The street address or, if a street address is not available, a description of the property, structure or land upon which the violation or failure to comply is occurring;

(c) A description of the violation;

(d) A description of the measures necessary to bring the property into compliance and a time schedule for the completion of such measures; and

(e) A statement of the penalty or penalties, if any, that will or may be assessed against the person to whom the notice of violation is directed.

(3) Included in the notice of violation, whenever the city manager or designee finds that a person has violated a provision or failed to meet a requirement of this chapter, the city manager may issue an order to the responsible person to undertake any or all of the following actions:

(a) Decommission any and all temporary or permanent wells, including any related piping or equipment;

(b) Eliminate or disconnect any illicit groundwater connections, cross-connections or other uses;

(c) Cease and desist any uses of wells;

(d) Abate or otherwise correct any hazards to public health and safety created by the activity violating this chapter; and

(e) Pay all expenses and a fine to cover administrative costs.

(4) Any person receiving a notice of violation from the city manager may appeal the determination to the city board of commissioners. A written notice of appeal must be received by the recorder no later than ten (10) days after the date of the notice of violation, and the failure to file a written notice of appeal shall constitute a waiver of all claims. A hearing on the appeal before the city board of commissioners shall take place within thirty (30) days from the date the board of commissioners received the notice of appeal. The decision of the board of commissioners shall be a final action and may be appealed in accordance with Tennessee law.

If after twenty (20) days the violation has not been corrected pursuant to the requirements set forth in the notice of violation, or if no appeal has been filed in a timely and appropriate manner, the city manager or designee shall have the authority to enter upon the real property, and is authorized to take any and all measures necessary to abate the violation, including but not limited to decommissioning the well. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the city or its designated contractor to enter upon the premises for the purposes set forth above.

(5) Any notice of violation or order issued by the city manager pursuant to this chapter shall be served upon each person in possession of the real property or to the record owner of the real property, in compliance with applicable law. Any person who is affected by an order issued pursuant to this chapter may petition the Circuit Court of Wayne County for an injunction restraining the city from carrying out the provisions of the order; provided, however, that such person shall present such petition to the court within fifteen (15) calendar days of the posting and service of the order of the city. The court shall hear and determine the issues raised and shall enter such final order or decree as law and justice may require; provided, however, that it shall not be necessary to file bond in any amount before obtaining a temporary injunction under this section.

(6) In addition to the enforcement processes and penalties provided in this chapter, any condition caused or permitted to exist in violation of any of the provisions of this article is deemed a threat to public health, safety, and welfare, and is declared a nuisance, and may be summarily abated or restored at the violator's expense; and a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken by the city or by any citizen permitted by law to file such an action to abate a nuisance.

(7) Any person that has purposefully violated or continues to violate this chapter after receipt of a notice of violation shall be liable to prosecution to the fullest extent of the law, and may be subject to a criminal penalty of fifty dollars (\$50.00) per violation per day. Each day a violation continues, after notification thereof shall be deemed a separate offense under this chapter. The city shall be entitled to recover all attorney's fees, court costs and other expenses associated with enforcement of this chapter, including sampling and monitoring expenses, upon proof of the violation.

(8) The remedies listed in this chapter are not exclusive of any other remedies available under any applicable federal, state or local law, and it is within the discretion of the city manager or designee to seek cumulative remedies. (Ord. #794, May 2014)

14-408. Costs incurred by city for violation shall be lien on property. (1) Within thirty (30) days after abatement of a violation, the owner of the property will be notified of the cost of abatement, including administrative costs. The notification will include a description of the costs and expense

incurred by city, its employees or contractors. If the amount due is not paid within thirty (30) days of receipt of the notification, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment. Any person violating any of the provisions of this chapter shall become liable to the city by reason of such violation. Such lien shall attach to the real property upon payment of all costs by the city and the filing of an itemized statement of costs with the register's office of Wayne County, Tennessee, on a lien docket maintained by the clerk for such purposes.

(2) The city may enforce the collection of any amount due on such lien in the following manner:

(a) The owner shall be allowed to satisfy the amount due on such a lien by paying to the city within thirty (30) calendar days after the perfection of the lien, a sum of money equal to twenty-five percent (25%) of the total amount due and by paying the remaining balance due on such lien, together with interest at the rate of seven percent (7%) per year, in three (3) equal annual payments, each of which shall become due and payable on the anniversary date of the initial payment made as prescribed in this subsection;

(b) If the property upon which such lien is perfected be sold, transferred, or conveyed by the owner or parties in interest at any time prior to the termination of the three (3) year period, then the entire balance due on such lien shall be due and payable by the selling party to the city; and

(c) Should the amount due on such lien, or any portion thereof, be unpaid after the passage of the three (3) year period, or upon the occurrence of the contingency provided for in subsection (b) of this section, the city may enforce the collection of any amount due on such lien as provided by Tennessee law. This procedure shall be subject to the right of redemption by any persons having any right, title, or interest in or lien upon said property. (Ord. #794, May 2014)

14-409. Powers of public officers. (1) The city manager shall have and exercise such powers as may be necessary and convenient to carry out and effectuate the purpose and provisions of this chapter, including but not limited to the following powers:

(a) To investigate real property located within the identified area to determine compliance with this chapter;

(b) To enter upon real property for the purpose of making examinations; provided, however, that such entries shall be made in such manner as to cause the least possible inconvenience to the persons in possession;

(c) To appoint and fix the duties of such officers, agents, contractors, and employees as the city manager deems necessary and convenient to carry out the purpose of this chapter; and

(d) To delegate any of said functions and powers under the chapter to such officers and agents as the city manager may designate. (Ord. #794, May 2014)

14-410. Administrative appeal. (1) In addition to the rights of appeal above, any person aggrieved or significantly affected by an action of the city manager pursuant to this chapter may present a grievance to the board of commissioners for a hearing within thirty (30) days of the decision or order of the city manager. In such case, the board of commissioners shall issue a written finding on the facts, evidence and arguments put forth at the hearing.

(2) Any person aggrieved or affected by the decision of the board of commissioners shall have the right to appeal the decision of the board of commissioners to the Circuit Court of Wayne County. Appeals to the circuit court shall be filed no later than 30 days after the date of the decision of the board of commissioners, and upon failure to file said appeal within thirty (30) days, the decision of the board of commissioners shall be final and not subject to appeal. (Ord. #794, May 2014)

14-411. Miscellaneous. (1) If any subsection, sentence, clause, phrase or word of this chapter is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this chapter.

(2) Nothing in this chapter shall be construed to abrogate or impair the powers of the courts or of any department of the city to enforce any provisions of its ordinances or regulations, nor to prevent or punish violations thereof. The powers conferred by this chapter shall be in addition to and supplemental to the powers conferred by any other law or ordinance.

(3) In the computation of time for actions or events under this chapter, if a time period ends on a Saturday, Sunday, or national holiday, the time period shall extend to the next business day. (Ord. #794, May 2014)