

TITLE 14

ZONING AND LAND USE CONTROL

CHAPTER

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CHAPTER 1

MUNICIPAL PLANNING COMMISSION¹

SECTION

- 14-101. Creation of planning commission--appointment of members--term of office--vacancies.
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14-101. Creation of planning commission--appointment of members--term of office--vacancies. Pursuant to the provisions of Tennessee Code Annotated, §§ 13-4-101 and 13-3-102, there is hereby created and established a municipal planning commission designated as a regional planning commission, hereinafter referred to as "planning commission." The planning

¹Ordinance #38-17, Dec. 2002, exempts the planning director, the members of the Elizabethton Regional Planning Commission and the board of zoning appeals from the requirements of The Training and Continuing Education Act of 2002, Tennessee Code Annotated § 13-3-101, et seq.

commission shall consist of seven (7) members. One (1) of the members shall be the mayor of the municipality, or a person designated by the mayor, and one (1) of the members shall be a member of the city council, and at least (2) members (appointed by the mayor) shall reside within the regional area outside of the municipal boundaries served by the planning commission. All other members shall be appointed by the mayor. All members of the commission shall serve without compensation. The initial commission shall be appointed for five (5), four (4), three (3), two (2), and one (1) year terms. Thereafter the terms shall be for five (5) years, except for the terms of the mayor and the councilman, which terms shall expire concurrent with their term of office. Any vacancy in an appointed membership shall be filled for the unexpired term by the mayor of the municipality, who shall also have the authority to remove any appointed member at his (her) pleasure. (Ord. #49-7, March 2013)

14-102. Organization, powers, duties, etc. The planning commission shall have such organization, rules, staff, powers, functions, duties, and responsibilities as are prescribed in the general law relating to municipal planning commissions in Tennessee Code Annotated title 13. (2000 Code, § 14-102)

CHAPTER 2

GENERAL PROVISIONS RELATING TO ZONING¹

SECTION

- 14-201. Short title.
- 14-202. Purpose.
- 14-203. Definitions.
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14-201. Short title. Chapters 2 through 8 of this title shall be known as the "Zoning Ordinance of the City of Elizabethton, Tennessee,"² and the map herein referred to, which is identified by the title "Zoning Map of the City of Elizabethton, Tennessee," dated August, 1971, and all explanatory matter thereon are hereby adopted and made a part of chapters 2 through 8 of this title. (2000 Code, § 14-201)

14-202. Purpose. The zoning regulations and districts as herein set forth have been made in accordance with a comprehensive plan for the purpose of promoting the health, safety, morals, and the general welfare of the community. They have been designed to lessen congestion in the streets, to secure safety from fire, flood, panic, and overcrowding of land, to avoid undue concentration of population to facilitate the adequate provisions of transportation, water, sewage, schools, parks, and other public requirements. They have been made with reasonable consideration, among other things, as to the character of each district and its particular suitability for particular uses, and with a view of conserving the value of buildings and encouraging the most appropriate use of land throughout the city. (2000 Code, § 14-202, modified)

¹Amendments to the zoning ordinance are of record in the city clerk's office.

²The zoning map, and all amendments thereto, is of record in the city clerk's office.

14-203. Definitions. Unless otherwise stated, the following words shall, for the purpose of chapters 2 through 8 of this title, have the meaning herein indicated. Words used in the present tense include the future. The singular number includes the plural and the plural the singular. The word "shall" is mandatory, not directory. The words "used" or "occupied" as applied to any land or building shall be construed to include the word "intended," arranged, or designed to be used or occupied.

(1) "Adult oriented establishments." Sexually explicit establishments which cater to an exclusively or predominantly adult clientele and including but not limited to: adult book store, adult theaters, adult motion picture theaters, cabarets and other enterprises which regularly feature materials, acts, or displays involving complete nudity or exposure of human genitals, pubic regions, buttocks or female breast and/or sexual enticement or excitement.

(2) "Alley." Any public or private way set aside for public travel, twenty feet (20') or less in width.

(3) "Bed and breakfast home." A residential unit in which between one (1) and three (3) guest rooms are available for overnight accommodations and breakfast for the registered guests is provided. The owner shall have primary residence on the premises and the use shall be subordinate and incidental to the main residential use of the building.

(4) "Boarding or rooming house." A building containing a single dwelling unit and not more than five (5) guest rooms where lodging is provided with or without meals for compensation.

(5) "Buffer strip." A plant material acceptable to the building inspector which has such growth characteristics as will provide an obscuring screen not less than six feet (6') in height.

(6) "Building." Any structure having a roof supported by columns or walls and intended for the shelter, housing, or enclosure of persons, animals, or chattel.

(a) "Accessory apartment." A detached single-family apartment unit either ground level or a garage apartment containing no more than eight hundred (800) square feet in living area and located on the same lot with another single-family residential structure.

(b) "Accessory building or use." A building or use customarily incidental and subordinate to the principal building or use and located on the same lot with such building or use.

(c) "Principal building." A building in which is conducted the main or principal use of the lot on which said building is located.

(7) "Building height." The vertical distance measured from the finished grade at the building line to the highest point of the roof.

(8) "Business sign." Business and other advertising signs are defined in title 14, chapter 5.

(9) "Crematories." A place which has been certified by the state for the cremation of human remains. A crematory may be accessory to a funeral home or may be a principal use.

(10) "Day care home." A home operated by any person, social agency, corporation or institution, or any other group which receives a minimum of five (5) and a maximum of twelve (12) children (and up to three [3] additional school age children who will only be present when school is not in session), provided such establishment is licensed by the state and operated in accordance with state requirements.

Day care homes that have more than fifteen (15) children shall be considered private schools for the purpose of this section and shall be allowed in the same zones and under the same conditions as private schools.

(11) "Dwelling." A building designed or used as the permanent living quarters for one (1) or more families.

(12) "Family." One (1) or more persons occupying a premise and living together as a single housekeeping unit.

(13) "Flea market." An assembly of vendors, selling merchandise or antiques in the open air or within temporary structures, which display and sell their wares on the lands of another for a consideration. This shall include open-air markets or swap-meets.

(14) "Flood." An overflow of lands not normally covered by water that results in significant adverse effects in the vicinity.

(15) "Floodway." The channel of the stream and that portion of the adjoining floodplains designated by the regulating agency reasonably to provide for the passage of flood flows.

(16) "Floodway fringe area." Areas lying outside the floodway district but within the area which would be flooded by the one percent (1%) probability flood.

(17) "Funeral homes." A place used for human funeral services. Such place may include space and facilities for:

(a) Display of deceased persons and rituals connected therewith before burial or cremation;

(b) Embalming and the performance of other services used in the preparation of the dead for burial or cremation;

(c) The performance of autopsies and other surgical procedures upon the dead;

(d) The sale and/or storage of caskets, funeral urns, and other related funeral supplies; and

(e) The storage of funeral vehicles.

(18) "Home occupation." A small-scale occupation or business activity which results in a product or service for financial gain and is conducted in whole or part in the dwelling unit and is clearly an incidental use and subordinate to the residential use of the dwelling unit provided that:

(a) No more than twenty-five percent (25%) of the total floor area of the dwelling unit may be used in connection with a home occupation;

(b) The person or persons who own or occupy the dwelling, and up to one (1) additional person, may be employed in the home occupation;

(c) There shall be no outside evidence of the home occupation, except that one (1) unanimated, unilluminated announcement sign having an area of not more than four (4) square feet shall be permitted on the street front of the lot on which the building is located;

(d) There shall be no exposed exterior storage of materials, equipment, or stock to be used in conjunction with a home occupation;

(e) The sale of products and consumer goods shall be prohibited except for independent consultants (such as Mary Kay, Pampered Chef and the like) or the sale of products or goods produced or fabricated on the premises as a result of the home occupation;

(f) No alteration of the residential appearance of the premises to accommodate the home occupation is allowed;

(g) In no case shall a home occupation be open to the public at times earlier than 7:00 A.M. nor later than 9:00 P.M.;

(h) No offensive noise, vibration, smoke, dust, odors, heat or glare shall be produced;

(i) The number of vehicles used by clients or business related visitors to any home business shall be limited to two (2) at any given time. Parking shall not be permitted in the front or side yards; and

(j) Vehicles used for delivery or pick-ups are limited to those normally servicing residential neighborhoods.

(19) "Homes for persons with disabilities." Any home in which eight (8) or fewer unrelated or persons with disabilities handicapped reside and may include two (2) additional persons acting as houseparents or guardians who need not be related to each other or to any of the persons with disabilities residing in the home shall be classified as a single-family residence.

(20) "Lot." A parcel of land which fronts on and has access to a public street or a permanent transportation easement and which is occupied or intended to be occupied by a building or buildings with customary accessories and open space.

(a) "Lot line." The boundary dividing a given lot from a street, alley, or adjacent lots.

(b) "Lot of record." A lot, the boundaries of which are filed as legal record.

(21) "Mobile home and mobile unit." (a) A mobile home is a dwelling unit with all of the following characteristics:

(i) Designed for long term occupancy, and containing sleeping accommodations, a flush toilet, a tub or shower bath, and

kitchen facilities, with plumbing and electrical connections provided for attachment to outside systems.

(ii) Designed to be transported after fabrication on own wheels, or on flatbed or other trailers or detachable wheels or constructed as a single self contained unit and mounted on a single chassis.

(iii) Arriving at the site where it is to be occupied as a dwelling complete, including major appliances and furniture and ready for occupancy except for minor and incidental unpacking and assembly operations, location on foundation supports, connections to utilities, and the like.

(b) A mobile unit is a structure which has all of the following characteristics:

(i) Designed to be transported after fabrication on its own wheels or on flatbed or other trailer or detachable wheels or constructed as a single self contained unit and mounted on a single chassis.

(ii) Arriving at the site where it is to function as an office, commercial establishment, assembly hall, storage, governmental, or other similar purpose and ready for use except for minor and incidental unpacking and assembly operations, location on foundation supports, connections to utilities, and the like.

(22) "Mobile home park." Any plot of ground containing a minimum of two (2) acres upon which two (2) or more mobile homes are located or are intended to be located (does not include sites where unoccupied mobile homes are on display for sale).

(23) "Modular homes or double-wide homes." Modular homes or double-wide mobile homes which have all of the characteristics, appearances, and design of a permanent home and a permanent perimeter/foundation walls of a continuous exterior masonry/concrete, meeting current building code requirements plus meeting the requirements of the International Code Council and/or HUD standards for manufactured housing will not be considered mobile and will be treated as other residential structures. Provided that the structure is located on the lot in a manner that the front of the structure as designed at the factory faces the street.

(24) "Modular units or double-wide units." Modular units or double-wide units which have all of the characteristics, appearances, and design of an office, commercial establishment, assembly hall, storage, governmental or similar structure and a permanent perimeter/foundation walls of a continuous exterior masonry/concrete, meeting current building code requirements plus meeting the requirements of the International Code Council and/or HUD standards for manufactured buildings will not be considered mobile and will be treated as other office or commercial structures. Provided that the structure is

located on the lot in a manner that the front of the structure as designed at the factory faces the street.

(25) "Nonconforming uses." Any structure or land lawfully occupied by a use that does not conform to the use regulations of the district in which it is situated.

(26) "Nursing home." One licensed by the State of Tennessee.

(27) "Permanent transportation easement." An ingress/egress easement solely used for public entering and exiting of a property through or over the easement area, having access to an existing highway, street or thoroughfare accepted by the Elizabethton City Council, conforming to all rules, regulations and specifications applicable in article 3, section A, of the Elizabethton Subdivision Regulations, and expressly stating that the easement is permanent and utilizes appropriate words of inheritance to heirs, assigns, and lien-holders in the deed of record.

(28) "Self service storage facility" or "mini-warehouses." A structure containing separate storage spaces of up to six hundred (600) square feet floor area per unit and designed to be leased as individual leases for the purpose of providing inside storage for property of non-hazardous, noncombustible, nontoxic nature where the structure is used solely for the purpose of storage and no other type of business or use.

(29) "Story." That portion of a building included between the upper surface of any floor and the upper surface of the floor next above; or any portion of a building used for human occupancy between the topmost floor and the roof. A basement not used for human occupancy other than for a janitor or domestic employee shall not be counted as a story.

(30) "Street." Any public or private way set aside for public travel. The word "street" shall include the words "road," "highway," and "thoroughfare."

(31) "Structure." Anything constructed or erected, the use of which requires location on the ground, or attachment to something having location on the ground.

(32) "Theatre." A place of public assembly for purpose of holding dramatic or musical performances, showing motion pictures and films, holding lectures, and similar uses.

(33) "Total floor area." The area of all floors of a building including finished attic, finished basement, and covered porches.

(34) "Yard." An open space on the same lot with a principal building, open, unoccupied, and unobstructed by buildings from the ground to the sky except as otherwise provided in chapters 2 through 8 of this title.

(a) "Front yard." The yard extending across the entire width of the lot between the front lot line and the nearest part of the principal building, including covered porches.

(b) "Rear yard." The yard extending across the entire width of the lot between the rear lot line and the nearest part of the principal building, including covered porches.

(c) "Side yard." A yard extending along the side lot line from the front yard to the rear yard, and lying between the side lot line and the nearest part of the principal building, including covered porches.

(35) "Yard sale." A sale of more than three (3) items of personal property, which have been used typically in the household of the vendor and have not been acquired for resale, conducted at the personal residence of the vendor. This shall include like terms such as attic sales, garbage sales, junk sales, lawn sales, moving sales, rummage sales, tag sales, thrift sales, or garage sales. (2000 Code, § 14-203, as amended by Ord. #48-1, Feb. 2012, Ord. #48-16, Sept. 2012, Ord. #49-10, May 2013, Ord. #50-16, Sept. 2014, and Ord. #50-18, Oct. 2014)

14-204. Establishment of districts. For the purpose of chapters 2 through 8 of this title, the City of Elizabethton, Tennessee, is hereby divided into thirteen (13) classes of districts as follows:

Residence	- R-1 District	-Low Density
Residence	- R-1A District	- Low Density
Residence	- R-2 District	- Medium Density
Residence	- R-3 District	- High Density
Medical	- Residential	- M-R District
Business	- B-1 District	- Neighborhood Business
Business	- B-2 District	- Arterial Business
Business	- B-3 District	- Central Business
Business	- B-4 District	- Intermediate Business
Manufacturing	- M-1 District	- Restricted Manufacturing and Warehousing
Industrial	- M-2 District	- Heavy Industrial
Floodway	- F-1 District	- Floodway
Floodway	- F-2 District	- Floodway Fringe Area

The boundaries of these districts are hereby established as shown on the map entitled "Zoning Map of the City of Elizabethton, Tennessee," dated August, 1971, and all amendments thereof, which is a part of chapters 2 through 8 of this title and which is on file in the office of the city clerk. Unless otherwise specifically indicated on the map, the boundaries of districts are lot line or the center lines of streets or alleys or such lines extended, the corporate limit line or a line midway between the main tract of a railroad or the center lines of streams or other water bodies. Questions concerning the exact locations of district boundaries shall be determined by the board of zoning appeals. (2000 Code, § 14-204)

14-205. Application of regulations. Except as herein provided:

(1) Use. No building or land shall hereafter be used and no building or part thereof shall be erected, moved, or altered unless for a use expressly permitted by and in conformity with the regulations herein specified for the

district in which it is located, and after approval of a properly prepared site plan.

(2) Street frontage. No dwelling shall be erected on a lot which does not abut on at least one (1) street for at least fifty feet (50'), except that lots fronting on cul-de-sacs may have a minimum road frontage of thirty feet (30') if the lot is at least fifty feet (50') in width at the building line. Provided, however, that when only one (1) piece of property is being subdivided into no more than two (2) tracts, thirty feet (30') road frontage shall be sufficient for one (1) tract, if the tract is no larger than one-half (1/2) of an acre or not smaller than one fourth (1/4) acre, provided that the other tract has a minimum of sixty feet (60') frontage and each tract or parcel meets all the other requirements of the Elizabethton Subdivision Regulations¹ and Zoning Ordinance.²

(3) Corner lots. The minimum width of a side yard along an intersecting street shall be fifty percent (50%) greater than the minimum side yard requirements of the district in which the lot is located.

(4) One principal building on a lot. Only one (1) principal building and its customary accessory buildings may hereafter be erected on any lot. Group housing and planned unit developments or commercial developments may have more than one (1) principal building per lot provided that a site plan has been approved by the planning commission.

(5) Reduction of lot size. No lot shall be reduced in area so that yards, lot area per family, lot width, building area, or other provisions of chapters 2 through 8 of this title shall not be maintained. This section shall not apply when a portion of a lot is acquired for a public purpose.

(6) Yard and other spaces. No part of a yard or other open space required about any building for the purpose of complying with the provisions of chapters 2 through 8 of this title shall be included as a part of a yard or other open space required under chapters 2 through 8 of this title for another building.

(7) Conformity to subdivision regulations. No building permit shall be issued for or no building shall be erected on any lot within the municipality unless the street giving access to the lot upon which said building is proposed to be placed shall have been accepted or opened as a public street prior to that time, such street corresponds in its location and lines with a street shown on a subdivision plat approved by the Elizabethton Regional Planning Commission and such approval is entered in writing on the plat by the secretary of the commission, or the lot fronts upon a permanent transportation easement.

(8) Customary accessory buildings and gazebos in residential districts.

¹The subdivision regulations are of record in the planning and development office.

²Municipal code reference

Zoning ordinance: title 14, chapters 2--8.

(a) Accessory buildings are permitted provided they are located in rear yards and not closer than five feet (5') to any property line. Detached carports and detached garages are permitted provided they are located in rear yards or in side yards, and not closer than five feet (5') to any property lines, and meet the setback requirements for the zone in which the lot is located. Accessory buildings shall also comply with the setback from the intersecting street and not cover more than twenty percent (20%) of any required rear yard.

(b) Gazebos shall be allowed within residential districts if they meet the following conditions:

- (i) No gazebo shall exceed one hundred (100) square feet.
- (ii) All gazebos must meet front and side yard set backs.
- (iii) A gazebo's appearance must be similar in design as the principal dwelling.
- (iv) All gazebos must be in compliance with Elizabethton Municipal Code § 14-207.
- (v) A gazebo must meet flood requirements if located in a flood zone.
- (vi) A gazebo must be anchored in such a fashion as to prevent movement from wind and seismic activity.
- (vii) No gazebo shall be constructed or installed until the property owner submits building plans for approval.
- (viii) No gazebo shall be constructed or installed without the submission for approval of a site plan stating the location of the gazebo, the dimensions of the lot and the setbacks.

(9) Building area. On any lot within an R-1 Residential District, the area occupied by all buildings including accessory buildings shall not exceed thirty percent (30%) of the total area of such lot. In R-2 and R-3 Residential Districts, lot area occupied by all buildings including accessory buildings shall not exceed thirty-five percent (35%) of the total area of such lot.

(10) Height and density. No building or structure shall hereafter be erected or altered so as to exceed the height limit, to accommodate or house a greater number of families, or to have narrower or smaller front yards or side yards than are required or specified in the regulations herein for the district in which it is located.

(11) Annexations. All territory which may hereafter be annexed to the City of Elizabethton, Tennessee, shall be considered to be in the R-1 Low Density Residential District until otherwise classified.

(12) Telephone microwave towers. Telephone microwave towers shall be set back the distance from all adjoining property lines equal to the height of the tower.

(a) Location. Tower structures shall not be permitted in R-1, R-2, R-3, and M-R Residential Zoning Districts.

(b) **Setback.** All support buildings and equipment, including guy wires, shall be subject to the minimum setback requirements for a primary use of the zoning district where the tower structure is located.

(c) **Signs.** No signs shall be located on any tower structure.

(d) **Support buildings equipment.** Support buildings and equipment associated with a tower structure shall have a maximum height of fifteen feet (15') and a maximum square footage of two hundred (200) square feet.

(e) **Inspection.** If upon inspection by the chief building official or designee, a tower structure fails to comply with applicable building codes, the tower structure owner has thirty (30) days to bring it into compliance with such standards. Failure to bring it into compliance within thirty (30) days shall constitute grounds for removal by the city at the expense of the tower structure owner.

(f) **Abandonment.** If any tower structure is not in use for twelve (12) consecutive months, it shall be deemed abandoned by the chief building official and be removed by the owner of the tower structure. Failure to remove the tower structure within ninety (90) days shall constitute grounds for removal by the city at the expense of the tower structure owner.

(g) **Site plan approval.** A site plan drawn to scale indicating the location and height of the tower structure and any new improvements, including any additional site and tower structure modifications, shall be submitted to the chief building official for administrative review.

(h) **Approval/denial.** Within sixty (60) days of the receipt of the completed application and the required filing fee of one hundred dollars (\$100.00) the chief building official shall notify the applicant of the approval or denial of the application. In the event of a denial the reason will be stated therefor. In the event the chief building official fails to notify the applicant within sixty (60) days after receiving the completed application, the application shall be deemed approved.

(i) **Special exception review.** The application for the installation of a new tower, or for the installation of a replacement tower whose height exceeds the height of the existing tower, shall be subject to review by the board of zoning appeals as a special exception. The board of zoning appeals may impose additional conditions to minimize any adverse effects.

(13) **Driveways and street curb cuts.** (a) **Definitions.** For the purposes of this section, the following words and phrases shall have the meanings respectively ascribed to them by this section:

(i) **"Curb return."** The portion of a street curb or alley curb at the street or alley intersections.

(ii) **"Driveway."** An area on private property where automobiles and other vehicles are operated or allowed to stand.

(iii) "Driveway approach." Any area, construction, or facility between the roadway of a public street and private property which is used for an entrance or exit of vehicles and is intended to provide access for vehicles from the roadway of a public street to something definite on private property such as a parking area, a driveway, or a door.

(b) It shall be unlawful for any person, firm, corporation, association, or others, to cut, build, or maintain a driveway across a curb or sidewalk, or cut a curb or street, or conflict with a driveway in any way to a street within the City of Elizabethton, Tennessee, without first obtaining a permit from the building official, which permit shall cost thirty dollars (\$30.00), payable at the time the permit is obtained.

(c) All driveways and parking areas must be paved, within the setback as established by the City of Elizabethton's Zoning Ordinance, with either asphalt concrete or Portland cement concrete as specified by the building official. Any sidewalk section of the driveway approach shall be finished and scored as specified by the building official.

(d) No residential driveway approach shall be permitted within twenty-five feet (25') of the edge of a cross street or within five feet (5') of the curb return, whichever is greater. No commercial driveway approach including the curb return shall be permitted within seventy-five feet (75') of the edge of a cross street or within ten feet (10') of the curb return, whichever is greater. See Figure 1.¹

(e) No driveway or series of driveway approaches serving other than residential property shall be permitted to be constructed in such a way that the exit from such property would be accomplished by backing vehicles into a street right-of-way or roadway.

(f) Not more than one (1) driveway approach shall be permitted per lot when the lot is seventy-five feet (75') or less in width fronting on any street. Additional driveway approaches for lots fronting more than seventy-five feet (75') on a street shall be at the discretion of the building official. The building official shall use as the basis for judgment such factors as street design and capacity, traffic counts, surrounding land use, and other established engineering guidelines.

(g) Driveways shall not be permitted at locations hidden from the user of the public street, as where sight distance problems exist.

(h) Horizontal approach angles between the centerline of the driveway and the centerline of the public street shall be a minimum of seventy degrees (70°).

(i) The width of a driveway approach shall not exceed the following dimensions:

¹Figure 1 is available for review in the office of the city clerk.

(i) The maximum width for residential driveways shall be fifteen feet (15') for single driveways and twenty-four feet (24') for double driveways not including turning radii.

(ii) The maximum width for commercial driveways shall be forty feet (40'), not including turning radii. See Figure 2.¹

(14) Sidewalks. (a) All new streets constructed in the city shall have sidewalks constructed on both sides of each street in accordance with such specifications established by municipal code, subdivision regulations and the Elizabethton Regional Planning Commission.

(b) All new development with exception of single-family detached residential shall have sidewalks constructed and extend the length of the property frontage adjacent to the street.

(c) Sidewalks shall be included on all applicable site plans. The Elizabethton Board of Zoning Appeals may consider variances to this requirement in accordance with chapter 8, § 14-803.

(15) Warehousing and storage in the B-3 Central Business District and B-4 Intermediate Business District. No warehousing and storage shall be permitted in the B-3 Central Business District and the B-4 Intermediate Business District except as necessary to a permitted principal use and shall be in a completely enclosed building. Mobile units, truck trailers and temporary storage units shall not be permitted. Vehicles not necessary to a permitted principal use shall not be permitted. (2000 Code, § 14-205, as amended by Ord. #47-22, Dec. 2011, and Ord. #48-16, Sept. 2012)

14-206. Continuance of nonconforming uses. Any lawful use of any building or land existing at the time of the enactment of the provisions of chapters 2 through 8 of this title or whenever a district is changed by an amendment thereafter may be continued although such use does not conform with the provisions of chapters 2 through 8 of this title with the following limitations:

(1) No building or land containing a nonconforming use shall hereafter be extended unless such extensions shall conform with the provisions of chapters 2 through 8 of this title for the district in which it is located; provided, however, that a nonconforming use may be extended throughout those parts of building which were manifestly arranged or designed for such use prior to the time of enactment of the provisions of chapters 2 through 8 of this title.

(2) Any nonconforming building which has been damaged by fire or other causes may be reconstructed and used as before unless the building inspector determines that the building is damaged to the extent of more than seventy-five percent (75%) of its appraised value for tax purposes, in which case

¹Figure 2 is available for review in the office of the city clerk.

any repair or reconstruction shall be in conformity with the provisions of chapters 2 through 8 of this title.

(3) When a nonconforming use of any building or land has ceased for a period of one (1) year, it shall not be reestablished or changed to any use not in conformity with the provisions of chapters 2 through 8 of this title. (2000 Code, § 14-206)

14-207. Obstruction of vision at street intersections prohibited.

In all districts except the B-3 (Central) Business District, no fence, wall, shrubbery, or other obstruction to vision between the height of three feet (3') above the street grade shall be permitted within twenty feet (20') of the intersection of the right-of-way of streets, or the intersection of streets and railroads, or of the intersection of streets and driveways. (2000 Code, § 14-207)

14-208. Off-street automobile parking. Off-street automobile parking space shall be provided on every lot on which any of the following uses are hereinafter established, except in the B-3 (Central) Business District. Should private off-street parking be desired in the B-3 (Central) Business District, such parking shall be located to the rear of the structure on the lot. The number of automobile parking spaces provided shall be at least as great as the numbers specified below for various uses. Each space shall be at least nine feet (9') wide and eighteen feet (18') long and shall have vehicular access to a public street. Turning space shall be provided so that no vehicle will be required to back into the street.

(1) Automobile repair garages. One (1) space for each regular employee plus one (1) space for each two hundred fifty (250) square feet of floor space used for repair work.

(2) Churches. One (1) space for each four (4) seats.

(3) Clubs and lodges. One (1) space for each three hundred (300) square feet of floor space over one thousand (1,000) square feet.

(4) Dwellings. One (1) space for each dwelling unit, except designated housing for the elderly, in which case one (1) space for each two (2) units.

(5) Funeral parlors. One (1) space for each four (4) seats in chapel.

(6) Gasoline service stations and similar establishments. Two (2) spaces for each bay or similar facility plus one (1) space for each employee.

(7) Hospitals and nursing homes. One (1) space for each two (2) staff or visiting doctors plus one (1) space for each two (2) employees, and one (1) space for each four (4) beds, computed on the largest number of employees on duty at any period of time.

(8) Hotel. One (1) space for each four (4) employees plus one (1) space for each two (2) guest rooms.

(9) Industry. One (1) space for each three (3) employees computed on the largest number of persons employed at any period during the day or night.

- (10) Motels and tourist courts. One (1) space for each four (4) employees plus one (1) space for each accommodation.
- (11) Offices:
- (a) Medical. One (1) space for each three hundred (300) square feet of floor space;
 - (b) Other professional. One (1) space for each four hundred (400) square feet of floor space; and
 - (c) General. One (1) space for each four hundred (400) square feet of floor space.
- (12) Places of public assembly. One (1) space for each four (4) seats in the principal assembly room or area.
- (13) Recreation and amusement areas without seating capacity. One (1) space for each five (5) customers, computed on maximum service capacity.
- (14) Restaurants. One (1) space for each four (4) employees, plus one (1) space for each one hundred (100) square feet of floor space devoted to patron use.
- (15) Retail business and similar uses. One (1) space for each two hundred (200) square feet of gross floor space.
- (16) Schools. One (1) space for each faculty member, plus one (1) space for each four (4) pupils except in elementary and junior high schools.
- (17) Mobile home parks.¹ Mobile home parks shall meet the requirements of the Elizabethton Mobile Home Park Ordinance.
- (18) Wholesale business. One (1) space for each three (3) employees on maximum seasonal employment.

If off-street parking space required above cannot reasonably be provided on the same lot on which the principal use is conducted, the board of zoning appeals may permit such space to be provided on other off-street property, provided, such space lies within four hundred feet (400') of the main entrance to such principal use. Such vehicle parking space shall be deemed to be required open space associated with the permitted use and shall not thereafter be reduced or encroached upon in any manner.

Extension of parking spaces into a residential district. Required parking space may extend up to one hundred twenty feet (120') into a residential zoning district, provided that:

- (a) The parking space adjoins a commercial or industrial district;
- (b) Has its only exit to or from upon the same street as the property in the commercial or industrial district from which it provides the required parking space; and

¹Municipal code reference

Mobile home park regulations: title 14, chapter 15.

(c) Is separated from abutting properties in the residential district by a plant or fence buffer strip as determined by the building inspector. (Ord. #50-07, June 2014)

14-209. Off-street loading and unloading space. On every lot on which a business, trade, or industry use is hereafter established, space with access to a public street or alley shall be provided as indicated below for the loading and unloading of vehicles off the public street or alley:

(1) Retail business. One (1) space of at least twelve by twenty-five feet (12' x 25') for each three thousand (3,000) square feet of floor area or part thereof.

(2) Wholesale and industrial. One (1) space of at least twelve by fifty feet (12' x 50') for each ten thousand (10,000) square feet of floor area or part thereof.

(3) Terminals. Sufficient space to accommodate the maximum number of vehicles that will be stored and loading and unloading at the terminal at any one time. (2000 Code, § 14-209)

14-210. Inclusion of floodplain provisions.¹ (1) For the purpose of chapters 2 through 8 of this title, land considered subject to flood shall be that land lying below the elevation of the one percent (1%) probable flood on the Doe and Watauga Rivers, Vicinity of Elizabethton, Tennessee (Tennessee Valley Authority, July, 1968).²

(2) A floodway district, as shown on the Zoning Map of Elizabethton, Tennessee, is established to enable the Doe and Watauga Rivers to carry increased flows of water in time of flood. The provisions which accompany the floodway district prevent encroachments into the district which would increase the flood heights and property damage. In this manner loss of life and excessive property damage is lessened or prevented.

(3) Lands lying outside this floodway district, but within the area subject to flood by a one percent (1%) probability flood, are in the floodway fringe areas. These areas are subject to certain provisions which seek to lessen flood damage, in addition to being subject to the provisions of the land use district in which they lie. For example, part of a low density residential district may also be in the floodway fringe area. This part of the residential district would be subject to the provisions pertaining to the floodway fringe area. (2000 Code, § 14-210)

¹Municipal code reference

Floodplain zoning ordinance: title 14, chapter 14.

²Ord. #71-1 is available in the city clerk's office.

14-211. Group housing and planned unit development. A group housing project is defined as any group of two (2) or more buildings to be constructed on one (1) parcel of land. A planned unit development is one defined as a comprehensive residential or commercial development where project design does not include standard street, lot, and subdivision arrangements, and where shares, property, or units are to be sold. Group housing or planned unit development projects may be allowed upon review and approval by the Elizabethton Planning Commission provided that the following are met:

(1) A site plan showing the location of proposed buildings, roads, drives, parking, utilities, drainage, and any other information necessary for review must be presented to the planning commission.

(2) In no case shall the planning commission approve a use prohibited, or a smaller lot area per family than the minimum required or a greater height, or a larger lot coverage than permitted in the district where the project is located.

(3) A one (1) acre minimum lot size is required where two (2) or more structures are to be constructed on a single lot.

(4) When property is subdivided for the purpose of selling either proposed or existing townhouses, duplexes, or similar housing units, the following requirements apply:

(a) Side yard setbacks will not be required where housing units connect at property lines;

(b) Road frontage requirements may be reduced to thirty feet (30') width;

(c) Each parcel of land shall be treated as an individual lot and shall meet lot size requirements, density requirements, and all other provisions of the Elizabethton Subdivision Regulations and Zoning Ordinance.

(5) Public and private roads in all development in which property is to be subdivided must be constructed to standards set forth in the Elizabethton Subdivision Regulations. All common driveways and parking areas for group housing developments and planned unit developments must be paved with hot asphalt or concrete pavement prior to final approval.

(6) A plat for the conversion of rental units to condominiums must be approved by the Elizabethton Planning Commission.

(7) Preliminary or design approval and final or recording approval shall be required for all condominium developments approved by the planning commission before any units can be sold. For condominium projects to be developed in stages or phases, preliminary or design approval shall be required on the entire project with final or recording approval required at the completion of each stage of construction before any units can be sold. (2000 Code, § 14-211)

14-212. Shopping centers.¹ A shopping center is defined as a group of commercial establishments, planned, developed, owned and managed as a unit with off-street parking provided on the property; however, this shall not apply to a group of commercial establishments containing no more than four (4) separate commercial establishments in one (1) structure containing a total of not more than seven thousand five hundred (7,500) square feet of floor area.

The owner or lessee of any shopping center shall submit to the planning commission a plan meeting all of the requirements set forth in this section. The planning commission may require additions or changes to the plan prior to granting final approval. Should approval of the plans be denied by the planning commission an appeal for approval may be made to the Elizabethton City Council.

(1) The plan submitted shall be drawn to scale and shall show all roads and drainage, existing and proposed, drives and parking areas, building lines enclosing the portion of the tract within which buildings are to be erected, typical groups of buildings which might be erected within the building lines shown, boundaries of tracts, proposed use of land and buildings. The relation of the project to the street system and to the surrounding property, and to surrounding use districts shall be shown. In addition the following information shall be shown:

- (a) Existing zone.
- (b) Number of parking spaces in relation to the gross leasable space or other parking criteria.
- (c) Location and size of parking spaces and direction of traffic flow.
- (d) Truck loading and unloading areas.
- (e) Proposed curb cuts.
- (f) Existing and proposed utilities and fire hydrants.
- (g) Location and type of signs.
- (h) Location of dumpster sites and construction detail showing wash down facilities when applicable.
- (i) Cross section showing pavement construction.
- (j) Surface water drainage plan showing direction of water flow ditches, culverts, catch basins, detention ponds and drainage ways and easements.
- (k) Required setback distances and proposed setback distances from buildings to adjoining property lines.
- (l) An erosion and sedimentation control plan may be required when applicable.

¹Municipal code reference

Shopping centers: title 14, chapter 11.

(m) Plans shall be properly signed, sealed and dated by an architect or engineer.

(n) A landscaping plan shall be provided showing the location and type of landscaping proposed for the project.

(2) The plan for a shopping center shall meet as a minimum, the following specifications and requirements.

(a) The aggregate of all buildings proposed shall not exceed thirty percent (30%) of the entire lot area of the project. All buildings shall be setback not less than sixty feet (60') from all streets bounding the project area.

(b) There shall be customer parking facilities as follows:

(i) For recreation or amusement buildings, restaurants or other establishments serving food or drinks: one (1) parking space for each one hundred (100) square feet of total floor space in the building.

(ii) Theater or any place of public assembly; one (1) parking space for each six (6) seats.

(iii) Clinic or medical or dental offices: five (5) parking spaces for each professional occupant.

(iv) Hotel or motel: one (1) parking space for each guest room.

(v) Other permitted uses: five (5) parking spaces for each one thousand (1,000) square feet of gross leasable space.

(vi) Each mercantile establishment shall provide one (1) space ten feet by fifty feet (10' x 50') for truck loading and unloading, for each ten thousand (10,000) square feet, or fraction thereof, in the building provided, however, that a loading space adjacent and accessible to two (2) buildings may be used to serve both buildings if the aggregate area of both does not exceed ten thousand (10,000) square feet.

(c) The streets, parking areas and walks shall be paved with hard surface material meeting applicable specifications of the city engineer.

(d) Any part of the project area not used for buildings or other structures, parking, loading and access ways, shall be landscaped with grass, trees, shrubs or pedestrian walks. The planning commission may require additional landscaping to maintain the aesthetic characteristics of the community and enhance the appearance of the neighborhood.

(e) The shopping center buildings shall be designed as a whole unified and single project or in stages following the approved general plan and separate building permits may be taken out for separate portions of said property after final approval has been granted.

When outparcels have their own access to public streets or permanent transportation easements and the outparcel lot meets all the

zoning requirements for an individual business except that it has not been subdivided from the shopping center property, planning commission approval is not required for the development of the outparcel. If the development of the outparcel alters traffic flow or parking of the existing shopping center, review by the planning commission shall be required.

- (3) A building or premises may be used only for the following purposes:
- (a) Stores and shops conducting retail business.
 - (b) Personal, business, and professional services.
 - (c) Offices, hotels, motels, and restaurants.
 - (d) Amusements and recreation.

(4) No building shall exceed three (3) stories in height, except by permission of the city council.

No structure of any kind shall exceed fifty feet (50') in height, provided that this limitation shall not apply to:

- (a) Chimneys;
- (b) Cooling towers;
- (c) Ornamental towers and spires;
- (d) Radio and television towers, antennae or aerials;
- (e) Stage towers or scenery lofts;
- (f) Water tanks and towers.

(5) Prior to approval of a shopping center plan the planning commission may make additional requirements concerning but not limited to, the limitation of uses, landscaping, lighting, signs and advertising devices, screening or planting, setback and height of buildings, paving and location of drives and parking areas, drainage and the location of access ways, taking into consideration the character of the surrounding area so as to protect adjoining residentially zoned lots or residential uses, to provide for public safety and prevent traffic congestion. (2000 Code, § 14-212, as amended by Ord. #48-16, Sept. 2012)

14-213. Flea markets. Where flea markets are permitted in the B-2 (Arterial) Business District and M-2 Heavy Industrial District by approval of a special use, the following standards shall be complied with, in addition to any conditions placed on the special use, and title 9 of the Elizabethton City Code.

(1) Adequate water, restroom facilities, and garbage disposal shall be provided if found necessary based on the size, frequency and duration of the market.

(2) A site plan is required and shall include parking, lighting, signage, location and number of tables, tents, and other display areas. Also, ingress and egress must be shown on the site plan. The approved site plan will be a part of the conditional use permit. If inside sales are to be conducted on the same parcel, then a statement shall be provided denoting the total square footage of all indoor retail space that is planned. An adequate amount of parking for indoor retail space shall be reflected on the site plan.

(3) A minimum thirty foot (30') front setback and a minimum twenty foot (20') setback shall be maintained from the remaining property lines in which no display of merchandise is allowed.

(4) No adverse effect on adjoining properties, including but not limited to, excessive or untimely noise or lighting, overflow parking, or visual problems potentially affecting property values or marketability, is found.

(5) No manufactured buildings shall be permitted.

(6) All tables, facilities and structures shall be maintained in a well-kept and attractive manner.

(7) All temporary structures or facilities, including but not limited to, canopy frames, merchandise, display tables, tents, and other material and equipment must be stored in an enclosed principal building or removed from the premises when the flea market is not in operation. Trailers, pods, and other temporary storage units shall not be allowed in the day-to-day operation unless they can be screened so as to not be visible from any street, road, or residential property.

(8) Operation of the market shall be confined to Friday, Saturday, Sunday, and holidays, unless other dates are specifically approved by the city council in conjunction with a special events permit which shall not exceed five (5) consecutive days. The hours of operation shall be posted on the property.

(9) Flea markets shall only be conducted during the months of April through October. During the period of November 1 to March 31, all temporary structures, fixtures, or facilities, including but not limited to, canopy frames, merchandise, display tables, tents, and other material and equipment must be stored in an enclosed principal building, removed from the premises, or otherwise screened from public view. (Ord. #50-16, Sept. 2014)

14-214. Yard sales. No more than eight (8) days of yard sales shall be allowed in any given calendar year at a property without a business license. A business license shall be required to operate a yard sale in excess of eight (8) days in any given calendar year. (Ord. #50-18, Oct. 2014)

CHAPTER 3

PROVISIONS GOVERNING USE DISTRICTS

SECTION

- 14-301. R-1 (Low Density) Residential District.
- 14-302. R-1A (Low Density) Residential District.
- 14-303. R-2 (Medium Density) Residential District.
- 14-304. R-3 (High Density) Residential District.
- 14-305. M-R (Medical-Residential) District.
- 14-306. B-1 (Neighborhood) Business District.
- 14-307. B-2 (Arterial) Business District.
- 14-308. B-3 (Central) Business District.
- 14-309. B-4 (Intermediate) Business District.
- 14-310. M-1 (Manufacturing-Warehouse) Restricted Manufacturing and Warehouse District.
- 14-311. M-2 (Industrial) District.

14-301. R-1 (Low Density) Residential District. It is the intent of this district to establish low density residential areas along with open areas which appear likely to develop in a similar manner. The requirements for the district are designed to protect essential characteristics of the district, to promote and encourage an environment for family life, and to prohibit all business activities. In order to achieve the intent of the R-1 (Low Density) Residential District, as shown on the Zoning Map of the City of Elizabethton, Tennessee, the following uses are permitted:

- (1) Single-family dwellings excluding mobile homes.
- (2) Customary general farming.
- (3) Home occupation.
- (4) Public owned buildings and uses, public and private schools offering general education, and churches provided that:
 - (a) The location of these uses shall first be reviewed by the Elizabethton Planning Commission.
 - (b) The buildings, except for churches, are placed not less than fifty feet (50') from the side and rear property lines; however, churches may be located with setbacks of thirty foot (30') front, ten feet (10') each side, and twenty-five feet (25') rear, as are residences in Zone R-1.
 - (c) There are planted buffer strips along side and rear property lines.
- (5) Day care homes provided:
 - (a) That all land area used for outdoor activities be appropriately fenced.
 - (b) That an adequate loading and unloading area is provided that will allow for the safe pick up and drop off of children.

(6) Residential business sign. Residential business signs and other advertising signs are defined in title 14, chapter 5. (2000 Code, § 14-301, as amended by Ord. #48-1, Feb. 2012)

14-302. R-1A (Low Density) Residential District. It is the intent of this district to allow for construction on the smaller lots that exist in the original neighborhoods of the city while still maintaining a low density single-family residential area. The requirements for the district are designed to protect essential characteristics of the district to promote and encourage an environment for family life and to prohibit all business activities. In order to achieve the intent of the R-1A (Low Density) Residential District, as shown on the Zoning Map of the City of Elizabethton, Tennessee the following uses are permitted.

- (1) Single-family dwellings excluding mobile homes.
- (2) Customary general farming.
- (3) Home occupation.
- (4) Public owned buildings and uses, public and private schools offering general education, and churches provided that:

- (a) The location of these uses shall first be reviewed by the Elizabethton Planning Commission.

- (b) The buildings, except for churches are placed not less than fifty feet (50') from the side and rear property lines; however churches may be located with setbacks of thirty foot (30') front, ten feet (10') each side, and twenty-five feet (25') rear as are residences in Zone R-1.

- (c) There are planted buffer strips along side and rear property lines.

- (5) Day care homes provided:

- (a) That all land area used for outdoor activities be appropriately fenced;

- (b) That an adequate loading and unloading area is provided that will allow for the safe pick up and drop off of children.

- (6) Residential business sign. (2000 Code, § 14-302, as amended by Ord. #48-1, Feb. 2012)

14-303. R-2 (Medium Density) Residential District. It is the intent of this district to provide for single family and multi-family dwellings; to encourage development and continued use of land for residential purposes; to prohibit land use for business and/or industrial activities and other land uses which would interfere with the residential character of the district. In order to achieve the intent of the R-2 (Medium Density) Residential District, as shown on the zoning map of the City of Elizabethton, Tennessee, the following uses are permitted:

- (1) Any use permitted in the R-1 Residential District;
- (2) Multiple family dwellings;

(3) Funeral homes, fraternal organizations, and clubs not operated for profit, offices for doctors, lawyers, dentists, architects, real estate agencies and insurance agencies provided that:

(a) A site plan must be approved by the Elizabethton Regional Planning Commission;

(b) If one-half (1/2) or greater of the perimeter of the property on which the site is located borders any residentially zoned property, then all record owners of bordering residential properties shall be notified by U.S. Mail of the time and place that the Elizabethton Regional Planning Commission will consider the site plan. Said notification shall be sent no more than ninety (90) days and no less than thirty (30) days in advance of the time the Elizabethton Regional Planning Commission considers the site plan;

(c) They shall be located on designated arterial or collector streets;

(d) The buildings shall be placed not less than fifty feet (50') from all property lines; and

(e) There is a planted buffer strip erected on side and rear property lines.

(4) Nursing homes and homes for the aged provided that:

(a) A site plan must be approved by the Elizabethton Regional Planning Commission;

(b) If one-half (1/2) or greater of the perimeter of the property on which the site is located borders any residentially zoned property, then all record owners of bordering residential properties shall be notified by U.S. Mail of the time and place that the Elizabethton Regional Planning Commission will consider the site plan. Said notification shall be sent no more than ninety (90) days and no less than thirty (30) days in advance of the time the Elizabethton Regional Planning Commission considers the site plan.

(c) That all buildings shall be placed not less than fifty feet (50') from all property lines; and

(d) There is a planted buffer strip erected on side and rear property lines.

(5) Accessory apartments provided that:

(a) The site meets all other requirements of the zoning ordinances such as the same building setback as for a principal residence, density requirements, building area to lot ratio, off street parking requirements, and any other requirements that would apply to a principal residence. No variance shall be granted to these requirements;

(b) Only one (1) accessory apartment shall be allowed to locate on the same lot with other multi-family principal residences; and

(c) Accessory apartments shall not be allowed on the same lot with other multi-family housing.

- (6) Crematories accessory to funeral homes provided that:
- (a) A site plan must be approved by the Elizabethton Regional Planning Commission;
 - (b) If one-half (1/2) or greater of the perimeter of the property on which the site is located borders any residentially zoned property, then all record owners of bordering residential properties shall be notified by U.S. Mail of the time and place that the Elizabethton Regional Planning Commission will consider the site plan. Said notification shall be sent no more than ninety (90) days and no less than thirty (30) days in advance of the time the Elizabethton Regional Planning Commission considers the site plan;
 - (c) That all buildings shall be placed not less than fifty feet (50') from all property lines;
 - (d) There is a planted buffer strip erected on side and rear property lines.
- (7) Boarding houses and bed and breakfast homes. (Ord. #49-10, May 2013)

14-304. R-3 (High Density) Residential District. It is the intent of this district to provide an area for single- and multi-family dwellings, to encourage development and continued use of land for residential purposes; to prohibit land use for business and/or industrial activities and other land uses which would interfere with the residential character of the district. In order to achieve the intent of the R-3 (High Density) Residential District, as shown on the Zoning Map of the City of Elizabethton, Tennessee, the following uses are permitted:

- (1) Any use permitted, in R-2 Residential District.
- (2) Mobile home parks provided that they conform to requirements of the Mobile Home Park Ordinance of the City of Elizabethton.
- (3) Mobile home subdivisions that have been approved by the Elizabethton Planning Commission and meet all requirements of the Elizabethton Subdivision Regulations and other provisions of chapters 2 through 8 of this title. (2000 Code, § 14-304)

14-305. M-R (Medical-Residential) District. It is the intent of this district to provide an area for residential and medical facilities and to continue the use of land within this district for this purpose; to prohibit the use of land for business and/or industrial activities and other land use which would interfere with the character of this Medical-Residential District, as shown on the Zoning Map of the City of Elizabethton, Tennessee, the following uses are permitted:

- (1) Single-family dwellings, two-family dwellings, hospitals, medical and dental clinics, clinical laboratories, nursing homes, convalescent homes,

drug stores, parking lots, medical offices, professional offices and business offices.

(2) Banks and lending institutions and stores and shops conducting retail business such as book shops, card shops, florists, gift shops and similar uses.

(3) Public and semi-public buildings and uses provided that public and semi-public buildings and uses shall first be reviewed by the Elizabethton Planning Commission.

(4) Business signs as defined in title 14, chapter 5. (2000 Code, § 14-305)

14-306. B-1 (Neighborhood) Business District. It is the intent of this district to establish business areas to serve the surrounding residential districts. The neighborhood business district is intended to discourage strip business development and to encourage the grouping of uses in which parking and traffic congestion is reduced to a minimum. In order to achieve the intent of the B-1 (Neighborhood) Business District, as shown on the Zoning Map of the City of Elizabethton, Tennessee, the following uses are permitted:

(1) Any use permitted in the R-3 (Residential) District, except for mobile home parks, day care homes, boarding houses and bed and breakfast homes.

(2) Shopping centers.

(3) Grocery stores, drug stores, hardware stores, shoe repair shops, barber and beauty shops, banks, laundromats, and laundry pick-up stations, restaurants, and similar uses.

(4) Business signs as defined in title 14, chapter 5.

(5) Gasoline service stations provided that all structures including underground storage tanks shall be placed not less than twenty feet (20') from all property lines. Points of ingress and egress shall not be less than fifteen feet (15') from intersection of street lines. (2000 Code, § 14-306)

14-307. B-2 (Arterial) Business District. It is the intent of this district to establish business areas that encourage groupings of compatible business activities, reduce traffic congestion to a minimum and enhance the aesthetic atmosphere of the City of Elizabethton. In this district the following uses shall be permitted:

(1) Any use permitted within a B-1 Neighborhood Business District;

(2) Hotels and motels;

(3) Auto and mobile home sales;

(4) Restaurants;

(5) Offices;

(6) Places of amusement and assembly;

(7) Funeral homes;

(8) Public and semi-public buildings and uses;

- (9) Travel trailer parks;
- (10) Lodges and clubs;
- (11) Self-service storage facilities provided that a site plan must be approved by the Elizabethton Regional Planning Commission; and
- (12) Crematories accessory to funeral homes provided that:
 - (a) A site plan must be approved by the Elizabethton Regional Planning Commission;
 - (b) If one-half (1/2) or greater of the perimeter of the property on which the site is located borders any residentially zoned property, then all record owners of bordering residential properties shall be notified by U.S. Mail of the time and place that the Elizabethton Regional Planning Commission will consider the site plan. Said notification shall be sent no more than ninety (90) days and no less than thirty (30) days in advance of the time the Elizabethton Regional Planning Commission considers site plan. (Ord. #49-10, May 2013)

14-308. B-3 (Central) Business District. It is the intent of this district to establish an area for concentrated general business and mixed-use development that the general public requires. The requirements are designed to protect the essential characteristics of the district by promotion of business and public uses which serve the general public and to discourage industrial, wholesale development, and other development which do not lend themselves to pedestrian traffic. In order to achieve the intent of the B-3 (Central) Business District, as shown on the zoning map of the City of Elizabethton, Tennessee, the following uses are permitted:

- (1) Stores and shops, conducting retail business;
- (2) Personal, business, and professional services;
- (3) Public and semi-public buildings, provided that public and semi-public buildings and uses shall first be reviewed by the Elizabethton Regional Planning Commission;
- (4) Business signs, parking lots and garages;
- (5) Offices, lodges and clubs, hotels and motels, restaurants, and similar community services;
- (6) Dramatic and musical theaters;
- (7) Mixed-use, multi-family housing provided that:
 - (a) The residential units are located in a business structure. Units may be located in the basement or upper levels but shall not be located on the ground floor;
 - (b) Residential units shall not contain less than eight hundred (800) square feet of living space; and
 - (c) Off-street automobile parking shall be located at city or approved private parking lot areas during normal business hours.
- (8) Places of amusement and assembly. (Ord. #50-07, June 2014)

14-309. B-4 (Intermediate) Business District. It is the intent of this district to establish an area adjacent to the B-3 (Central) Business District which will support those uses and to encourage commercial development to concentrate to the mutual advantage of consumers as well as to provide for transactions of the district, thereby strengthening the economic base and protecting public convenience. In order to achieve the intent of the B-4 (Intermediate) Business District, as shown on the Zoning Map of the City of Elizabethton, Tennessee, the following uses are permitted:

- (1) Any use permitted in B-3 (Central) Business District.
- (2) Any use permitted in R-3 Residential District except mobile home parks, boarding houses, and bed and breakfast homes.
- (3) Public and semi-public uses.
- (4) Places of amusement and assembly.
- (5) Gasoline service station, provided it is located on a designated collector or arterial street. (2000 Code, § 14-309)

14-310. M-1 (Manufacturing-Warehouse) Restricted Manufacturing and Warehouse District. This industrial district is established to provide areas in which the principal use of land is for light manufacturing and warehousing. It is the intent that permitted uses are conducted so that noise, odor, dust, and glare of each operation is completely confined within an enclosed building. These regulations are intended to prevent frictions between uses within the district and also to protect nearby residential districts, as shown on the zoning map of the City of Elizabethton, Tennessee. The following uses are permitted:

- (1) Any use permitted in a B-2 (Arterial) Business District except residential units;
- (2) Bakery, bottling works, building materials yards; cabinet making carpenters' shop, clothing manufacture, contractor's yards, crematory, daily, electrical welding, feed or fuel yards, fruit canning or packing, ice plant, laundry, machine shop, milk distribution station, optical goods, paper boxes and pencil manufacturer, printing, publication, or engraving concern, tinsmith shop, trucking terminal, and warehouses;
- (3) Other uses of the same general character as deemed appropriate by the Elizabethton Regional Planning Commission:
 - (a) No yard will be required for that part of the lot which fronts on a railroad siding;
 - (b) On lots that abut a residential district, the Elizabethton Regional Planning Commission may require all buildings and improvements be properly screened and shall be located so as to comply with the side yard requirements of the adjacent residential district; and
 - (c) Installations essential to the business operation shall be set back from the street or alley so that services rendered by the business will not obstruct a public way. (Ord. #49-10, May 2013)

14-311. M-2 (Industrial) District. It is the intent of this district to establish industrial areas along with open areas which will likely develop in a similar manner. The requirements established in the district regulations are designed to protect the essential characteristics, to promote and encourage industrial, wholesaling, and business uses, and to discourage residential development. In order to achieve the intent of the M-2 (Industrial) District, as shown on the Zoning Map of the City of Elizabethton, Tennessee, the following uses are permitted:

(1) Any use permitted in the M-1 (Manufacturing-Warehouse) District except residences and mobile home parks.

(2) Any industry which does not cause injurious or obnoxious noise, vibrations, smoke, gas, fumes, odors, dust, fire hazard, or other objectionable conditions.

(3) Adult oriented establishments. Because adult oriented establishments have a deteriorating effect on property values, create higher crime rates in the area, create traffic congestion, and depress nearby residential neighborhoods and retail districts, these activities will only be permitted when minimum conditions are met.

The following minimum conditions must be complied with for a site to be approved for adult entertainment activities:

(a) The site shall not be less than one thousand feet (1,000') from any residentially zoned property at the time of approval for an adult entertainment activity.

(b) The site shall be not less than one thousand feet (1,000') from the site of any public amusement or entertainment activity, including but not limited to, the following: arcades, motion picture theaters, bowling alleys, marinas, golf courses, playgrounds, ice skating or roller skating rinks or arenas, zoos, community centers and similar amusements offered to the general public. "Amusement or entertainment activities" in this section shall not include adult oriented establishments, and shall not reduce the distance requirements otherwise dictated by this section.

(c) The site shall be not less than one thousand feet (1,000') from any area devoted to public recreation activity.

(d) The site shall be not less than one thousand feet (1,000') from any school, library, day care center, park, church, mortuary or hospital.

(e) The site shall be not less than one-half (1/2) mile from any other adult entertainment business site.

(f) Measurement shall be made from the nearest recorded property line of the lot on which the adult oriented establishment is situated to the nearest property line or boundary of the above mentioned uses, measuring a straight line on the Elizabethton Zoning Map.

(g) Maps showing existing land use and zoning within one-half (1/2) mile of the proposed site should be submitted with an application for use on review approval along with site plans, surveys or other such special information as might reasonably be required by the planning commission for use in making a thorough evaluation of the proposal. (2000 Code, § 14-311)

CHAPTER 4

DIMENSIONAL REQUIREMENTS; MOBILE UNITS

SECTION

14-401. Area, yard, and height requirements.

14-402. Mobile units.

14-401. Area, yard, and height requirements.

District	Minimum Lot Size Requirements			Setback Requirements (ft)			Maximum Height Requirements		Building Area Percent
	Area (sq. ft.)	Additional Units	Lot Width at Building (ft.)	Front	Side	Rear	Stories	Feet	
R-1	10,000	--	75	30	10	25	3	35	30
R-1A	5,000	--	50	30	6	25	3	35	20 ¹
R-2	7,5000	5,000	50	30	6	25	3	35	35
R-3 ²	5,000	2,500	50	25	6	20	4	50	35
M-R Residential	7,500	5,000	50	30	8	30	2	35	30
M-R - Other	7,500	--	50	25	10	20	4	50	30
B-1	5,000	--	--	30	10	25	3	35	30
B-2	5,000	--	--	35	10	25	3	35	--

¹ If existing structures on the same block exceed this ratio, then a ratio that would average the ratio of the existing structures to land may be applied.

²Lots of one (1) acre or greater in size may be developed for multi-family dwellings and upon and to the following standards, upon review and approval by the Elizabethton Planning Commission: One (1) bedroom units, one thousand (1,000) square feet per unit; two (2) bedroom units, two thousand (2,000) square feet; three (3) bedroom units, three thousand (3,000) square feet per unit. Corner lots: The minimum width of a side yard along an intersecting street shall be fifty percent (50%) greater than the minimum side yard requirements of the district in which the lot is located.

District	Minimum Lot Size Requirements			Setback Requirements (ft)			Maximum Height Requirements		Building Area Percent
	Area (sq. ft.)	Additional Units	Lot Width at Building (ft.)	Front	Side	Rear	Stories	Feet	
B-3	5,000	--	--	0-5 ¹	0	10 ²	6	75	--
B-4	5,000	--	--	25	15	20	6	75	--
M-1	5,000	--	--	25	10	20	6	75	--
M-2	5,000	--	--	40	10	25	6	75	--

(Ord. #50-07, June 2014)

14-402. Mobile units. Mobile units may be allowed to locate within the city on a temporary basis provided that use of said mobile unit conforms to all other provisions of chapters 2 through 8 of this title and provided that the mobile unit meets all applicable building code requirements. Mobile units may be used for temporary construction site offices, seasonal retail establishments, newly established businesses that plan future construction of permanent structures, and similar type uses.

A temporary occupancy permit to allow the location of mobile units may be issued by the building official for a period of one (1) year.

The extension of an occupancy permit for a period of longer than one (1) year shall be upon the review and approval of the planning commission. (2000 Code, § 14-402)

¹No structure in this district shall be constructed further than five feet (5') from the front property line.

²If an alley-way borders the rear of the property, half of the alley-way width shall count towards the rear setback requirement.

CHAPTER 5

SIGNS

SECTION

- 14-501. Purpose and intent.
- 14-502. General provisions.
- 14-503. Prohibited signs.
- 14-504. Sign definitions.
- 14-505. Administration and enforcement.
- 14-506. Sign regulations.

14-501. Purpose and intent. It is the purpose of this section to establish reasonable regulations for the location of signs within the Zoning Districts of Elizabethton so as to achieve a more desirable environment through the assurance that flexible and diversified standards bring about adequate light, air and open spaces, aesthetics and a reduction in congestion and hazardous conditions within the city, and to create the legal framework for a comprehensive and balanced system of street graphics that will preserve the right of free speech and expression, provide an easy and pleasant communication between people and their environment, and avoid the visual clutter that is potentially harmful to traffic and pedestrian safety, property values, business opportunities, and community appearance. With these purposes in mind, it is the intent of this chapter to authorize the use of street graphics that are:

- (1) Compatible with their surroundings;
- (2) Appropriate to the activity that displays them;
- (3) Expressive of the identity of individual activities and the community as a whole;
- (4) Legible in the circumstances in which they are seen;
- (5) Provide functional flexibility, encourage variety, and create an incentive to relate signing to basic principles of good design;
- (6) Assure that public benefits derived from expenditures of public funds for the improvement and beautification of streets and other public structures and spaces, are protected by exercising reasonable controls over the character and design of sign structures;
- (7) Provide an improved visual environment and to protect prominent view sheds within the community.

Therefore, all signs erected, replaced, constructed, expanded, or relocated on any property within the city shall conform to the following chapter. (Ord. #45-17, Dec. 2009)

14-502. General provisions. (1) No sign four (4) square feet or over in size shall be painted, constructed, erected, remodeled, relocated or expanded

until a sign permit has been obtained from the Office of the Elizabethton Building Inspector in accordance with the provisions of this chapter.

(2) No permit for any sign shall be issued unless the sign complies with all requirements of this chapter, with the requirements of the building code as amended for sign and outdoor displays and the electrical code.¹

(3) When any sign becomes insecure, in danger of falling, or otherwise unsafe, or if any sign shall be unlawfully installed, erected or maintained in violation of any provisions of the building code or electrical code, the owner, person or firm maintaining the sign upon written notice of the building inspector, shall within not more than ten (10) days make such sign conform to the provisions of this chapter or remove it. The chief building official shall take immediate action to remove the sign when there is imminent danger to the public.

(4) No sign shall be placed where by reason of its location, position, size, shape or color, it would obstruct, impair, obscure, interfere with the view of, or be confused with any traffic control sign, signal or device, or where it may interfere with, mislead or confuse traffic.

(5) No sign shall be placed where it would obstruct access to fire escapes, fire hydrants, fire lanes, emergency exits or similar safety areas.

(6) No sign shall be placed on publicly owned property, public rights-of-way or utility poles, without a permit issued by the city.

(7) All signs advertising adult businesses that are in public view either on-site or off-site shall be limited to verbal description of material or services available on the premises. Such signs shall not include any graphic or pictorial descriptions of material or services available on the premises. The signs shall contain no language that would appear inappropriate for minors or offensive to the general public.

(8) Abandoned business signs advertising a business no longer conducted on the premises shall be removed by owner or lessee of the premises upon which the sign is located within sixty (60) days of written notification by the building official. If such sign is not removed within this period, the chief building official or his designee shall direct that it be removed.

(9) All signs shall be located on a site plan provided to the building official at the time of application and shall include specifications, location, type and design with elevation drawn to scale.

(10) Signs in the historic preservation district shall be under the jurisdiction of the historic zoning commission.

(11) Sign height shall be measured from the average level of grade below the sign to the topmost point of the sign. Average grade shall be lower than existing grade prior to construction or newly established grade after

¹Municipal code reference

Building and electrical codes: title 12.

construction. Any berming, filling, or excavating solely for the purpose of locating the sign shall be computed as part of the sign height.

(12) Area of multi-faced signs. The sign area for a sign with more than one (1) face shall be computed by adding together the area of all sign faces.

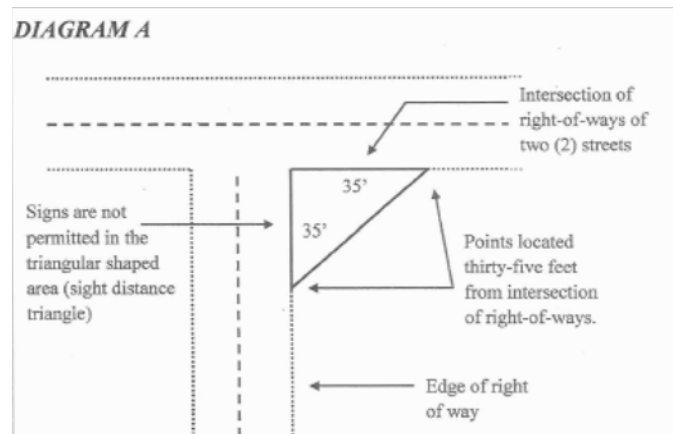
(13) Area of individual signs. The sign area shall be determined by computing the area of the smallest square, rectangle, circle and/or triangle that will encompass the extreme limits of the sign face, including any open areas within the sign face.

(14) Sign area is square foot area enclosed by the perimeter of the sign face including individual symbols, letters, figures, illustrations, messages, forms, or panels together with their background, surrounding frame, and any "cutouts" or extensions. The sign area shall not include any supporting structure or bracing.

(15) Sign face means the entire area upon, against or through which sign copy is placed.

(16) Design. The various parts of a sign shall be compatible in design quality.

(17) Sight distance triangle. All entrance signs and freestanding signs located near the corners of an intersection shall be located outside of the sight distance triangle. Such triangle shall be measured at a distance of thirty-five feet (35') running parallel along each leg of the road or driveway pavement surfaces and connecting them to form a triangular area. This shall be free of any permanent or temporary signs that may inhibit a clear visibility for motorist. (See Diagram A).



(18) All signs shall have underground utilities. Each sign with electrical wiring shall have an outside disconnect and shall meet NEC requirements.

(19) All signs shall be neat in appearance and professionally prepared. (Ord. #45-17, Dec. 2009)

14-503. Prohibited signs. The following type signs are prohibited within the City of Elizabethton, Tennessee:

- (1) Billboard sign;
- (2) Roof sign;
- (3) Portable sign;
- (4) Off-site sign;
- (5) Revolving sign;
- (6) Snipe sign;
- (7) Activated sign;
- (8) Banners, pennants, flags, festoons, balloons, ribbons, pinwheels, streamers, a-frame, sandwich board, and similar temporary signs, except for those otherwise provided for in this chapter. Governmental or non-commercial organization flags are exempt.

(9) Nonconforming signs. Any sign that does not conform to or is not authorized by the provisions of this chapter. (Ord. #45-17, Dec. 2009)

14-504. Sign definitions. (1) "Activated sign." Any sign which contains or uses for illumination any light, lighting device or lights which change color, flash or alternate, or any animation that depicts movement, bright flashes, multiple color displays, transitory bursts of lighting, sudden changes of lighting and any sign which contains moving parts as part of its normal operation, except rotating signs, shall be considered an activated sign. A sign which depicts or contains copy which moves or appears to be moving is also considered an activated sign.

(2) "Appeals." Any person aggrieved by a decision of the chief building official or municipal codes officer relative to the provisions of this subchapter may appeal such decision to the board of zoning appeals per § 14-803 of the zoning code of this municipal code.

(3) "Billboard sign" is a sign which advertises goods, products, services, or a person, firm or group not necessarily sold, performed or found on the premises on which the sign is located.

(4) "Business sign" is a sign which directs attention to a business or profession conducted on the premises. The following types of business signs are defined below:

(a) Wall sign. A sign that is affixed or painted flat against the wall of the building.

(b) Free-standing. A sign that is supported by uprights or braces in or upon the ground.

(c) Projection sign. A sign that is affixed to a structure and extends beyond the structure wall more than twelve inches (12").

(d) Marquee sign. A projecting sign attached to or hung from a marquee and said marquee shall be known to mean a canopy or covered structure projecting from and supported by a building, when such canopy

or covered structure extends beyond the building, building line or property line.

(e) Temporary business sign is a sign, banner, streamer, pennant, valance, flag, balloon, air blown device, signs carried or worn by individuals or advertising display intended to be displayed for a specified and limited period of time.

(f) Announcement or utility sign shall mean any sign that serves to provide additional information concerning the use of the premises on which the sign is located. The term "announcement sign" includes but is not limited to entrance and exit signs, off-street loading areas and the like and signs relating to customary home occupations.

(g) Shopping center sign. A sign advertising a shopping center. In addition to the shopping center name, this sign may include advertisements for one (1) or more businesses to be located in the shopping center.

(h) Residential business sign. A sign advertising a business or profession located in a residential zone.

(i) Multi-tenant sign. Development containing two (2) or more businesses, whether in a single building or multiple buildings, shall share a sign structure for advertisement of multiple businesses located within the development. This provision is applicable to businesses located on the same lot upon which the sign is located as well as to businesses located upon different lots within the development.

(i) The lot or lots involved must be contiguous with one another, and constitute a single cohesive development;

(ii) The sign(s) must be located on a lot that one of the advertised businesses occupies;

(iii) Individual pad or lease sites, defined in the approved site plan, are treated as separate lots for purposes of determining allowable signage;

(iv) Businesses shall not be allowed advertising on both the multiple tenant (shared) sign and another free-standing business identification sign;

(v) Monument signs, used as multi-tenant signs for developments with four (4) or more tenants, may have an allowable sign area not to exceed sixty-four (64) square feet.

(5) "Changing sign (automatic)." Electronically operated static message boards which operate primarily for the purpose of giving time, temperature, public service information and/or the name of business or products sold. Electronic message boards/signs shall include an automatic dimmer. The maximum allowable brightness of an electronic message board/sign shall not exceed four thousand (4,000) NITS (measure of direct light), during the hours between sunrise and sunset and one thousand (1,000) NITS after sunset and before sunrise. No permit for an electronic message board/sign shall be issued

for any sign display that interferes with traffic signal devices. Messages on electronic message boards must remain static for a minimum of eight (8) seconds with a maximum change time of two (2) seconds; not contain video, continuous scrolling messages or animation.

(6) "Civic sign." A sign promoting a community or civic event.

(7) "Devices." Any streamer, flag, balloon, air-blown device, air-filled device, air activated device, gas-filled device, searchlight or any other device whose purpose is to attract the attention of the public shall be allowed by temporary permit on-site only for a period of sixty (60) days not renewable for thirty (30) days.

(8) "For rent or sale sign." A sign advertising the sale or rental of property.

(9) "Government sign." Any sign erected by or on the order of a public official in the performance of his office or duty including, but not limited to, traffic control signs, street name signs, warning and directional signs, public notices or signs of similar nature.

(10) "Ground sign." A freestanding sign mounted directly on the ground, with the entire bottom portion of the structure in contact with the ground, the face no more than ten feet (10') above the surrounding grade.

(11) "IES." Illuminating Engineering Society handbook, 9th edition, 2000.

(12) "Neighborhood identification sign." A sign designating the name of a subdivision, apartment complex, mobile home park or similar neighborhood identification.

(13) "NIT." Measurement of direct light. (IES)

(14) "Nonconforming sign." Any existing permanent sign structure which does not conform to provisions of this chapter, but was lawfully erected and complied with the sign regulations in effect at the time it was erected. A "nonconforming sign" may remain erected only so long as the existing use which it advertises or identifies remains. A "nonconforming sign" shall not be altered in any way from the sign's original design as erected. The sign may be maintained as necessary, including re-painting or re-facing; providing that the sign information remains in the original language and design as present when the sign was originally erected. Abandoned business "nonconforming signs" shall be removed by the owner or lessee of the business that maintained the sign within sixty (60) days of written notification by the building official or his designee. If such sign is not removed within this period, the chief building official shall direct that it be removed.

(15) "Off-site sign." Any sign upon which commercial advertising goods or services are not sold or available upon the parcel where the sign is located. Off-site signs which do not conform to the regulation and restrictions provided in this chapter but which were erected in accordance with all applicable regulations in effect at the time of their erection may remain erected as long as the existing use which it advertises or identifies remains. No off-site sign shall

be enlarged, reconstructed, or structurally altered, nor shall such sign be worded so as to advertise or identify any use other than that in effect at the time it was erected; except as permitted by state regulations or statutes governing billboards. Off-site signs which are unlawfully enlarged, altered, or moved shall be subject to removal procedures specified by the chief building official in his written notification regarding the violation.

(16) "Political sign." A sign, valance or display promoting a political view or candidate.

(17) "Portable sign." Any sign designed to be moved easily and not permanently attached to the ground or to a structure or building.

(18) "Private sale/garage/yard sale sign." A sign erected upon the premises for a limited period to advertise the sale of individual property not in the ordinary course of business.

(19) "Real estate sign" means a temporary sign placed by the owner or agent, advertising real property upon which the sign is located for lease or sale.

(20) "Revolving sign." Any sign so erected or constructed as to periodically or continuously change the direction toward which any plane containing the display surface is oriented.

(21) "Roof sign." A sign erected, constructed or maintained above or on the roof of any building.

(22) "Severability." The various sections, subsections, paragraphs, and clauses of this chapter are severable and in the event that any section, subsection, paragraph, or clause is adjudged invalid, the remainder of the chapter shall remain in full force and effect.

(23) "Sign." Any device, fixture, placard or structure that uses color, form, graphic, illumination, symbol, or writing to advertise, announce, or identify a person or entity, or to communicate information of any kind from a public place or to a public audience, permanent or temporary.

(24) "Snipe sign." Any sign made of paper, vinyl, thin sheet plastic, corrugated board or other non-durable material which is free-standing supported by a metal or plastic frame or which is attached in any way to a utility pole, tree, fence post, or any other similar object located on public or private property. Any sign designed to provide warning to the public shall not be constructed to be a snipe sign.

(25) "Temporary sign" is defined as a sign intended for temporary use on premises and limited periods by this chapter. (Ord. #45-17, Dec. 2009)

14-505. Administration and enforcement. (1) Regulatory enforcement. The chief building official and/or his designee are hereby authorized and directed to enforce all of the provisions of this chapter. This authority empowers such individuals to perform any necessary inspections, including entering upon private property, and to issue related citations for the enforcement of this chapter.

(2) Violation notice. The chief building official or municipal codes officer shall order the removal of any sign erected or maintained in violation of this chapter, providing ten days' written notice to the owner of the premises upon which the offending permanent sign is located to achieve compliance with provisions of this chapter. If, after ten (10) days, the property owner has failed to achieve compliance with this chapter, a citation to municipal court shall be issued. When good faith efforts to bring a sign into compliance have begun within ten (10) days of notice of violation, the chief building official or the municipal codes officer may extend the time period for compliance with this chapter to a period not to exceed thirty (30) days. In cases where the owner of the premises has previously been notified of violations on two (2) or more occasions, a citation may be issued without prior written notice.

(3) Impoundment/disposal of signs. The chief building official, the municipal codes officer and/or designee shall have the authority to remove without notice any illegal sign on public property or a public right-of-way, or any illegal sign attached to trees, fences, posts, utility poles or other natural features. Such signs shall be considered litter and shall be subject to disposal.

(4) Letter of compliance. Prior to erecting or displaying a sign, a property owner or the owner's agent may submit a written request to the chief building official for verification that the sign as proposed complies with the requirements of this chapter. The chief building official may require that any person requesting such verification complete such forms or submit such information as may be needed by the chief building official to make his determination. Application for sign permits shall be approved/disapproved within sixty (60) days from date of application provided all requirements for this chapter are met. If a decision is not rendered within this time period the application shall be deemed approved. (Ord. #45-17, Dec. 2009)

14-506. Sign regulations.

Exhibit A

Type of Sign	Area-Total display surface on any single face	Height-Ground to top of sign structure	Maximum number of signs allowed	Other restrictions	Zoning
Business Signs					
Changing Sign (Automatic)	200 sq. ft.	25 ft.	One per business per street frontage	Shall not project onto street ROW; 5 ft. setback from side yard property lines	B-1, B-2, B-3, B-4, M-1, M-2, M-R
Wall Signs	3 sq. ft. per running foot of wall frontage	Located below roof of building	One per wall		B-1, B-2, B-3, B-4, M-1, M-2, M-R
Freestanding Sign	200 sq. ft.	25 ft.	One per business per street frontage	Shall not project onto street ROW; 5 ft. setback from side yard property lines	B-1, B-2, B-3, B-4, M-1, M-2, M-R
Projection Sign	40 sq. ft.	Max hgt. 20 ft. Min. hgt. 14 ft.	One per business provided no wall signs are located on same wall	Shall not project onto street ROW; except in the B-3 and B-4 Zones	B-1, B-2, B-3, B-4, M-1, M-2, M-R
Marquee Sign	200 sq. ft.	16 ft.	One marquee structure	Shall not project onto street ROW; except in the B-3 and B-4 Zones	B-2, B-3, B-4

Type of Sign	Area-Total display surface on any single face	Height-Ground to top of sign structure	Maximum number of signs allowed	Other restrictions	Zoning
Temporary Sign	32 sq. ft.	10 ft.	One - unless otherwise specified	Shall not be illuminated; shall not be displayed longer than 60 days, not renewable for 30 days; 5 ft. setback from all property lines ON-SITE ONLY	All zones
Ground Sign	100 sq. ft.	10 ft.	One per business per street	Shall not project onto street ROW; 20' front setback from frontage property line; 10 ft. setback from side property lines	B-1, B-2, M-1, M-2
Government Signs	50 sq. ft.	10 ft.	As needed	Shall meet safety requirements	All zones
Multi-Tenant	100 sq. ft.	10 ft.	One	Shall not project onto street ROW; 20' front setback from frontage property line; 10 ft. setback from side property lines	B-1, B-2, M-1, M-2, M-R

Type of Sign	Area-Total display surface on any single face	Height-Ground to top of sign structure	Maximum number of signs allowed	Other restrictions	Zoning
Civic Signs	32 sq. ft.	10 ft.	As needed	Shall meet safety requirements	All zones
Announcement Sign	4 sq. ft.	4 ft.	One per customary home occupation	5 ft. setback from all property lines	All zones
Shopping Center Sign	250 sq. ft.	25 ft.	One per shopping center per street frontage	Shall not project onto street ROW; 5 ft. side yard setback	B-1, B-2, M-1, M-2
Residential Business Sign	6 sq. ft.	6 ft.	One per street frontage	5 ft. setback from all property lines	R-2, R-3, M-R
For Rent or Sale Sign	9 sq. ft. residential zones 32 sq. ft. in business or industrial zone	8 ft. 12 ft.	One per street frontage	5 ft. setback from all property lines	All zones
Neighborhood Identification Signs	36 sq. ft.	6 ft.	One per entrance	5 ft. setback from all property lines	All zones

Type of Sign	Area-Total display surface on any single face	Height-Ground to top of sign structure	Maximum number of signs allowed	Other restrictions	Zoning
Political Sign	4 sq. ft. in residential zones 32 sq. ft. in other zones	4 ft. 8 ft.	One per property per candidate	5 ft. setback from all property lines; shall not be displayed longer than 90 days; and shall be removed no later than seven (7) days after the election for which they were intended. Political signs placed on public property or along public ROWs shall be removed	All zones
Private Sale/Garage/ Yard Sale Sign	8 sq. ft.	4 ft.	One per property	5 ft. setback from all property lines - no individual lot shall be allowed more than one (1) two-day (2) garage/yard sale in a single quarter of a calendar year. Signs advertising the yard sale shall be removed at conclusion of current sale	R-1, R-2, R-3, M-R

Type of Sign	Area-Total display surface on any single face	Height-Ground to top of sign structure	Maximum number of signs allowed	Other restrictions	Zoning
Devices		25 ft.	1 permit per device Limit for each business/ lot 3 at one time	Setback from all property lines equal to height of devices. ON-SITE ONLY Shall not be displayed longer than 60 days, not renewable for 30 days	B-2, M-1, M-2

(Ord. #45-17, Dec. 2009, as amended by Ord. #50-13, Aug. 2014)

CHAPTER 6

EXCEPTIONS AND MODIFICATIONS

SECTION

- 14-601. Lot of record.
- 14-602. Adjoining and vacant lots of record.
- 14-603. Front yards.
- 14-604. Exceptions on height limits.

14-601. Lot of record. Where the owner of a lot consisting of one (1) or more adjacent lots of official record at the time does not own sufficient land to enable him to conform to the yard or other requirements of chapters 2 through 8 of this title, an application may be submitted to the board of zoning appeals for a variance from the terms of chapters 2 through 8 of this title, in accordance with variance provisions established hereby. Such lot may be used as a building site, provided, however, that the yard and other requirements of the district are complied with as closely as is possible in the opinion of the board of zoning appeals. (2000 Code, § 14-601)

14-602. Adjoining and vacant lots of record. A plat of land consisting of one (1) or more adjacent lots with continuous frontage in single ownership which individually are less than lot widths required by chapters 2 through 8 of this title, such groups of lots shall be considered as a single lot or several lots of minimum permitted size and the lot or lots in one (1) ownership shall be subjected to the requirements of chapters 2 through 8 of this title. (2000 Code, § 14-602)

14-603. Front yards. The front yard requirements of chapters 2 through 8 of this title for dwellings shall not apply to any lot where the average depth of existing front yards on developed lots, located within one hundred feet (100') on each side of such lot and within the same block and zoning district and fronting on the same street as such lot, is less than the minimum required front yard depth. In such case, the minimum front yard shall be the average of the existing front yard depths on the developed lots. (2000 Code, § 14-603)

14-604. Exceptions on height limits. The height limitations of chapters 2 through 8 of this title shall not apply to church spires, belfries, cupolas and domes not intended for human occupancy, monuments, water towers, observation towers, transmission towers, windmills, chimneys, smokestacks, derricks, conveyors, flag poles, radio towers, mast, and aerials. (2000 Code, § 14-604)

CHAPTER 7

ENFORCEMENT

SECTION

- 14-701. Enforcing officer--right to entry.
- 14-702. Building permit required.
- 14-703. Issuance of building permit.
- 14-704. Certificate of occupancy.
- 14-705. Penalties.
- 14-706. Remedies.

14-701. Enforcing officer--right to entry. (1) The codes, zoning and building inspector or his duly authorized representatives shall enforce the provisions of this code and upon presentation of proper credentials and identification may enter any building, structure or premises, at all reasonable times, to perform any duty imposed upon him by this code.

(2) No person, owner or occupant of any building or premise shall fail, after proper credentials are displayed, to permit entry into any building or onto any property by the codes, zoning and building inspector or his duly authorized agent for the purpose of these inspections or preventing violations of this code.

(3) If entry is refused the codes, zoning and building inspector or his duly authorized representative shall have recourse to remedy provided by law to secure entry. (2000 Code, § 14-701)

14-702. Building permit required. It shall be unlawful to commence the excavation for or the construction of any building including accessory buildings, or to commence the moving or alteration of any building, including accessory buildings, until the building inspector has issued for such work a building permit including a statement that the plans, specifications, and intended use of such building in all respects conform with the provisions of chapter 2 through 8 of this title. Application for a building permit shall be made to the building inspector. (2000 Code, § 14-702)

14-703. Issuance of building permit. In applying to the building inspector for a building permit, the applicant shall submit a dimensioned sketch or scale plan indicating the shape, size, height, and location of all buildings to be erected, altered, or moved, and of any building already on the lot. He shall also state the existing and intended use of all such buildings and supply such other information as may be required by the building inspector, for determining whether the provisions of chapters 2 through 8 of this title are being observed. If the proposed excavation of construction as set forth in the application is in conformity with the provisions of chapters 2 through 8 of this title, the building inspector shall issue a building permit for such excavation or construction. If a building permit is refused, the building inspector shall state such refusal in writing with cause. (2000 Code, § 14-703)

14-704. Certificate of occupancy. Upon the completion of the construction or alteration of a building or structure for which a building permit has been granted, application shall be made to the building inspector for a certificate of occupancy. Within three (3) days of such application, the building inspector shall make a final inspection of the property in question, and shall issue a certificate of occupancy if the building or structure is found to conform to the provisions of chapters 2 through 8 of this title and the statements made in the application for the building permit. If such a certificate is refused, the building inspector shall state such refusal in writing, with the cause. No land or building hereafter erected or altered in its use shall be used until such a certificate of occupancy has been granted. (2000 Code, § 14-704)

14-705. Penalties. Any person, firm, corporation or agent who shall violate any provision of this code, or fail to comply therewith, or with any of the requirements thereof shall be guilty of a misdemeanor, and upon conviction shall be fined not less than two dollars (\$2.00) nor more than fifty dollars (\$50.00), or up to thirty (30) days imprisonment, or both. Each day such violation shall continue shall constitute a separate offense. (2000 Code, § 14-705)

14-706. Remedies. In case any building or structure is erected, constructed, reconstructed, repaired, converted, or maintained, or any building, structure, or land is used in violation of chapters 2 through 8 of this title, the building inspector or any other appropriate authority or any adjacent or neighboring property owner who would be damaged by such violation, in addition to other remedies, may institute injunction, mandamus, or other appropriate action in proceeding to prevent the occupancy or use of such a building. (2000 Code, § 14-706)

CHAPTER 8

BOARD OF ZONING APPEALS

SECTION

- 14-801. Creation and appointment--term of office and vacancies.
- 14-802. Procedure.
- 14-803. Appeals--how taken; fee.
- 14-804. Powers.
- 14-805. Action of the board of zoning appeals.
- 14-806. Creation of historic zoning commission.
- 14-807. Powers and duties.
- 14-808. Review of decision.
- 14-809. Map of the historic zoning district.

14-801. Creation and appointment--term of office and vacancies.

(1) The board of zoning appeals shall be established pursuant to Tennessee Code Annotated, § 13-7-205, and shall consist of five (5) members. All other members shall be appointed by the mayor. All members of the board shall serve without compensation.

(2) The initial board shall be appointed for five (5), four (4), three (3), two (2), and one (1) year terms. Thereafter the terms shall be for five (5) years. Any vacancy in an appointed membership shall be filled for the unexpired term by the mayor of the municipality, who shall also have the authority to remove any appointed member at his (her) pleasure. (Ord. #49-8, March 2013)

14-802. Procedure. Meetings of the board of zoning appeals shall be held at the call of the chairman or by a majority of the membership and at such other times as the board may determine. Such chairman, or in his absence, the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of the board shall be open to the public. The board shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact; shall take all evidence necessary to justify or explain its action, and shall keep records of its examinations and of other official action, all of which shall be immediately filed in the office of the board and shall be a public record. (2000 Code, § 14-802)

14-803. Appeals--how taken; fee. (1) Appeal. An appeal to the board of zoning appeals may be taken by any person, firm, or corporation aggrieved or by any governmental officer, department, board, or bureau affected by any decision of the building inspector based in the whole or part on provisions of chapters 2 through 8 of this title. Such appeal shall be taken within a reasonable time, as provided by the rules of the board, by filing with the building inspector and with the board of zoning appeals a notice of appeal,

specifying the grounds thereof. The building inspector shall transmit forthwith to the board all papers constituting the record upon which the action appealed was taken. The board shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing, any party may appear in person or by agent or attorney.

(2) **Application fee.** Any person, firm, or association making an appeal to the board of zoning appeals wherein a request for a zoning variance is made shall file an application for the relief sought, and shall pay an application fee to partially defray the administrative cost and costs of giving public notice. The applicant shall pay a filing fee to the City of Elizabethton as follows:

- (a) Commercial request for variance \$75.00
- (b) Residential request for variance \$50.00

(2000 Code, § 14-803)

14-804. Powers. The board of zoning appeals shall have the following powers:

(1) **Administrative review.** To hear and decide appeals where it is alleged by the appellant that there is error in any order, requirement, permit, decision, determination, or refusal made by the building inspector or other administrative official in the carrying out or enforcement of any provision of chapters 2 through 8 of this title.

(2) **Special exceptions.** To hear and decide special exceptions to chapters 2 through 8 of this title as set forth in chapter 5.

(3) **Variances.** To hear and decide applications for variance from the terms of chapters 2 through 8 of this title, but only where by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of the adoption of the provisions of chapters 2 through 8 of this title was a lot of record; or whereby reason of exceptional topographical conditions or other extraordinary or exceptional situations or conditions of a piece of property, the strict application of the provisions of chapters 2 through 8 of this title would result in exceptional practical difficulties to or exceptional and undue hardship upon the owner of such property, provided that such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of chapters 2 through 8 of this title. In granting a variance, the board may attach thereto such conditions regarding the location, character, and other features of the proposed building, structure, or use as it may deem advisable in furtherance of the purpose of chapters 2 through 8 of this title. Before any variance is granted, it shall be shown that special circumstances are attached to the property which do not generally apply to other property in the neighborhood. (2000 Code, § 14-804)

14-805. Action of the board of zoning appeals. In exercising the aforementioned powers, the board of zoning appeals may, in conformity with the

provisions of chapters 2 through 8 of this title, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from, and to that end shall have all powers of the building inspector. The concurring vote of a majority of the board shall be necessary to reverse any order, requirement, decision, or determination of any such administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under chapters 2 through 8 of this title, or to authorize any variance from the terms of chapters 2 through 8 of this title. (2000 Code, § 14-805)

14-806. Creation of historic zoning commission. (1) In accordance with Tennessee Code Annotated, § 13-7-401, et seq. there is hereby created a Historic Zoning Commission for the City of Elizabethton, which shall officially be known and designated as the "Elizabethton Historic Zoning Commission."

(2) The commission shall be comprised of seven (7) members which consist of a representative of a local patriotic or historical organization; an architect, if available; a member of the Elizabethton Regional Planning Commission at the time of such person's appointment; and the remainder shall be from the residents of the City of Elizabethton.

(3) The members of the commission shall be appointed by the mayor subject to confirmation by the city council. The terms of the members shall be five (5) years, except that the members appointed initially shall be appointed for staggered terms so that the terms of at least one (1) member, but not more than two (2) members, shall expire each year. All members shall serve without compensation.

(4) Meetings of the historic zoning commission shall be held at the call of the chairman or by the majority of the membership. All meetings of the commission shall be open to the public. The commission shall keep minutes of its procedures showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact. (2000 Code, § 14-806)

14-807. Powers and duties. The historic zoning commission shall have the following powers, which shall be limited to the historic district overlay.

(1) To request detailed construction plans and related data pertinent to a thorough review of any proposal before the commission.

(2) The historic zoning commission shall within thirty (30) days following the availability of sufficient data, direct the granting of a building permit with or without conditions or direct the refusal of a building permit providing the grounds for refusal are stated in writing to the applicant no later than seven (7) days after the termination of the thirty (30) day period.

(3) Upon review of the application for a building permit, the historic zoning commission shall give prime consideration to:

(a) The historic and/or architectural value of present structure.

(b) The relationship of the exterior architectural features of such structure to the rest of the structures of the surrounding area.

(c) The general compatibility of the exterior design, arrangement, texture and materials proposed to be used.

(d) Any other factor, including aesthetic, which is deemed pertinent.

(4) In no case shall the commission grant variances from the terms of this chapter.

(5) A historic district zoning map overlay setting forth the city's historic zones and boundaries shall be recommended by the historic zoning commission to the Elizabethton Regional Planning Commission and the City Council of the City of Elizabethton. (2000 Code, § 14-807)

14-808. Review of decision. The historic zoning commission shall have exclusive jurisdiction relating to historic matters. Any person who may be aggrieved by any final order or judgment of the historic zoning commission may have said order or judgment reviewed by the courts as provided in Tennessee Code Annotated § 27-9-101, et seq. (2000 Code, § 14-808)

14-809. Map of the historic zoning district. (1) A copy of the Elizabethton Historic Zoning District map is on file in the city clerk's office.

(2) The properties identified on the map of the Elizabethton Historic Zoning District as set forth in subsection (1) above are subject to requirements set forth by the Elizabethton Historic Zoning Commission pursuant to § 14-807 of this municipal code. (Ord. #49-16, July 2013)

CHAPTER 9

AMENDMENT

SECTION

- 14-901. Procedure.
- 14-902. Approval by planning commission.
- 14-903. Introduction of amendment.

14-901. Procedure. The city council may amend the regulations, restrictions, boundaries, or any provision of chapters 2 through 8 of this title. Any member of the city council may introduce such amendment, or any official, board, or any other person may present a petition to the city council requesting an amendment or amendments to chapters 2 through 8 of this title.

(1) **Application fee.** Citizens wishing to have chapters 2 through 8 of this title amended shall file an application according to the regulations of the planning commission. To partially defray the administrative cost and cost of giving public notice, the applicant shall pay a filing fee to the City of Elizabethton as follows:

- (a) Commercial amendment to the zoning map \$75.00
- (b) Residential amendment to the zoning map \$50.00
- (c) Amendment to the text of chapters 2 through 8 of
this title \$50.00

(2) **Notice to property owners.** The person requesting the rezoning must submit to the planning commission letters addressed to each property owner and resident within two hundred feet (200') of the property in question containing information adequate to notify such owners and residents of the intention to rezone the area for which the application is submitted and when and where a public hearing will be held before the planning commission. Such letter should be placed in unsealed, stamped, and addressed envelopes ready for mailing by the planning commission. The return address of the planning commission must appear on the envelope, and a list of all persons to whom letters are sent must accompany the application.

(3) **Amendment conditions.** (a) A site development plan shall be required for all rezonings.

(b) The rezoning of property shall be conditional upon the property owner and/or developer adhering to the site development plan.

(c) The amendment of the zoning map reclassifying property from one zone to another may be done subject to certain specific conditions when in the opinion of the planning commission and/or city council the property has unique and unusual physical or topographic features that require special consideration. These conditions may include such requirements as fencing, buffer, filling or grading, type of ingress

and egress, drainage and similar requirements. Permitted uses shall be those uses set forth in chapter 3 and no other conditions shall be placed on use. When the zoning map is amended on the condition that certain requirements are met these conditions shall be filed with the Elizabethton Building Inspector and no building or occupancy permit shall be issued until these conditions are met.

(d) In the event that conditionally zoned property is transferred or sold to another owner the property shall be developed in accordance with the original site development plan or revert back to its original zoning classification. (2000 Code, § 14-901)

14-902. Approval by planning commission. No such amendment shall become effective unless the same be first submitted for approval, disapproval, or suggestions to the planning commission. If the planning commission within thirty (30) days disapproves after such submission, it shall require the favorable vote of the majority of the entire membership of the city council to become effective. If the planning commission neither approves nor disapproves such proposed amendment within forty-five (45) days after such submission, the action of such amendment by said council shall be deemed favorable. (2000 Code, § 14-902)

14-903. Introduction of amendment. Upon the introduction of an amendment to chapters 2 through 8 of this title or upon the receipt of a petition to amend chapters 2 through 8 of this title, the city council shall publish a notice of such request for an amendment, together with the notice of time set for hearing by city council on the requested change. Said notice shall be published in some newspaper of general circulation in the City of Elizabethton, Tennessee. Said hearing by city council shall take place not sooner than fifteen (15) days after the date of publication of such notice. (2000 Code, § 14-903)

CHAPTER 10**EROSION AND SEDIMENTATION CONTROL ORDINANCE**¹**SECTION**

14-1001. Title.

14-1002. Purpose.

14-1003. Definitions.

14-1004. General requirements.

14-1005. Erosion and sediment control design standards.

14-1006. Erosion and sediment control plans.

14-1007. Compliance.

14-1001. Title. This chapter shall be known as the "Erosion and Sedimentation Control Ordinance of the City of Elizabethton, Tennessee." (Ord. #48-25, Nov. 2012)

14-1002. Purpose. The purposes of this ordinance are to:

(1) Protect, maintain, and enhance the environment of the Elizabethton Urban Planning Region and the public health, safety and general welfare of the citizens of the region, by preventing the discharge of sediment and construction related waste to the region's stormwater system.

(2) Maintain and improve the quality of the receiving waters into which stormwater runoff flows, including without limitation, lakes, rivers, streams, ponds, and wetlands.

(3) Comply with the State of Tennessee National Pollutant Discharge Elimination System (NPDES) general permit for discharges from small municipal separate storm sewer systems. (Ord. #48-25, Nov. 2012)

14-1003. Definitions. For the purposes of this ordinance, the following definitions shall apply. Words used in the singular shall include the plural, and the plural shall include the singular. Words used in the present tense shall include the future tense. The word "shall" is mandatory and not discretionary. The word "may" is permissive.

(1) "Best Management Practices (BMPs)." Schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants to the municipal separate storm sewer system. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage, or leaks, sludge or waste disposal, or drainage from raw material storage.

¹Municipal code reference

Stormwater management: title 18.

(2) "City." The City of Elizabethton, Tennessee.

(3) "City manager." The City Manager of the City of Elizabethton, Tennessee, or a designee.

(4) "Clearing." In the definition of discharges associated with construction activity, clearing, grading, and excavation do not refer to clearing of vegetation along existing or new roadways, highways, dams or power lines for site distance or other maintenance and/or safety concerns, or cold planing, milling, and/or removal of concrete and/or bituminous asphalt roadway pavement surfaces. Clearing typically means the removal of vegetation and disturbance of soil prior to grading or excavation in anticipation of construction activities. Clearing may also refer to wide area land disturbance in anticipation of non-construction activities; for instance, clearing forested land in order to convert forestland to pasture for wildlife management purposes.

(5) "Commencement of construction or commencement of land disturbing activities." The initial disturbance of soils associated with clearing, grading or excavating activities or other construction activities.

(6) "Construction." Any placement, assembly, or installation of facilities or equipment (including contractual obligations to purchase such facilities or equipment) at the premises where such equipment will be used, including preparation work at such premises.

(7) "Construction related wastes." Refuse or unused materials that result from construction activities. Construction related wastes can include, but are not limited to, unused building and landscaping materials, chemicals, litter, sanitary waste, and concrete truck washout.

(8) "Construction support activities." Activities such as concrete or asphalt batch plants, equipment staging yards, material storage areas, excavated material disposal areas, or borrow areas provided all of the following are met:

(a) The support activity is primarily related to a construction site that is covered under a grading permit;

(b) The operator of the support activity is the same as the operator of the construction site;

(c) The support activity is not a commercial operation serving multiple unrelated construction projects by different operators;

(d) The support activity does not operate beyond the completion of the construction activity of the last construction project it supports; and

(e) Support activities are identified in the erosion and sediment control plan.

The appropriate erosion prevention and sediment controls and measures applicable to the support activity shall be described in a comprehensive SWPPP covering the discharges from the support activity areas.

(9) "Development." Any man-made change to improved or unimproved property including, but not limited to, construction of buildings or other structures, clearing, dredging, drilling operations, filling, grading, paving, excavation, or storage of equipment or materials.

(10) "Erosion." The removal of soil particles by the action of water, wind, ice or other agents, whether naturally occurring or acting in conjunction with or promoted by manmade activities or effects.

(11) "Erosion and sediment control plan." A written plan required by this chapter and prepared in accordance with the Tennessee Construction General Permit that includes, but is not limited to, site map(s), identification of construction/contractor activities that could cause pollutants in the stormwater, and a description of measures or practices to control these pollutants.

(12) "Exceptional Tennessee waters." Surface waters of the State of Tennessee that satisfy the characteristics of exceptional Tennessee waters as listed in chapter 1200-4-3-.06 of the official compilation, Rules and Regulations of the State of Tennessee.

(13) "Filling." Any disposition or stockpiling of dirt, rock, stumps, or other natural or man-made solid waste material.

(14) "Grading." Any excavation, filling (including fill placed in watercourses), or stockpiling of earth materials or any combination thereof, including the land in its excavated or filled condition.

(15) "Grading permit." A permit issued by the city authorizing the commencement of land disturbing activities.

(16) "Land disturbing activity." Any activity on a property that results in a change in the existing soil cover (both vegetative and non-vegetative) and/or the existing soil topography. Land disturbing activities include, but are not limited to, development, redevelopment, demolition, construction, reconstruction, clearing, grading, filling, land transporting, and excavation.

(17) "Municipal Separate Storm Sewer System (MS4)." A conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) which is designed or used for collecting or conveying stormwater and is owned or operated by the City of Elizabethton.

(18) "Owner" or "operator." For the purpose of the Tennessee Construction General Permit and in the context of stormwater associated with construction activity, means any person associated with a construction project that meets either of the following two (2) criteria:

(a) This person has operational or design control over construction plans and specifications, including the ability to make modifications to those plans and specifications. This person is typically the owner or developer of the project or a portion of the project, and is considered the primary permittee; or

(b) This person has day-to-day operational control of those activities at a project which are necessary to ensure compliance with a

SWPPP for the site or other permit conditions. This person is typically a contractor or a commercial builder who is hired by the primary permittee, and is considered a secondary permittee.

It is anticipated that at different phases of a construction project, different types of parties may satisfy the definition of "operator."

(19) "Plan." An erosion and sediment control plan, or a small lot erosion and sediment control plan.

(20) "Priority construction activity." Construction activities that discharge directly into or immediately upstream, as defined by the city manager, from waters the state recognizes as impaired for siltation or those waters designated as exceptional Tennessee waters. A property is considered to have a direct discharge, if stormwater runoff from the property does not cross any other property before entering the water of the state.

(21) "Region." The Elizabethton, Tennessee, Urban Planning Region.

(22) "Sediment." Solid material, either mineral or organic, that is in suspension, being transported, or has been moved from its site of origin by erosion.

(23) "Small lot erosion and sediment control plan." A plan that is designed to eliminate and/or reduce erosion and off-site sedimentation from a site during construction activities, applicable to development and redevelopment sites that disturb less than one (1) acre and are not part of a larger plan of development.

(24) "Stormwater Pollution Prevention Plan (SWPPP)." The written plan required by Tennessee Construction General Permit that includes site map(s), an identification of construction/contractor activities that could cause pollutants in the stormwater, and a description of measures or practices to control these pollutants.

(25) "Subdivision." The division, subdivision, or re-subdivision of any lot or parcel of land as defined in the Subdivision Regulations of the Elizabethton Regional Planning Commission.

(26) "Tennessee Aquatic Resource Alteration Permit." Persons who wish to make an alteration to a stream, river, lake or wetland must first obtain a water quality permit from TDEC. Physical alterations to properties of waters of the state require an Aquatic Resource Alteration Permit (ARAP) or a section 404 permit from the U.S. Army Corps of Engineers.

(27) "Tennessee Construction General Permit" a permit issued and amended by TDEC titled General NPDES Permit for Discharges of Storm Water Associated with Construction Activities. For purposes of this chapter, the Tennessee Construction General Permit is State of Tennessee Permit Number TNR 100000 which became effective on May 24, 2011, the Tennessee Construction General Permit that is in effect on the date when the notice of coverage for a development is issued.

(28) "TDEC." The Tennessee Department of Environment and Conservation.

(29) "Tennessee Erosion and Sediment Control Handbook." The document entitled Tennessee Erosion and Sediment Control Handbook. For purposes of this chapter, the Tennessee Erosion and Sediment Control Handbook is dated August 2012, or the handbook that is in effect on the date when the notice of coverage for a development is issued.

(30) "Transporting." Any moving of earth materials from one place to another, other than such movement incidental to grading, as authorized on an approved plan.

(31) "Waters" or "waters of the state." Any and all water, public or private, on or beneath the surface of the ground, which are contained within, flow through or border upon Tennessee or any portion thereof except those bodies of water confined to and retained within the limits of private property in single ownership which do not combine or effect a junction with natural surface or underground waters. (Ord. #48-25, Nov. 2012)

14-1004. General requirements. (1) Applicability. (a) Land disturbing, construction or construction support activities that cause off-site sedimentation or sediment discharges to waters of the state shall be in violation of this ordinance.

(b) No owner or operator of any property within the region shall commence land disturbing activities unless he/she has obtained all applicable permits from city, state and federal agencies.

(c) For construction resulting in less than one (1) acre of disturbed area, excluding single-family residential construction that is part of a larger plan of development or sale, a small lot erosion and sediment control plan shall be submitted to and approved by the city manager prior to obtaining a building permit and/or commencement of any land disturbing activity. The small site erosion and sediment control plan will be included with the building permit and must be followed by the building permit holder and the owner operator. The city manager has the discretion to require a fully engineered erosion and sediment control plan as set forth in § 14-1006(2).

(d) The issuance of a grading permit shall be conditioned upon the approval of the erosion and sediment control plan by the city manager. The city shall serve as the plan approval agency only, and in no instance are its regulations to be construed as designing erosion and sediment control or other stormwater systems.

(e) No building permit shall be issued until the owner or operator has obtained a grading permit and is in compliance with the grading permit, where the same is required by this ordinance.

(f) All land disturbing activities shall employ adequate erosion and sediment control best management practices.

(2) Exemptions from plans submittal. (a) The following activities shall not require submittal and approval of an erosion and sediment control plan, or small lot erosion and sediment control plan.

(i) Minor land disturbing activities such as home gardens and individual home landscaping, repairs or maintenance work;

(ii) Additions or modifications to existing, individual, single-family structures;

(iii) Emergency work to protect life, limb or property, and emergency repairs, provided that the land area disturbed shall be shaped and stabilized in accordance with the requirements of this regulation;

(iv) Existing nursery and agricultural operations conducted as a permitted main or accessory use; and

(v) State and federal projects subject to the submission requirements of TDEC.

(b) All other provisions of this ordinance shall apply to the exemptions noted in (2)(a) above. (Ord. #48-25, Nov. 2012)

14-1005. Erosion and sediment control design standards.

(1) Adoption of standards. (a) The city adopts the Tennessee Erosion and Sedimentation Control Handbook as its erosion and sediment control design standards and best management practices standards, which is incorporated by reference into this chapter.

(b) The design, installation, operation and maintenance of construction site runoff control design standards and best management practices intended for erosion prevention and the control of sediment and other construction related wastes and/or pollutants shall be performed in accordance with the requirements of the Tennessee Construction General Permit. This requirement also applies to erosion and sediment control plan development and its contents, site inspection and documentation and reporting. Where the provisions of this section conflict or overlap with the Tennessee Construction General Permit and the Tennessee Erosion and Sediment Control Handbook, the regulation which is more restrictive or imposes higher standards or requirements shall prevail.

(c) Requirements for BMP design, installation, operation and maintenance, plan development and contents, site inspection, documentation and reporting presented in the Tennessee Construction General Permit and/or the Tennessee Erosion and Sediment Control Handbook may be updated and expanded upon, at the discretion of the city manager, based on improvements in engineering, science, monitoring, and local maintenance experience.

(d) Erosion and sediment control BMPs that are designed, constructed and maintained in accordance with the BMP criteria

presented in the Tennessee Construction General Permit and the Tennessee Erosion and Sediment Control Handbook shall be presumed to meet the minimum water quality performance standards required by the city.

(e) the additional requirements for discharges into impaired or exceptional Tennessee waters that are defined in the Tennessee Construction General Permit shall be implemented. The city manager has the discretion to require BMPs that conform to a higher than minimum standard where deemed necessary.

(2) Other guidelines. (a) No solid materials, including building materials, shall be discharged to waters of the state, except as authorized by a section 404 permit and/or Tennessee Aquatic Resource Alteration Permit.

(b) Off-site vehicle tracking of sediments is prohibited.

(c) Dust generation shall be minimized.

(d) For installation of any waste disposal systems on site, or sanitary sewer or septic system, the plan shall provide for the necessary sediment controls. Owners/operators must also comply with applicable state and/or local waste disposal, sanitary sewer or septic system regulations for such systems to the extent that these are located within the permitted area.

(e) Erosion and sediment control measures must be in place and functional before commencement of land disturbing activities, and must be constructed and maintained throughout the construction period. Temporary measures may be removed at the beginning of the work day, but must be replaced at the end of the work day or prior to a rain event, whichever is sooner.

(f) Riparian buffer zones shall be preserved in accordance with the Tennessee Construction General Permit. (Ord. #48-25, Nov. 2012)

14-1006. Erosion and sediment control plans. (1) Requirements.

(a) The erosion and sediment control plan shall present in detail the best management practices that will be employed to reduce erosion and control sedimentation.

(b) The plan shall be sealed in accordance with the Tennessee Construction General Permit.

(c) Best management practices presented in the plan shall conform to the requirements found in the Tennessee Erosion and Sediment Control Handbook, and shall meet or exceed the requirements of the Tennessee Construction General Permit.

(d) The plan shall include measures to protect legally protected state or federally listed threatened or endangered aquatic fauna and/or critical habitat (if applicable).

(e) The plan submitted shall be subject to any additional requirements set forth in the city's subdivision regulations, zoning ordinance, or other city regulations.

(f) Construction of the site in accordance with the approved plan must commence within one (1) year from the issue date of the grading permit, or the grading permit will become null and void and the plan must be resubmitted for approval.

(2) Plan contents. Erosion and sediment control plans shall include the components of a stormwater pollution prevention plan, as required by the Tennessee Construction General Permit, and any other information deemed necessary by the city manager.

(3) Small lot erosion and sediment control plan contents. Small lot erosion and sediment control plans shall include the following information:

- (a) Address/location of land disturbing activity;
- (b) Owner/operator name and contact information;
- (c) Building permit application number (if available);
- (d) Locations of streams, wetlands, ponds, sinkholes, easements, existing drainage structures with respect to the site;
- (e) A description of other construction related waste controls that are expected to be implemented on-site. Such details should include, but are not limited to: the construction/location of the vehicle wash pads; litter and waste materials control; sanitary and chemical waste control, and concrete truck washout areas;
- (f) Approximate disturbed area limits; and
- (g) Location of the stabilized construction entrance/egress.

(4) Application fee. Any person, firm or association making an application for approval of a site plan to the city shall file an application and shall pay an application fee to partially defray the administrative costs and shall pay a filing fee to the City of Elizabethton as follows:

Commercial site plans	\$75.00
Residential site plans	\$50.00

(Ord. #48-25, Nov. 2012)

14-1007. Compliance. (1) Conformity to approved plan. (a) The owner or operator is responsible for maintaining compliance with the approved plan and grading permit.

(b) The approved erosion and sediment control plan, shall be followed during the entire duration of construction at the site.

(c) The city manager may require reports or records from the permittee or person responsible for carrying out the plan to insure compliance.

(d) No land disturbing activity shall be allowed to commence without prior plan approval by the city manager.

(e) Priority construction activities shall not commence until the owner/operator attends a pre-construction meeting with the city manager.

(2) Amendments to the approved plan--applicability. The owner or operator shall modify and update the plan in accordance with the requirements of the Tennessee Construction General Permit.

(3) Inspections and maintenance. (a) Maintenance, site assessments and inspections of the best management practices shall be implemented in the manner specified by the Tennessee Construction General Permit and the Tennessee Erosion and Sediment Control Handbook by qualified personnel that are provided by the owner/operator of the land disturbing activity.

(b) The owner/operator shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the owner/operator to achieve compliance with this ordinance. Proper operation and maintenance requires the operation of backup or auxiliary facilities or similar systems, installed by an owner/operator only when necessary to achieve compliance with the conditions of this ordinance.

(c) Any inadequate control measures or control measures in disrepair shall be replaced or modified, or repaired as necessary, in accordance with the inspection and maintenance timeframes stated in the Tennessee Construction General Permit and the maintenance guidance provided in the Tennessee Erosion and Sediment Control Handbook.

(d) If sediment escapes the permitted property, the owner or operator shall remove off-site accumulations in accordance with the requirements of the Tennessee Construction General Permit.

(e) Records shall be retained in accordance with the requirements of the Tennessee Construction General Permit.

(4) Inspections by the city. (a) The city manager or his/her designee shall have the right to enter onto private properties for the purposes of conducting unrestricted periodic inspections of all land disturbing activities to verify compliance with the approved plan or to determine whether such a plan is necessary.

(b) The city manager or his/her designee shall have the right to enter onto private properties for the purposes of investigating a suspected violation of this ordinance.

(c) Failure on the part of an owner or operator to allow such inspections by the city manager or his/her designee shall be cause for the issuance of a stop work order, withholding of a certificate of occupancy, and/or civil penalties.

(5) Enforcement, penalties, and liability. (a) Any person failing to have an approved erosion and sediment control plan prior to starting a land disturbing activity violates this ordinance.

(b) Any owner or contractor who fails to follow an approved erosion and sediment control plan shall have violated this ordinance and shall be subject to a civil penalty, a stop work order, withholding of a certificate of occupancy, and civil damages.

(c) If sediment escapes the permitted property, off-site accumulations of sediment that have not reached the stream shall be removed at a frequency sufficient to minimize offsite impacts. For example, fugitive sediment that has escaped the construction site and has collected in the street must be removed so that it is not subsequently washed into storm sewers and streams by the next rain or so that it does not pose a safety hazard to users of public streets. Removal of fugitive sediments shall be done by the owner/operator at the owner/operator's expense. This ordinance does not authorize remediation/restoration of a stream without consultation with TDEC, nor does it authorize access by the owner/operator to other private property.

(d) The owner and/or contractor shall allow periodic inspections by the city of all land disturbing activities. Failure to allow such inspections shall be considered a failure to follow the approved plan, and shall be subject to civil penalties, a stop work order, and withholding of a certificate of occupancy.

(e) In order to gain compliance, the city manager may; notify other departments to deny service to the property until the site has been brought into compliance with this ordinance.

(f) Any person who violates any provision of this ordinance may also be liable to the city in a civil action for damages.

(g) The remedies provided for in this ordinance are cumulative and not exclusive, and shall be in addition to any other remedies provided by law.

(h) Neither the approval of a plan under the provisions of this ordinance nor compliance with the conditions of such plan shall relieve any person of responsibility for damage to other persons or property or impose any liability upon the city for damage to other persons or property.

(i) The City of Elizabethton, pursuant to Tennessee Code Annotated § 68-221-1106, hereby declares that any person who violates this ordinance is subject to a civil penalty of not less than fifty dollars (\$50.00) or more than five hundred dollars (\$500.00) per day for each day of violation. Each day of violation constitutes a separate violation.

(j) In assessing a civil penalty, the following factors may be considered:

(i) The harm done to the public health or the environment;

(ii) Whether or not the civil penalty imposed will be a substantial economic deterrent to the illegal activity;

(iii) The economic benefit gained by the violator from the violation.

(iv) The amount of effort put forth by the violator to remedy this violation;

(v) Any unusual or extraordinary enforcement costs incurred by the City of Elizabethton.

(vi) Any equities of the situation which outweigh the benefits of imposing any penalty or damage assessment.

(k) The City of Elizabethton may also assess damages proximately caused by the violator to the city, which may include any reasonable expenses incurred in investigating and enforcing violation of this ordinance or any actual damages caused by the violation.

(l) Appeal from any assessment of civil penalty or damages or both shall be to the Elizabethton Regional Planning Commission. A written petition for review of such damage assessment or civil penalty shall be filed by the aggrieved party in the office of the city manager within thirty (30) days after the damage assessment or civil penalty is served upon the violator either personally or by certified mail, return receipt requested. Failure on part of the violator to file a petition for appeal in the office of the city manager shall be deemed consent to the damage assessment or civil penalty and shall become final.

(m) Whenever any damage assessment or civil penalty has become final because of a violator's failure to appeal the city's damage assessment or civil penalty, the city may apply to the chancery court for a judgment and seek execution of the same. (Ord. #48-25, Nov. 2012)

CHAPTER 11**SHOPPING CENTERS¹****SECTION**

- 14-1101. Shopping center district regulations.
- 14-1102. Application and general procedure.
- 14-1103. Preliminary plan.
- 14-1104. Minimum standards.
- 14-1105. Use regulations.
- 14-1106. Height regulations.
- 14-1107. Limitations.
- 14-1108. Approved general plan.
- 14-1109. Permits and licenses.
- 14-1110. Violations and penalty.

14-1101. Shopping center district regulations. The regulations set forth in this chapter when referred to in this chapter, are the regulations in the shopping center districts.

From and after the adoption of this chapter, no shopping center shall be developed unless located in a shopping center district. A shopping center is defined as a group of commercial establishments, planned, developed, owned and managed as a unit, with off-street parking provided on the property; however, this shall not apply to a group of commercial establishments containing no more than four (4) separate commercial establishments in one (1) structure containing a total of not more than seven thousand five hundred (7,500) square feet of floor area. (2000 Code, § 14-1101)

14-1102. Application and general procedure. The owner or lessee of any tract of land comprising an area of not less than two (2) acres may submit to the city council and planning commission a preliminary plan for the use and development of all or part of the tract for the purpose of and meeting the requirements set forth in this chapter. This preliminary plan shall be referred to the planning commission for study and recommendation. If the planning commission approves the preliminary plan, the applicant shall then submit the approved general plan in accordance with the provisions of § 14-1108, which shall then be submitted to the city council for consideration and action. The approval and recommendations of the planning commission may be accompanied by a report stating the reasons for approval and that the application meets the

¹Municipal code reference
Shopping centers: § 14-212.

requirements of the shopping center districts as set forth in this chapter. (2000 Code, § 14-1102)

14-1103. Preliminary plan. The preliminary plan submitted shall be drawn to scale and shall show all roads and drainage, existing and proposed, drives and parking areas, building lines enclosing the portion of the tract within which buildings are to be erected, typical groups of buildings which might be erected within the building lines shown, boundaries of tracts, proposed use of land and buildings. The relation of the project to the street system and to the surrounding property, and to surrounding use districts shall be shown. (2000 Code, § 14-1103)

14-1104. Minimum standards. The plan for a shopping center district shall meet as a minimum the following specifications and requirements:

(1) The aggregate of all buildings proposed shall not exceed thirty percent (30%) of the entire lot area of the project. All buildings shall be set back not less than sixty feet (60') from all streets bounding the project area.

(2) There shall be customer parking facilities as follows:

(a) For recreation or amusement buildings, restaurants, or other establishments serving food or drinks: One (1) parking space for each one hundred (100) square feet of total floor space in the building.

(b) Theater or any place of public assembly: One (1) parking space for each six (6) seats.

(c) Clinic, or medical or dental offices: Five (5) parking spaces for each professional occupant.

(d) Hotel or motel: One (1) parking space for each guest room.

(e) Other permitted uses: Five (5) parking spaces for each one thousand (1,000) square feet of gross leasable space.

(f) Each mercantile establishment shall provide one (1) space ten feet by fifty feet (10' x 50') for truck loading and unloading, for each ten thousand (10,000) square feet, or fraction thereof, in the building provided, however, that a loading space adjacent and accessible to two (2) buildings may be used to serve both buildings if the aggregate area of both does not exceed ten thousand (10,000) square feet.

(3) The streets, parking areas, and walks shall be paved with hard surface material meeting applicable specifications of the city engineer.

(4) Any part of the project area not used for buildings or other structures, parking, loading, and access ways, shall be landscaped with grass, trees, shrubs, or pedestrians walks.

(5) The shopping center buildings shall be designed as a whole unified and single project, or in stages following the approved general plan, as described in § 14-1108, and separate building permits may be taken out for separate portions of said property. (2000 Code, § 14-1104)

14-1105. Use regulations. A building or premises may be used only for the following purposes:

- (1) Stores and shops conducting retail business.
- (2) Personal, business, and professional services.
- (3) Offices, hotels, motels, and restaurants.
- (4) Amusements and recreation.
- (5) Business signs, provided they are erected flat against the front or side wall of a building or within eighteen inches (18") thereof. Such signs shall have no flashing, intermittent, or moving illumination and shall not project above the building, and no sign which faces a dwelling district shall be illuminated.

(6) One (1) detached business sign advertising the shopping center may be erected. In addition to the shopping center name, the sign may include advertisements for one (1) or more businesses to be located in the shopping center; however, the total display surface shall not exceed two hundred fifty (250) square feet.

(7) One (1) detached business sign not to exceed two hundred (200) square feet in any single face or plane may be erected at each shopping center outside.

(8) Business signs located at shopping centers shall meet all the other requirements for business signs as set forth in title 14, chapter 5, included as the Elizabethton Sign Ordinance. The sign regulations shall be administered by the Elizabethton Building Inspector. (2000 Code, § 14-1105)

14-1106. Height regulations. (1) No building shall exceed three (3) stories in height, except by permission of the city council.

(2) No structure of any kind shall exceed fifty feet (50') in height, provided that this limitation shall not apply to:

- (a) Chimneys.
- (b) Cooling towers.
- (c) Ornamental towers and spires.
- (d) Radio and television towers, antennae, or aerials.
- (e) Stage towers or scenery lofts.
- (f) Water tanks and towers. (2000 Code, § 14-1106)

14-1107. Limitations. Before recommending approval of a plan within the shopping center district, the planning commission may make reasonable additional requirements concerning but not limited to the limitation of uses, landscaping, lighting, signs and advertising devices, screening or planting, setback and height of buildings, paving and location of drives and parking areas, drainage, and the location of access ways, taking into consideration the character of the surrounding area so as to protect adjoining residentially zoned lots or residential uses, to provide for public safety, and prevent traffic congestion. (2000 Code, § 14-1107)

14-1108. Approved general plan. A general plan embodying all additional requirements imposed by the planning commission shall be prepared and submitted by the applicant in the same manner as a plan of a subdivision. This plan, to be known as the approved general plan, shall be drawn to scale and shall show, in addition to requirements set forth in §§ 14-1103 and 14-1104, the boundaries of the entire district and a certificate by an engineer or surveyor that said boundaries have been surveyed and are correct. In addition, said plan shall bear a form for certificate of approval by the city council and a certificate of the owner and trustee of the mortgagee, if any, that they adopted said plan and that the premises are not encumbered by delinquent taxes. After approval by the city council, said plans shall be placed on record with the city engineer.

Provided further, that the public health, safety, morals, and general welfare of the city shall be taken into full consideration by the planning commission and/or the city council in any action coming before it in regard to the matters herein set forth. (2000 Code, § 14-1108)

14-1109. Permits and licenses. The boundaries of the shopping center district shall be established upon the approval by the city council. However, no building permit, use and occupancy permit, nor license to operate a business on the premises shall be issued until after the approval by the city council of the plan for the shopping center district or that portion thereof upon which said permit or license is sought. (2000 Code, § 14-1109)

14-1110. Violations and penalty. All things shown on the approved general plan, upon final approval by the city council, become part of the zoning regulations of the district, and nothing in conflict therewith shall be done on the premises shown on the plan. Enforcement and penalties for violations shall be as herein provided as to other zoning regulations. (2000 Code, § 14-1110)

CHAPTER 12**AIRPORT ZONING ORDINANCE****SECTION**

- 14-1201. Short title.
- 14-1202. Definitions.
- 14-1203. Establishing airport hazard area.
- 14-1204. Airport reference point.
- 14-1205. Airport elevation.
- 14-1206. Zones.
- 14-1207. Primary surface.
- 14-1208. Criteria to govern height limitations.
- 14-1209. Use restrictions.
- 14-1210. Nonconforming uses.
- 14-1211. Permits.
- 14-1212. Enforcement.
- 14-1213. Board of zoning appeals.
- 14-1214. Appeals.

14-1201. Short title. This chapter shall be known and may be cited as the Airport Zoning Ordinance of the Elizabethton Municipal Airport and the map herein referred to, identified by the title, Airport Zoning Plan,¹ shall be further identified by the signature of the mayor and attested by the city clerk. (2000 Code, § 14-1201)

14-1202. Definitions. The following definitions shall apply to this chapter unless the context otherwise requires:

- (1) "Airport" means Elizabethton Municipal Airport.
- (2) "Airport elevation" means the established elevation of the highest point on the usable landing area.
- (3) "Airport hazard" means any structure, tree, or use of land which obstructs the airspace required for or is otherwise hazardous to the flight of aircraft in landing or taking off at the airport.
- (4) "Airport reference point" means the point established as the approximate geographic center of the airport landing area.
- (5) "Board of zoning appeals" means a board consisting of seven (7) members appointed by the city council as provided in this chapter.
- (6) "Height limitation" means the maximum elevation for the highest part that a structure may be altered, erected, or a tree allowed to grow.

¹The Airport Zoning Plan is of record in the city clerk's office.

(7) "Instrument runway" means a runway equipped or to be equipped with electronic or visual air navigation aids adequate to permit the landing of aircraft under restricted visibility conditions.

(8) "Landing strip" means the area of the airport used for the landing, takeoff, or taxiing of aircraft.

(9) "Map" means the Airport Zoning Map of Elizabethton Municipal Airport.¹

(10) "Nonconforming use" means any structure, tree, or use of land which is lawfully in existence at the time the regulation is prescribed in the ordinance or an amendment thereto becomes effective and does not then meet the requirements of said regulation.

(11) "Non-instrument runway" means a runway other than an instrument runway.

(12) "Person" means an individual, firm, partnership, corporation, company, association, joint stock association, or body politic, and includes a trustee, receiver, assignee, administrator, executor, guardian, or other representative.

(13) "Political subdivision" means any municipality, city, town, village, or county.

(14) "Runway" means the paved surface of an airport landing strip.

(15) "Structure" means an object constructed or installed by man, including, but without limitation, buildings, towers, smokestacks, and overhead transmission lines.

(16) "Tree" means any object of natural growth. (2000 Code, § 14-1202, modified)

14-1203. Establishing airport hazard area. For the purpose of this chapter, an area of land and water within a radius of eight thousand feet (8,000') of the airport reference point hereinafter described and established, and within the limits of the airport approach-departure and transitional zones of the runways, is hereby declared to be the airport hazard area and the whole of such area is made subject thereto. (2000 Code, § 14-1203)

14-1204. Airport reference point. The airport reference point for this chapter is hereby declared to be Lat. 36° 22' 15" - Long. 82° 10' 26". (2000 Code, § 14-1204)

14-1205. Airport elevation. The airport elevation for this chapter is hereby declared to be 1584.75 Mean Sea Level (MSL). (2000 Code, § 14-1205)

¹The Airport Zoning map is available for review in the office of the city clerk.

14-1206. Zones. In order to carry out the provisions of this chapter, the airport hazard area is hereby divided into separate zones which include all of the land lying within the instrument approach-departure zone, non-instrument approach-departure zone, transitional zone, horizontal zone, and conical zone. The limits of these zones are hereby established as shown on the Airport Zoning Map¹ of Elizabethton Municipal Airport, which is hereby made a part of this chapter and the same may be amended and supplemented. The various zones are hereby established and defined as follows:

(1) Non-instrument approach-departure zone. This zone is established at each of the non-instrument runways for non-instrument landings and take-offs. The non-instrument approach-departure zone shall have a width of two hundred fifty feet (250') at a distance of two hundred feet (200') beyond each end of the runway, widening thereafter uniformly to a width of two thousand two hundred fifty feet (2,250') at a distance of ten thousand two hundred feet (10,200') beyond each end of the runway, its centerline being the continuation of the centerline of the runway.

(2) Transitional zone. These zones extend outward from both sides of the primary surface and the approach-departure zones to an intersection with the inner horizontal, conical, and outer horizontal zones or other transitional zones.

(3) Horizontal zone. This zone is established as the area within a circle with its center at the airport reference point and having a radius of five thousand feet (5,000'). This zone does not include the instrument and non-instrument approach-departure zones and the transitional zones.

(4) Conical zone. This zone is established commencing at the periphery of the horizontal zone and extending to a distance of eight thousand feet (8,000') from the airport reference point. This zone does not include the instrument and non-instrument approach-departure zones and the transitional zones. (2000 Code, § 14-1206)

14-1207. Primary surface. This surface is symmetrically located with respect to the centerline of the landing strip. The transverse profile of primary surface is horizontal; whereas, its longitudinal profile may vary throughout its length. The elevation of any point on the longitudinal profile of the primary surface is determined by the highest ground elevation along the width of the landing strip. The primary surface for this chapter is hereby established as follows: Primary surface. This surface is two hundred fifty feet (250') wide and three thousand nine hundred feet (3,900') in length for runway 6-24 and begins two hundred feet (200') outward from each end of said runway. (2000 Code, § 14-1207)

¹The airport zoning map is of record in the city clerk's office.

14-1208. Criteria to govern height limitations. Except as otherwise noted in this chapter, no structure or tree shall be erected, altered, allowed to grow, or maintained in any zone created by this chapter to a height in excess of the height limit herein established from such zone. Such height limitations are computed from imaginary surfaces referenced to the airport elevation. The imaginary surface established for each of the zones in question is as follows:

(1) **Approach-departure surface.** This surface slopes one foot (1') in height for each twenty feet (20') in horizontal distance beginning at an elevation of 1584.75 MSL and a distance of two hundred feet (200') outward from the end of runway 6. This surface slopes outward and upward from its beginning, symmetrically about the extended centerline of the landing strip to an elevation of 2084.75 MSL at a distance of ten thousand two hundred feet (10,200') beyond the end of the runway.

(2) **Approach-departure surface.** This surface slopes one foot (1') in height for each twenty feet (20') in horizontal distance beginning at an elevation of 1555.55 MSL and a distance of two hundred feet (200') outward from the end of runway 24. This surface slopes outward and upward from its beginning, symmetrically about the extended centerline of the landing strip, to an elevation of 2055.55 MSL at a distance of ten thousand two hundred feet (10,200') beyond the end of the runway.

(3) **Transitional surface.** This surface extends outward and upward at a slope of one foot (1') in height for each seven feet (7') in horizontal distance. The maximum elevation for structures or trees located thereunder shall be the elevation of the adjacent point on the primary surface or the approach-departure surface plus one-seventh (1/7) of the distance which separates the structure or tree from the edge of the primary or approach-departure surface. The distance shall be measured in feet along the perpendicular to the landing strip or its extended centerline.

(4) **Horizontal surface.** This surface is at a height of one hundred fifty feet (150') above the established airport elevation. The maximum elevation of structures or trees located thereunder shall be 1734.75 MSL.

(5) **Conical surface.** This surface extends outward and upward at a slope of one foot (1') in height for each twenty feet (20') in horizontal distance. The maximum elevation of structures or trees located thereunder shall be 1734.75 MSL plus one-twentieth (1/20) of the distance which separates the structure or tree from the periphery of the horizontal surface. The distance shall be measured in feet along the radial from the airport reference point.

Nothing in this chapter shall be construed as prohibiting the growth, construction, or maintenance of any tree or structure to a height up to fifty feet (50') above the surface of the land. (2000 Code, § 14-1208)

14-1209. Use restrictions. Notwithstanding any other provisions of this chapter, no use may be made of land within any zone established by this chapter in such a manner as to create electrical interference with radio

communication between the airport and aircraft, make it difficult for flyers to distinguish between airport lights and others, result in glare in the eyes of flyers using the airport, impair visibility in the vicinity of the airport or otherwise endanger the landing, taking off, or maneuvering of aircraft. (2000 Code, § 14-1209)

14-1210. Nonconforming uses. (1) Regulations not retroactive. The regulations prescribed by this chapter shall not be construed to require the removal, lowering, or other change or alteration of any structure or tree not conforming to the regulations as of the effective date of this chapter, or otherwise interfere with the continuance of any nonconforming use. Nothing herein contained shall require any change in the construction, alteration, or intended use of any structure the construction or alteration of which was begun prior to the effective date of this chapter, and is diligently prosecuted.

(2) Marking and lighting. Notwithstanding the preceding provision of this section, the owner of any nonconforming structure or tree is hereby required to permit the installation, operation, and maintenance thereon of such markers and lights as shall be deemed necessary by the city building inspector to indicate the presence of such airport hazards to the operators of aircraft in the vicinity of the airport. Such markers and lights shall be installed, operated, and maintained at the expense of the City of Elizabethton. (2000 Code, § 14-1210)

14-1211. Permits. (1) Future uses. Except as specifically provided in subsections (1), (2), and (3) of this section, no material change shall be made in the use of land and no structure or tree shall be erected, altered, planted, or otherwise established in any zone hereby created unless a permit therefor shall have been applied for and granted. Each application for a permit shall indicate the purpose for which the permit is desired, with sufficient particularity to permit it to be determined whether the resulting use, structure, or tree would conform to the regulations herein prescribed. If such determination is in the affirmative, the permit shall be granted.

(a) In the area lying within the limits of the horizontal zone and the conical zone, no permit shall be required for any tree or structure less than seventy-five feet (75') of vertical height above the ground, except when because of terrain, land contour, or topographic features such tree or structure would extend above the height limits prescribed for such zone.

(b) In the areas lying within the limits of the non-instrument approach-departure zone, but at a horizontal distance of not less than four thousand two hundred feet (4,200') from each end of the runways, no permit shall be required for any tree or structure less than fifty feet (50') of vertical height above the ground, except when such tree or structure would extend above the height limit prescribed for such non-instrument approach-departure zone.

(c) In the areas lying within the limits of the transitional zones beyond the perimeter of the horizontal zone, no permit shall be required for any tree or structure less than seventy-five feet (75') of vertical height above the ground except when such tree or structure, because of terrain, land-contour, or topographic features would extend above the height limit prescribed for such transitional zones.

Nothing contained in any of the foregoing exceptions should be construed as permitting or intending to permit any construction, alteration, or growth of any structure or tree in excess of any of the height limits established by this chapter except as set forth herein.

(2) Existing uses. No permit shall be granted that would allow the establishment or creation of an airport hazard or permit a nonconforming use, structure, or tree to be made or become higher, or become a greater hazard to air navigation, than it was on the effective date of this chapter or any amendments thereto or than it is when the application for a permit is made. Except as indicated, all applications for such permit shall be granted.

(3) Nonconforming uses abandoned or destroyed. Whenever the city building inspector determines that a nonconforming structure or tree has been abandoned or more than eighty percent (80%) torn down, physically deteriorated, or decayed, no permit shall be granted that would allow such structure or tree to exceed the applicable height limit or otherwise deviate from the zoning regulations.

(4) Variances. Any person desiring to erect or increase the height of any structure, or permit the growth of any tree, or use his property not in accordance with the regulations prescribed in this chapter may apply to the board of zoning appeals for a variance from such regulations. Such variances shall be allowed where it is duly found that a literal application or enforcement of the regulations would result in practical difficulty or unnecessary hardship and the relief granted would not be contrary to the public interest but will do substantial justice and be in accordance with the spirit of this chapter.

(5) Hazard marking and lighting. Any permit or variance granted may, if such action is deemed advisable to effectuate the purpose of this chapter and reasonable in the circumstances, be so conditioned as to require the owner of the structure or tree in question to permit the City of Elizabethton at its own expense to install, operate, and maintain thereon such markers and lights as may be necessary to indicate to flyers the presence of an airport hazard. (2000 Code, § 14-1211)

14-1212. Enforcement. It shall be the duty of the city building inspector to administer and enforce the regulations prescribed herein. Applications for permits and variances shall be made to the city building inspector upon a form furnished by him. Applications required by this chapter to be submitted to the city building inspector shall be promptly considered and granted or denied by him. Applications for action by the board of zoning appeals

shall be forthwith transmitted by the city building inspector. (2000 Code, § 14-1212)

14-1213. Board of zoning appeals.¹ (1) There is hereby created a board of zoning appeals to have and exercise the following powers:

(a) To hear and decide appeals from any order, requirement, decision, or determination made by the city building inspector in the enforcement of this chapter;

(b) To hear and decide special exceptions to the terms of this chapter upon which such board of zoning appeals under such regulations may be required to pass;

(c) To hear and decide specific variances.

(2) The board of zoning appeals shall consist of seven (7) members appointed by the mayor and confirmed by a majority vote of the city council. The term of membership shall be five (5) years, except that the initial individual appointments to the board shall be the terms of one (1), two (2), three (3), four (4), and five (5) years, respectively.

(3) The board of zoning appeals shall adopt rules for its governance and procedures in harmony with the provisions of this chapter. Meetings of the board of zoning appeals shall be held at the call of the chairman and at such other times as the board of zoning appeals may determine. The chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses. All hearings of the board of zoning appeals shall be public. The board of zoning appeals shall keep minutes of its proceedings showing the vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall immediately be filed in the office of the building inspector and shall be a public record.

(4) The board of zoning appeals shall make written findings of fact and conclusions of law giving the facts upon which it acted and its legal conclusions from such facts in reversing, affirming, or modifying any order, requirement, decision, or determination which comes before it under the provisions of this chapter.

(5) The concurring vote of a majority of the members of the board of zoning appeals shall be sufficient to reverse any order, requirement, decision, or determination of the building inspector or to decide in favor of the applicant on any matter upon which it is now required to pass under this chapter, or to effect any variation in this chapter. (2000 Code, § 14-1213)

14-1214. Appeals. (1) Any person aggrieved, or any taxpayer affected by any decision of the building inspector made in his administration of this

¹Included in the board of zoning appeals is the airport board of zoning appeals, which is described in title 20, chapter 1.

chapter, if of the opinion that a decision of the building inspector is an improper application of these regulations, may appeal to the board of zoning appeals.

(2) All appeals hereunder must be taken within a reasonable time as provided by the rules of the board of zoning appeals, by filing with the building inspector a notice of appeal specifying the ground thereof. The building inspector shall forthwith transmit to the board of zoning appeals all the papers constituting the record upon which the action appealed from was taken.

(3) An appeal shall stay all proceedings in furtherance of the action appealed from unless the building inspector certifies to the board of zoning appeals, after the notice of appeal has been filed with it, that by reason of the facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed except by order of the board of zoning appeals on notice to the agency from which the appeal is taken and on due cause shown.

(4) The board of zoning appeals shall fix a reasonable time for hearing appeals, give public notice and due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing any party may appear in person or by agent or by attorney.

(5) The board of zoning appeals may, in the conformity with the provisions of this chapter, reverse or affirm, in whole or in part, or modify the order, requirement, decision, or determination appealed from and may make such order, requirement, decision, or determination as may be appropriate under the circumstances. (2000 Code, § 14-1214)

CHAPTER 13

TRAILERS AND TRAILER COURTS¹

SECTION

- 14-1301. Definitions.
- 14-1302. Permits.
- 14-1303. Inspections.
- 14-1304. Location, space, and general layout required for trailer courts.
- 14-1305. Trailer court facilities required.
- 14-1306. Single trailer coaches.
- 14-1307. Alterations and additions.
- 14-1308. Registration.
- 14-1309. Enforcement.

14-1301. Definitions. When used in this chapter, the following words and phrases shall have the meanings indicated:

- (1) "Building inspector" shall mean the Building Inspector of the City of Elizabethton, Tennessee, or his authorized representative.
- (2) "Dependent trailer coach" shall mean a trailer coach that does not have a toilet and a bathtub or shower.
- (3) "Electrical inspector" shall mean the Electrical Inspector of the City of Elizabethton, Tennessee, or his authorized representative.
- (4) "Health officer" shall mean the Health Officer of the City of Elizabethton, Tennessee, or his authorized representative.
- (5) "Independent trailer coach" shall mean a trailer coach that has a toilet and a bathtub or shower.
- (6) "Plumbing inspector" shall mean the Plumbing Inspector of the City of Elizabethton, Tennessee, or his authorized representative.
- (7) "Trailer coach" shall mean any mobile structure intended for or capable of being driven, propelled, or towed without a change in structure or design (does not include transport trucks or vans without sleeping space).
- (8) "Trailer coach space" shall mean a plot of ground within a trailer court designated for the accommodation of one (1) trailer coach.
- (9) "Trailer court" shall mean any plot of ground upon which two (2) or more trailer coaches are located or are intended to be located (does not

¹Municipal code references

Building, electrical, gas, and plumbing codes: title 12.

Fire code: title 7.

Garbage and refuse: title 17.

Mobile home park regulations: title 14, chapter 15.

include sites where unoccupied trailers are on display for sale). (2000 Code, § 14-1301)

14-1302. Permits. It shall be unlawful to construct, maintain, operate, or alter any trailer or trailer court within the limits of the City of Elizabethton, Tennessee, without a valid permit issued by the building inspector for the specific trailer or trailer court. Applications for permits shall be in writing, signed by the applicant, and accompanied by an affidavit of the applicant as to the truth of the application, and shall contain the name and address of the applicant, the location and legal description of the trailer court or single trailer coach space, and for a trailer court, a complete plan, showing compliance with all the provisions of this chapter. Such plan shall show the area and dimensions of the trailer court site; the numbers, location, and size of all trailer coach spaces; the location, width, and proposed surfacing of all roadways and walkways; the location and dimensions of any proposed structures; the location of all water and sewer lines; and the location of all equipment and facilities for refuse disposal or other trailer court improvements.

For a single trailer coach, there is required a sketch showing compliance with all provisions of this chapter and showing the dimensions of the lot, proposed location of the trailer coach, location and dimensions of all buildings and structures on the lot, and location and dimensions of proposed sewer, water, and electrical connections to the trailer coach.

Whenever, upon inspection of any trailer coach or trailer court, the building inspector or health officer finds that conditions or practices exist which are in violation of any provision of this chapter, he shall give notice thereof in writing to the person to whom the permit was issued. Unless such conditions or practices are corrected within a reasonable period of time, the permit shall be suspended. The building inspector or health officer shall then give notice in writing that the permit has been suspended. Upon receipt of such notice of suspension, operation or use of the trailer coach or trailer court shall cease.

No trailer court permit shall be issued without the written approval of the board of zoning appeals as required by the Elizabethton Zoning Ordinance.

An annual permit for the construction and/or operation of a trailer court shall be issued by the building inspector upon annual payment of a permit fee of five hundred dollars (\$500.00) provided such trailer court meets all pertinent provisions of this chapter.

Temporary one (1) month permits for single trailer coaches as permitted by the Elizabethton Zoning Ordinance shall be issued by the building inspector without fee. (2000 Code, § 14-1302)

14-1303. Inspections. The health officer, building inspector, plumbing inspector and electrical inspector are hereby authorized and directed to make inspections to determine the condition of trailer coaches and trailer courts located within the limits of the City of Elizabethton, Tennessee, in order to

perform their duties of safeguarding the health and safety of the occupants and of the general public. (2000 Code, § 14-1303)

14-1304. Location, space, and general layout required for trailer courts. The trailer court site shall be located on a well-drained site, properly graded to insure proper drainage. All trailer courts shall be located in areas free from marshes, swamps, stagnant pools, or other potential breeding places for insects or rodents.

The area of the trailer court site shall be large enough to contain at least ten (10) trailer coach spaces and other space as required in this chapter and to meet the yard and building area requirements of the Elizabethton Zoning Ordinance. There shall be a minimum of three thousand (3,000) square feet of total site area for each trailer coach located or intended to be located in the trailer court.

A trailer court site shall front on a public street with at least a thirty foot (30') right-of-way, and there shall be two (2) separate roadways, surfaced at least twenty feet (20') wide, for ingress and egress to the site.

Each trailer coach space shall contain a minimum of one thousand two hundred (1,200) square feet, shall be at least thirty feet (30') wide, and shall abut on a driveway with unobstructed access to a public street. Each space shall be clearly marked. There shall be a minimum of twenty feet (20') between adjacent trailer coaches.

One (1) auto parking space of two hundred (200) square feet, separate from roadways, shall be provided for each trailer coach space. Such parking spaces may be provided within the trailer coach space or in a common parking area.

Each trailer camp site shall include common space for outside drying, playgrounds, and other common facilities totaling at least one thousand (1,000) square feet per trailer coach space in addition to the area required for trailer coach spaces, roadways, and parking spaces.

It shall be illegal to allow any trailer coach to remain in a trailer court unless a trailer coach space is available.

It shall be illegal to park a trailer coach so that any part of such coach will obstruct any roadway or walkway. (2000 Code, § 14-1304)

14-1305. Trailer court facilities required. It shall be illegal to park or use a dependent trailer coach in any trailer court within the limits of the City of Elizabethton, Tennessee.

Municipal water supply connections shall be provided to each trailer coach space. Piping and connections shall be as specified and approved by the plumbing inspector.

Municipal sanitary sewer connections shall be provided to each trailer coach space. Piping and connections shall be as specified and approved by the

plumbing inspector. When not in use, any sewer connection shall be covered by an odor-free and fly-tight cap.

A laundry room with laundry trays or tubs and hot water may be provided. If provided, all piping and heating equipment shall be as specified and approved by the plumbing inspector. No service building shall be located less than twenty feet (20') from any trailer coach space. Service buildings shall be of permanent construction, adequately ventilated and lighted, and built as specified and approved by the building inspector.

A refuse container meeting the requirements of § 17-106 in this code shall be provided for each trailer coach space and all refuse shall be stored, collected and disposed of in accordance with title 17, chapter 1.

Accumulations of debris, weeds, or other conditions favoring the breeding of insects and rodents shall not be permitted in the trailer court. The court operator shall carry out all measures proposed by the health officer for insect and rodent control.

A 110 volt weatherproof electrical outlet shall be provided for each trailer coach space as specified and approved by the electrical inspector. All power lines shall be installed either underground or at least eighteen feet (18') above the ground.

Liquefied petroleum gas for cooling purposes shall not be used at individual trailer coach spaces unless the containers are properly connected by copper or other suitable metallic tubing as specified and approved by the plumbing inspector. No gas container shall be located in the trailer coach nor within five feet (5') of a trailer coach door. Fires shall be made only in suitable stoves. No refuse shall be burned on the trailer court site. Fire hydrants shall be located within five hundred feet (500') of each trailer coach space. The trailer court operator shall carry out all fire prevention measures recommended by the Elizabethton Fire Department. (2000 Code, § 14-1305)

14-1306. Single trailer coaches. Occupied independent trailer coaches shall be permitted only in approved trailer courts and, on a temporary basis, in certain areas as specified in the Elizabethton Zoning Ordinance. Occupied dependent trailer coaches shall not be permitted within the limits of the City of Elizabethton. Single independent trailer coaches outside approved trailer court shall be connected to the municipal water and sanitary sewer systems as specified and approved by the plumbing inspector. Electrical connections shall be as specified and approved by the electrical inspector.

Any single trailer coach must meet the area, yard, setbacks, and other requirements of the Elizabethton Zoning Ordinance. (2000 Code, § 14-1306)

14-1307. Alterations and additions. No permanent additions of any kind shall be built onto nor become a part of any trailer coach, whether inside or outside a trailer court. Skirting of coaches is permissible, but such skirting

shall not attach the coach permanently to the ground, provide a harbor for rodents, nor create a fire hazard.

The wheels of a trailer coach shall not be removed except as necessary for repairs. Jacks or stabilizers may be placed under the frame of the coach. (2000 Code, § 14-1307)

14-1308. Registration. Each trailer court operator shall keep a complete and permanent register listing each car license number and state; names, age, and sex of occupants of each trailer; and dates of admission and departure from the court. The health officer shall be notified immediately of communicable diseases in trailer courts. (2000 Code, § 14-1308)

14-1309. Enforcement. These regulations shall be enforced by the building inspector or health officer. Any person who shall willfully neglect or refuse to comply with any of the provisions of these regulations shall be deemed guilty of a misdemeanor and upon conviction for such violation shall be fined under the general penalty clause in the adopting ordinance for this municipal code of ordinances. (2000 Code, § 14-1309)

CHAPTER 14

FLOODPLAIN ZONING ORDINANCE

SECTION

- 14-1401. Statement of purpose.
- 14-1402. Objectives.
- 14-1403. Definitions.
- 14-1404. Application.
- 14-1405. Basis for establishing the areas of special flood hazard.
- 14-1406. Requirements for development permit.
- 14-1407. Compliance.
- 14-1408. Abrogation and greater restrictions.
- 14-1409. Interpretation.
- 14-1410. Warning and disclaimer of liability.
- 14-1411. Violations and penalty.
- 14-1412. Designation of ordinance administrator.
- 14-1413. Permit procedures.
- 14-1414. Duties and responsibilities of the administrator, chief building official.
- 14-1415. Provisions for flood hazard reduction--general standards.
- 14-1416. Specific standards.
- 14-1417. Standards for special flood hazard areas with established base flood elevations and with floodways designated.
- 14-1418. Standards for areas of special flood hazard Zones AE with established base flood elevations but without floodways designated.
- 14-1419. Standards for streams without established base flood elevations and floodways (A Zones).
- 14-1420. Standards for areas of shallow flooding (AO and AH Zones).
- 14-1421. Standards for areas protected by flood protection system (A99 Zones).
- 14-1422. Standards for unmapped streams.
- 14-1423. Variance procedures.
- 14-1424. Legal status provisions.

14-1401. Statement of purpose. It is the purpose of this ordinance to promote the public health, safety and general welfare, and to minimize public and private losses due to flood conditions in specific areas. This ordinance is designed to:

- (1) Restrict or prohibit uses which are vulnerable to flooding or erosion hazards, or which result in damaging increases in erosion, flood heights or velocities;
- (2) Require that uses vulnerable to flooding, including community facilities, be protected against flood damage at the time of initial construction;

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

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

(5) Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands. (Ord. #47-2, Jan. 2011)

14-1402. Objectives. The objectives of this ordinance are:

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

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

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

(4) To minimize prolonged business interruptions;

(5) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodprone areas;

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

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

(8) To maintain eligibility for participation in the National Flood Insurance Program (NFIP). (Ord. #47-2, Jan. 2011)

14-1403. Definitions. Unless specifically defined below, words or phrases used in this ordinance shall be interpreted as to give them the meaning they have in common usage and to give this ordinance its most reasonable application given its stated purpose and objectives.

(1) "Accessory structure" means a subordinate structure to the principle structure on the same lot and, for the purpose of this ordinance, 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 flood waters.

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

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

(2) "Act" means the statutes authorizing the National Flood Insurance Program (NFIP) that are incorporated in 42 U.S.C. 4001-4128.

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

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

(5) "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.)

(6) "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 maybe further refined.

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

(8) "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.

(9) "Base Flood Elevation (BFE)." The elevation of surface water resulting from a flood that has a one percent (1%) chance of equaling or exceeding that level in any given year. The BFE is shown on the Flood Insurance Rate Map (FIRM) for zones AE, AH, A1-A30, AR, AR/A, AR/AE, AR/A1-A30, AR/AH, AR/AO, V1-V30, and VE.

(10) "Basement" means any portion of a building having its floor sub-grade (below ground level) on all sides.

(11) "Building." See "structure."

(12) "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.

(13) "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 flood water, and pilings, columns, piers, or shear walls adequately anchored so as not to impair the structural integrity of the building during a base flood event.

(14) "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.

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

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

(17) "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.

(18) "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.

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

(20) "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).

(21) "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.

(22) "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.

(23) "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.

(24) "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.

(25) "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.

(26) "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.

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

(28) "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.

(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 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.

(31) "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.

(32) "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.

(33) "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.

(34) "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.

(35) "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 condition, such as wave action, blockage of bridge or culvert openings and hydrological effect of urbanization of the watershed.

(36) "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.

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

(38) "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 Elizabethton 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.

(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 built so as to render the structure in violation of the applicable non-elevation design requirements of the ordinance.

(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" 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.

(44) "Map" means the Flood Hazard Boundary Map (FHBM) or the Flood Insurance Rate Map (FIRM) for 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 ordinance, the term is synonymous with the National Geodetic Vertical Datum (NGVD) of 1929, the North American Vertical Datum (NAVD) of 1988 or other datum, to which base flood elevations shown on a community's flood insurance rate map are referenced.

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

(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 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." 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 ordinance means a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

(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 repairs, reconstruction, rehabilitation, additions, alterations or other improvements of a structure, in which the cumulative 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 repair or improvement; or

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

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 ordinance.

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

(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. (Ord. #47-2, Jan. 2011, as amended by Ord. #49-6, March 2013)

14-1404. Application. This ordinance shall apply to all areas within the incorporated area of Elizabethton, Tennessee. (Ord. #47-2, Jan. 2011)

14-1405. Basis for establishing the areas of special flood hazard. The areas of special flood hazard identified on the City of Elizabethton, Tennessee, as identified by FEMA, and in its Flood Insurance Study (FIS) and Flood Insurance Rate Map (FIRM), Community Panel Numbers 47019C0100E, 47019C0158E, 47019C0160E, 47019C0170E, 47019C0180E, and 47019C0185E dated September 26, 2008, along with all supporting technical data, are adopted by reference and declared to be a part of this ordinance. (Ord. #47-2, Jan. 2011)

14-1406. Requirements for development permit. A development permit shall be required in conformity with this ordinance prior to the commencement of any development activities. (Ord. #47-2, Jan. 2011)

14-1407. Compliance. No land, structure or use shall hereafter be located, extended, converted or structurally altered without full compliance with the terms of this ordinance and other applicable regulations. (Ord. #47-2, Jan. 2011)

14-1408. Abrogation and greater restrictions. This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance conflicts or overlaps with another regulatory instrument, whichever imposes the more stringent restrictions shall prevail. (Ord. #47-2, Jan. 2011)

14-1409. Interpretation. In the interpretation and application of this ordinance, all provisions shall be:

- (1) Considered as minimum requirements;
- (2) Liberally construed in favor of the governing body; and
- (3) Deemed neither to limit nor repeal any other powers granted under Tennessee statutes. (Ord. #47-2, Jan. 2011)

14-1410. Warning and disclaimer of liability. The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the

part of the City of Elizabethton, Tennessee or by any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder. (Ord. #47-2, Jan. 2011)

14-1411. Violations and penalty. Violation of the provisions of this ordinance or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance shall constitute a misdemeanor punishable as other misdemeanors as provided by law. Any person who violates this ordinance or fails to comply with any of its requirements shall, upon adjudication therefore, be fined as prescribed by Tennessee statutes, and in addition, shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the City of Elizabethton, Tennessee from taking such other lawful actions to prevent or remedy any violation. (Ord. #47-2, Jan. 2011)

14-1412. Designation of ordinance administrator. The chief building official or his/her designee is hereby appointed as the administrator to implement the provisions of this chapter. (Ord. #49-6, March 2013)

14-1413. Permit procedures. Application for a development permit shall be made to the administrator on forms furnished by the community prior to any development activities. The development permit may include, but is not limited to the following: plans in duplicate drawn to scale and showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, earthen fill placement, storage of materials or equipment, and drainage facilities. Specifically, the following information is required:

(1) Application stage. (a) Elevation in relation to mean sea level of the proposed lowest floor, including basement, of all buildings where base flood elevations are available, or to certain height above the highest adjacent grade when applicable under this ordinance.

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

(c) A FEMA flood proofing certificate from a Tennessee registered professional engineer or architect that the proposed non-residential flood-proofed building will meet the flood-proofing criteria in §§ 14-1415 and 14-1416.

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

(2) Construction stage. Within AE Zones, where base flood elevation data is available, any lowest floor certification made relative to mean sea level shall be prepared by or under the direct supervision of a Tennessee registered

land surveyor and certified by same. The administrator shall record the elevation of the lowest floor on the development permit. When 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. (Ord. #47-2, Jan. 2011)

14-1414. Duties and responsibilities of the administrator, chief building official. Duties of the administrator shall include, but not be limited to the following:

(1) Review of all development permits to assure that the permit requirements of this ordinance have been satisfied, and that proposed building sites will be reasonably safe from flooding.

(2) Review proposed development to assure that all necessary permits have been received from those governmental agencies from which approval is required by federal or state law, including section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.

(3) Notify adjacent communities and the Tennessee Department of Economic and Community Development, Local Planning Assistance Office, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to FEMA.

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

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

(6) Record the elevation, in relation to mean sea level or the highest adjacent grade, where applicable of the lowest floor, including basement, of all new and substantially improved buildings, in accordance with § 14-1413.

(7) Record the actual elevation in relation to mean sea level or the highest adjacent grade, where applicable, to which the new and substantially improved buildings have been flood proofed in accordance with § 14-1413.

(8) 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 § 14-1413.

(9) Where interpretation is needed as to the exact location of boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), make the necessary interpretation. Any person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this ordinance.

(10) When base flood elevation data and floodway data have not been provided by FEMA, obtain, review and reasonably utilize any base flood elevation and floodway data available from 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 Elizabethton, Tennessee, FIRM meet the requirements of this ordinance.

(11) Maintain all records pertaining to the provisions of this ordinance in the office of the administrator, and shall be open for public inspection. Permits issued under the provisions of this ordinance shall be maintained in a separate file or marked for expedited retrieval within combined files. (Ord. #47-2, Jan. 2011)

14-1415. Provisions for flood hazard reduction--general standards. In all areas of special flood hazard the following provisions are required:

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

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

(3) New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage;

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

(5) All electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;

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

(7) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters;

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

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

(10) Any alteration, repair, reconstruction or improvements to a building that is not in compliance with the provisions of this ordinance, shall be undertaken only if said nonconformity is not further extended or replaced; and

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

(12) All subdivision proposals and other proposed new development proposals shall meet the standards of § 14-1416.

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

(14) When proposed new construction and substantial improvements are located in multiple flood hazard risk zones or in a flood hazard risk zone with multiple base flood elevations, the entire structure shall meet the standards for the most hazardous flood hazard risk zone and the highest base flood elevation. (Ord. #47-2, Jan. 2011)

14-1416. Specific standards. In all areas of special flood hazard the following provisions, in addition to those set forth in § 14-1415 are required:

(1) Residential structures. In AE Zones where base flood elevation data is available, new construction and substantial improvement of any residential building (or manufactured home) shall have the lowest floor, including basement, elevated 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 § 14-1416(3) of this ordinance, "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 § 14-1403 of this ordinance. (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 § 14-1416(3) "enclosures.")

(2) Non-residential structures. In AE Zones where base flood elevation data is available, new construction and substantial improvement of any commercial, industrial, or non-residential building shall have the lowest floor, including basement, elevated or flood proofed 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 § 14-1416(3) "enclosures.")

In approximate A Zones, where base flood elevations have not been established and where alternative data is not available, new construction and substantial improvement of any commercial, industrial or non-residential building shall have the lowest floor, including basement, elevated or flood proofed to no lower than three feet (3') above the highest adjacent grade as defined in § 14-1403. (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 § 14-1416(3) "enclosures.")

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 § 14-1413 of this ordinance.

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

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

(i) 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;

(ii) The bottom of all openings shall be no higher than one foot (1') above the finish grade; and

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

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

(c) The interior portion of such enclosed area shall not be finished or partitioned into separate rooms in such a way as to impede the movement of flood waters and all such partitions shall comply with the provisions of § 14-1416.

(4) Standards for manufactured homes and recreational vehicles.

(a) All manufactured homes placed, or substantially improved on:

(i) Individual lots or parcels;

(ii) In expansions to existing manufactured home parks or subdivisions; or

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

(b) All manufactured homes placed or substantially improved in an existing manufactured home park or subdivision must be elevated so that either:

(i) 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

(ii) 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 § 14-1403.

(c) Any manufactured home, which has incurred "substantial damage" as the result of a flood, must meet the standards of §§ 14-1415 and 14-1416 of this ordinance.

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

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

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

(ii) 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

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

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

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

(b) All subdivision and other proposed new development proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.

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

(d) In all approximate A Zones require that all new subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions) that are greater than fifty (50) lots or five (5) acres, whichever is the lesser, include within such proposals base flood elevation data as set forth in § 14-1419. (Ord. #47-2, Jan. 2011)

14-1417. Standards for special flood hazard areas with established base flood elevations and with floodways designated. Located within the special flood hazard areas established in § 14-1405 are areas designated as floodways. A floodway may be an extremely hazardous area due to the velocity of flood waters, debris or erosion potential. In addition, the area must remain free of encroachment in order to allow for the discharge of the base flood without increased flood heights and velocities. Therefore, the following provisions shall apply:

(1) Encroachments are prohibited, including earthen fill material, new construction, substantial improvements or other developments 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 Elizabethton, Tennessee, and the certification thereof.

(2) New construction and substantial improvements of buildings, where permitted, shall comply with all applicable flood hazard reduction provisions of §§ 14-1415 and 14-1416 of this ordinance. (Ord. #47-2, Jan. 2011)

14-1418. 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 § 14-1405 where streams exist with base flood data provided but where no floodways have been designated, (Zones AE) the following provisions apply:

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

(2) New construction and substantial improvements of buildings, where permitted, shall comply with all applicable flood hazard reduction provisions of §§ 14-1415 and 14-1416. (Ord. #47-2, Jan. 2011)

14-1419. Standards for streams without established base flood elevations or floodways (A Zones). Located within the special flood hazard areas established in § 14-1405 where streams exist, but no base flood data has been provided and where a floodway has not been delineated, the following provisions shall apply:

(1) The administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from any federal, state, or other sources, including data developed as a result of these regulations (see (2) below), as criteria for requiring that new construction, substantial improvements, or other development in approximate A Zones meet the requirements of §§ 14-1415 and 14-1416.

(2) 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.

(3) Within approximate A Zones, where base flood elevations have not been established and where such data is not available from other sources, require the lowest floor of a building to be elevated or flood proofed to a level of at least three feet (3') above the highest adjacent grade (as defined in § 14-1403). All applicable data including elevations or flood proofing certifications shall be recorded as set forth in § 14-1413. Openings sufficient to facilitate automatic

equalization of hydrostatic flood forces on exterior walls shall be provided in accordance with the standards of § 14-1416.

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

(5) New construction and substantial improvements of buildings, where permitted, shall comply with all applicable flood hazard reduction provisions of §§ 14-1415 and 14-1416. Within approximate A Zones, require that those subsections of § 14-1416 dealing with the alteration or relocation of a watercourse, assuring watercourse carrying capacities are maintained and manufactured homes provisions are complied with as required. (Ord. #47-2, Jan. 2011)

14-1420. Standards for areas of shallow flooding (AO and AH Zones). Located within the special flood hazard areas established in § 14-1405 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 §§ 14-1415 and 14-1416 apply:

(1) All new construction and substantial improvements of residential and non-residential buildings shall have the lowest floor, including basement, elevated to at least one foot (1') above as many feet as the flood 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 § 14-1416.

(2) All new construction and substantial improvements of 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 (1') foot above the flood depth number specified on the FIRM with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of

buoyancy. If no depth number is specified on the FIRM, the structure shall be 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 ordinance and shall provide such certification to the administrator as set forth above and as required in § 14-1413 of this ordinance.

(3) Adequate drainage paths shall be provided around slopes to guide flood waters around and away from proposed structures. (Ord. #47-2, Jan. 2011)

14-1421. Standards for areas protected by flood protection system (A99 Zones). Located within the areas of special flood hazard established in § 14-1405 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 §§ 14-1412 through 14-1422 shall apply. (Ord. #47-2, Jan. 2011)

14-1422. Standards for unmapped streams. Located within the City of Elizabethton, Tennessee are unmapped streams where areas of special flood hazard are neither indicated nor identified. Adjacent to such streams the following provisions shall apply:

(1) No encroachments, including fill material, or other development, including structures, shall be located within an area of at least equal to twice the width of the stream, measured from the top of each stream bank, unless certification by a Tennessee registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot (1') at any point within the locality.

(2) When a new flood hazard risk zone and base flood elevation and floodway data is available, new construction and substantial improvements shall meet the standards established in accordance with §§ 14-1412 through 14-1422. (Ord. #47-2, Jan. 2011)

14-1423. Variance procedures. (1) City of Elizabethton, Tennessee Board of Zoning Appeals.

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

(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 ordinance. Such appeal shall be taken by filing with the municipal board of zoning appeals a notice of appeal, specifying the grounds thereof. In all cases where an appeal is made by a property owner or other interested parties, a fee of fifty dollars (\$50.00) 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 seven (7) 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 provision of this ordinance.

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

(A) The City of Elizabethton, Tennessee, Municipal Board of Zoning Appeals, shall hear and decide appeals and requests for variances from the requirements of this ordinance.

(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 ordinance to preserve the historic character and design of the structure.

(C) In passing upon such applications, the Municipal Board of Zoning Appeals shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this ordinance; and

(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.

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

(E) 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 § 14-1423.

(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. (Ord. #47-2, Jan. 2011, as amended by Ord. #49-6, March 2013)

14-1424. Legal status provisions. (1) Conflict with other ordinances. In case of a conflict between the ordinance comprising this chapter or any part thereof, and the whole or part of any existing or future ordinance of the City of Elizabethton, Tennessee, the most restrictive shall in all cases apply.

(2) Severability. If any section, clause, provision, or portion of this ordinance shall be held to be invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect any other section, clause, provision, or portion of this ordinance which is not of itself invalid or unconstitutional. (Ord. #47-2, Jan. 2011)

CHAPTER 15

MOBILE HOME PARK REGULATIONS¹

SECTION

- 14-1501. General plan.
- 14-1502. Minimum standards.
- 14-1503. Operating procedures.
- 14-1504. Dimensional requirements for parks.
- 14-1505. Dimensional requirements for mobile home spaces.

14-1501. General plan. In any district in which mobile home parks are permitted, the following regulations shall apply:

The owner or lessee of the land parcel proposed for a mobile home park shall submit a plan for development to the Elizabethton Planning Commission for approval. The plan shall show:

- (1) The park plan drawn to scale.
- (2) The area and dimensions of the proposed park.
- (3) The location and width of all roadways and walkways.
- (4) The location and dimensions of any proposed service buildings and structures.
- (5) The location of all water and sewer lines. If public sewer is not available a certificate signed by the health officer shall be affixed to the plans.
- (6) The location of all equipment and facilities for refuse disposal and other park improvements.
- (7) A plan for drainage of the park.
- (8) A certificate of accuracy signed by the surveyor or engineer that the engineering work is correct.
- (9) Certificates and signatures of the building and codes official.
- (10) A certificate of planning commission approval.
- (11) Any other information deemed pertinent by the planning commission. (2000 Code, § 14-1501)

14-1502. Minimum standards. (1) The site shall be located on a well drained and flood free site with proper drainage.

- (2) The site shall not be exposed to objectionable smoke, noise, odors, insect or rodent harborage or other adverse influences.
- (3) The site shall be located with direct access to an open public street.
- (4) The planning commission may require buffer strips along the side, rear and front lot lines of the park.

¹Municipal code reference

Trailers and trailer courts: title 14, chapter 13.

(5) The mobile home park shall contain not more than six (6) individual mobile homes spaces per gross acre.

(6) Service buildings shall be of permanent construction, adequately ventilated and lighted and built in conformity to all city codes and ordinances.

(7) Municipal water supply and sanitary sewer shall be provided to each mobile home space. Piping and connections shall be as specified and approved by the plumbing inspector. If public sewer is not available the property must be approved for subsurface sewage disposal by the health department.

(8) A separate water meter shall be required for each mobile home space.

(9) Each mobile home park shall provide a common area for playgrounds. The area shall contain a minimum of five hundred (500) square feet for each mobile home space exclusive of roadways, mobile home spaces and parking spaces.

(10) All service buildings shall be convenient to the spaces which they solely serve and shall be maintained in clean and sanitary conditions.

(11) The drives, walks, and parking areas shall be paved with hard surface material which shall be not less than two inches (2") of hot asphalt.

(12) Roadways shall be minimum of twenty feet (20') in width.

(13) Entrances and exits to the mobile home park shall be designed for safe and convenient movement of traffic into and out of the park, and shall be located and designed as prescribed by the City Engineer of the City of Elizabethton.

(14) Any part of the park area not used for buildings or other structures, parking, or access ways shall be landscaped with grass, trees, shrubs, and pedestrian walks.

(15) The park shall be adequately lighted.

(16) Each mobile home shall be set back a minimum of thirty feet (30') from any public street and a minimum of fifteen feet (15') from all property lines.

(17) Each mobile home park shall provide at least two (2) off-street parking spaces for each mobile home unit. The parking spaces shall be located for convenient access to mobile home units. (2000 Code, § 14-1502)

14-1503. Operating procedures. (1) No space shall be rented for residential use of a mobile home in any such park except for periods of thirty (30) days or more, and no mobile home shall be admitted to any park unless it can be demonstrated that it meets the requirements of the Building and Codes Department of Elizabethton, Tennessee.

(2) All roads within the mobile home park shall be private roads and shall not be accepted as public roads.

(3) All mobile homes shall be neatly underpinned with attractive and suitable materials.

(4) Mobile homes shall not be used for commercial, industrial, or other non-residential uses within the mobile home park, except that one (1) mobile home in the park may be used to house a rental office. (2000 Code, § 14-1503)

14-1504. Dimensional requirements for parks. (1) Each mobile home park shall have a front yard setback of thirty feet (30') extending for the full width of the parcel devoted to said use.

(2) Each mobile home park shall provide rear and side yard setbacks of not less than twenty-five feet (25'), from the parcel boundary.

(3) In instances where a side or rear yard abuts a public street, said yard shall not be less than thirty feet (30'). (2000 Code, § 14-1504)

14-1505. Dimensional requirements for mobile home spaces. Each mobile home space shall be of sufficient size that, in addition to the mobile home, the following space shall be provided:

(1) Each mobile home space shall be at least fifty feet (50') wide and such space shall be clearly defined by permanent markers.

(2) There shall be a front yard setback of twenty feet (20') from all access roads within the mobile home park.

(3) Each mobile home shall have a minimum side yard setback of not less than fifteen feet (15') and a rear yard setback of not less than fifteen feet (15').

(4) There shall be at least two (2) paved off-street parking spaces for each mobile home space, which shall be on the same site as the mobile homes served, and may be located in the rear or side yard of said mobile home space. (2000 Code, § 14-1505)

CHAPTER 16

LANDSCAPE REGULATIONS¹

SECTION

- 14-1601. Definitions and interpretations.
- 14-1602. The landscape plan.
- 14-1603. Protection of existing plantings.
- 14-1604. Standards for accepting existing plantings.
- 14-1605. Incentives for preserving specimen trees and existing plantings.
- 14-1606. General landscape design standards.
- 14-1607. Prohibited plantings.
- 14-1608. Buffering.
- 14-1609. Classification of buffer areas.
- 14-1610. Protective screening.
- 14-1611. Parking lot landscaping.
- 14-1612. Landscape areas.
- 14-1613. Completion bond.
- 14-1614. Maintenance/replacement bond.
- 14-1615. Continued maintenance requirements.
- 14-1616. Application procedures--new developments.
- 14-1617. Application procedures--expansions of and/or alterations to existing developments.
- 14-1618. Minor changes to approved or conditionally approved plans.
- 14-1619. Expiration of approved landscape plans.
- 14-1620. Alternative methods of compliance.
- 14-1621. Conflict.
- 14-1622. Severability.

14-1601. Definitions and interpretations. (1) "Berm." A mound of soil or man-made raised area used to obstruct views, decrease noise, and/or otherwise act as a buffer between incompatible land uses.

(2) "Buffer." An area within a property or site, generally adjacent to and parallel with the property line, either consisting of natural existing vegetation or created by the use of trees, shrubs, fences, walls, and/or berms, designed to limit continuously the view of and sound from the site to adjacent sites of properties.

(3) "Caliper." The diameter of a tree trunk measured in inches, six inches (6") above ground level for trees up to four inches (4") in diameter and

¹Municipal code reference

Tree regulations: title 14, chapter 17.

twelve inches (12") above ground level for trees over four inches (4") in diameter. Caliper is a common means of measuring trunk diameter on young trees.

(4) "Certificate of occupancy." A document issued by the building inspector which permits the occupancy or use of a building and which certifies that the structure for use has been constructed, arranged, and will be used in compliance with all applicable codes.

(5) "Curb." A stone, concrete, or other improved boundary usually marking the edge of the roadway or paved area.

(6) "DBH (Diameter Breast Height)." The diameter of a tree measured four feet (4') above ground level. DBH is a common means of measuring the diameter of large trees.

(7) "Deciduous." Plants that drop their foliage annually before becoming dormant.

(8) "Developer." The legal or beneficial owner or owners of a lot or of any land included in a proposed development. Also, the holder of an option, or contract to purchase, or any other person having enforceable proprietary interest in such land.

(9) "Development." Any man-made change to improved or unimproved real estate, including, but not limited to buildings or other structures, dredging, drilling operation, excavation, filling, grading, paving, or the removal of healthy trees over six inches (6") DBH.

(10) "Drip line." A vertical line extending from the outer edge of the canopy of a tree to the ground.

(11) "Frontage landscaped area." A landscaped area located at the perimeter of the lot along all abutting public streets or permanent transportation easements.

(12) "Evergreen." A plant with foliage that remains green year-round.

(13) "Hedge." A landscape barrier consisting of a continuous, dense planting of shrubs.

(14) "Impervious surface." A surface that has been compacted or covered with a layer of material so that it is highly resistant to infiltration by water.

(15) "Incompatibility of land uses." An issue arising from the proximity or direct association of contradictory, incongruous, or discordant land uses or activities, including the impacts of noise vibration, smoke, odors, toxic matter, radiation, and similar environmental conditions.

(16) "Interior planting island." An island located within the interior of a parking lot.

(17) "Island." A raised area, usually curbed, placed to protect landscaping and separate traffic flow.

(18) "Landscape specialist." For purposes of these regulations, a landscape specialist shall include anyone with professional training and experience in the principles of landscaping.

(19) "Lot." A designated parcel, tract, or area of land established by a plat or otherwise as permitted by law and to be used, developed, or built upon as a unit.

(20) "Maintenance guarantee." Any security which may be required and accepted by the Elizabethton Regional Planning Commission to ensure that necessary improvements will function as required for a specific period of time.

(21) "Mulch." A layer of wood chips, dry leaves, straw hay, plastic, or other materials placed on the surface of the soil around plants to retain moisture, prevent weeds from growing, hold the soil in place, or aid plant growth.

(22) "Nursery." Land or green houses to raise flowers, shrubs, and plants for sale.

(23) "Off-street parking." A parking space provided in a parking lot, parking structure, or private driveway.

(24) "Ornamental tree." A deciduous tree planted primarily for its ornamental value or for screening purposes; tends to be smaller at maturity than a shade tree.

(25) "Overhang." The portion of a vehicle extending beyond the wheel stops or curb.

(26) "Performance guarantee." Any security that may be accepted by the Elizabethton Regional Planning Commission as guarantee that the improvements required as part of an application for development are satisfactorily completed.

(27) "Protective screening." A structure of plantings, consisting of fencing, berms, and/or evergreen trees or shrubs providing a continuous view obstruction within a site or property.

(28) "Setback." The distance between the building and any lot line.

(29) "Shade tree." A tree, usually deciduous, planted primarily for overhead canopy.

(30) "Shrub." A self-supporting woody perennial plant of low to medium height characterized by multiple stems and branches continuous from the base, usually not more than ten feet (10') in height at its maturity.

(31) "Sight distance triangle." A portion of land formed by the intersection of two (2) street right-of-way lines and points along each right-of-way thirty-five feet (35') from the intersection. Within this triangle nothing shall be erected, placed, planted, or allowed to grow in such a manner as to limit or obstruct the sight distance of motorists entering or leaving the intersection. In general, this would mean that a clear view shall be provided between the heights of three feet (3') and fifteen feet (15') within the sight distance triangle.

(32) "Specimen tree." A particularly impressive or unusual example of a species due to its size, shade, age, or any other trait that epitomizes the character of the species.

(33) "Street, public." A public right-of-way set aside for public travel which:

(a) Has been accepted for maintenance by the City of Elizabethton;

(b) Has been dedicated to and accepted by the City of Elizabethton for public travel by the recording of a street plat or a plat of subdivision which has been approved by the Elizabethton Regional Planning Commission.

(34) "Topsoil." The original layer of soil material to a depth of six inches (6") which is usually darker and richer than the subsoil.

(35) "Vision clearance." A condition which is achieved when nothing is erected, placed, planted, or allowed to grow in such a manner as to limit or obstruct the sight distance of motorists entering or leaving an intersection. (2000 Code, § 14-1601, as amended by Ord. #48-16, Sept. 2012)

14-1602. The landscape plan. A generalized landscape plan shall be submitted as part of the site plan review process. At minimum, the landscape plan shall indicate:

(1) The size, location, number, and type of species involved in proposed frontage landscaped areas, landscape islands within parking lots, and screening, and buffers.

(2) The distance of plantings to be used for landscaping from intersections (include and highlight the location of all sight distance triangles), utility lines and other potential points of conflict. Each developer shall be responsible for coordinating the location of plantings with the existing and/or proposed location of above and below ground utilities, including street lights.

(3) The number of parking spaces and/or the square footage of area designated for parking.

(4) The distance of the farthest individual parking space from a required parking lot tree.

(5) The zoning associated with both the proposed development and surrounding properties.

(6) The types of activities conducted on adjacent properties.

(7) The general location of existing specimen trees, if any.

(8) Where existing plantings are to be retained and how these plantings will be protected during the construction process. Drawings shall delineate the drip line of trees desired for preservation.

(9) Location and description of other landscape improvements, such as earth berms, walls, fences, and screens.

(10) Planting and installation details as necessary to ensure conformance with all required standards.

(11) Any other information as may be required to assess compliance with this chapter. (2000 Code, § 14-1602)

14-1603. Protection of existing plantings. (1) Where existing plantings are to be preserved, as noted in the landscape plan, the following protection measures or the performance base equivalents shall apply:

(a) Species intended for preservation shall be clearly delineated in the field. These species should be selected prior to setting buildings and paving.

(b) No soil should be placed around trees that are intolerant of fill and are to be saved. Dogwoods, birches, oaks, and sugar maples and most conifers are, for example, intolerant to fill because their roots are often near the surface.

(c) Stockpiling of soil resulting from grading shall be located only in open areas. No material or temporary soil deposits shall be placed within four feet (4') of shrubs or ten feet (10') of trees designated for preservation.

(d) No soil shall be disturbed in a ten foot (10') radius or, if greater, with the drip line of the tree(s) to be preserved.

(2) Barriers used to protect existing plantings shall be self-supporting (i.e., not supported by the plants they are protecting), a minimum of three feet (3') high, and constructed of durable material that will last until construction is completed.

(3) Should machinery, during the construction process, be required to cross through a protected zone, at least four inches (4") of chip mulch shall be placed on the ground to displace the weight of machines and prevent loss of pores in the soil that allow passage of air and water to roots.

After construction, curbing placed around existing trees shall be at least three and one-half feet (3 1/2') from the base of the tree, as measured six inches (6") above the ground, or no closer than the halfway point between the drip line and the trunk of the tree, whichever distance is greater. (2000 Code, § 14-1603)

14-1604. Standards for accepting existing plantings. Existing plantings will only be accepted as fulfilling the landscaping requirements of this chapter where they meet the following requirements:

(1) They are healthy and listed as an acceptable species in the "list of acceptable species" maintained by the City of Elizabethton.

(2) They do not and are not likely to interfere with utilities, vision clearance standards, or obscure street lights.

(3) They meet the size, location, and other applicable requirements of this chapter. (2000 Code, § 14-1604)

14-1605. Incentives for preserving specimen trees and existing plantings. To encourage the preservation of a specimen tree or significant wooded area, setback requirements along side and rear property lines may, upon review and approval by the board of zoning appeals, be reduced by as much as twenty-five percent (25%). Also, the number of required parking spaces may,

if approved by the planning commission, be modified to encourage the preservation of existing plantings. (2000 Code, § 14-1605)

14-1606. General landscape design standards. (1) General size specifications. At the time of planting, all required trees shall have a minimum trunk diameter of at least two inches (2"), as measured at six inches (6") above the ground, and shall be nursery grown. All required trees shall have a minimum height of six feet (6') when planted. All required shrubs used for buffering shall have a minimum height of two feet (2') when planted and shall be capable of reaching a minimum height of three feet (3') within three (3) years of planting. All shrubbery shall be nursery grown.

(2) Tree types. Tree type may vary depending on overall effect desired. However, where ten (10) or more new trees are required, a mixture of more than one (1) species shall be provided to create a natural look and guard against the possibility of disease obliterating all required trees. As a rule, trees should be indigenous, relatively fast-growing, not particularly susceptible to insects and disease, long-living, and require little care. A list of acceptable species is maintained by the City of Elizabethton.¹ Any tree not found on the list shall not be counted toward the required plantings. This provision, however, may be waived if the petitioner provides the planning commission with a letter from a landscape specialist that justifies the alternate species proposed.

(3) General spacing standards. Proper spacing distances depend on the tree type, its growing habits, and whether freestanding specimens or an interlaced canopy is desired. As a general rule, unless a canopied effect is desired (e.g. for buffering), a good guide is to space trees so as to exceed the farthest extent of branch development at maturity. Required shade trees shall generally have a minimum horizontal separation from other required trees of eight feet (8'). In all cases, required trees, whether new or existing, shall be spaced so that they will not interfere with utilities, obstruct vision clearance, or obscure street lights. (2000 Code, § 14-1606)

14-1607. Prohibited plantings. (1) Utility considerations. As noted in other sections of this chapter, consideration shall always be given to the placement and type of plantings, particularly trees, involved in a landscape design so that such plantings will not interfere with utilities. Specifically, it shall be unlawful for any person to plant the following:

- (a) Within any recorded sewer or water easement: any species prone to clogging water or sewer lines with roots, including, but not limited to: Poplar, Boxelder, Silver Maple, American Elm, Catalpa, Siberian Elm, Cotton Wood, Black Walnut, and Weeping Willow.

¹A list of acceptable species is of record in the city clerk's office.

(b) Within any recorded easement for overhead electric or telephone lines: any species known to reach a mature height greater than twenty feet (20').

(2) Vision clearance considerations. All species shall be located so that they provide for vision clearance, as required by this chapter. Vision clearance shall be evaluated on both the existing physical characteristics of a species and its anticipated physical dimensions at maturity. (2000 Code, § 14-1607)

14-1608. Buffering. (1) Intent. Buffer yard requirements are designed to provide physical separation and visual screening between adjacent land uses that are not fully compatible, such as duplexes and service stations. Buffering is also necessary to create privacy, soften glare, filter noise, and modify climatic conditions.

(2) Applicability. Buffer yards are required where development of a new higher impact use, resulting from either a new use of a vacant lot or through a change in ownership or tenancy, abuts an existing lower impact use. Impact use classifications are discussed below. In cases where the use classification is uncertain, the planning commission shall make a decision based on the specific situation, character of the use, and the surrounding and/or proposed plan of development. For example, the use of public-owned buildings, which is permitted in all zoning districts, will have very different impacts on abutting properties, depending on the nature of the use. As a result, buffering for these kinds of uses shall be evaluated on the basis of the most similar private sector use and the uses prevalent in the surrounding neighborhood. The Elizabethton Regional Planning Commission may increase buffer yard requirements.

(3) Appeals. Whenever type 3 buffers are required, if, at the time of site plan review, it is determined that the required buffer cannot reasonably be expected to provide visual screening within five (5) years of installations, the Elizabethton Regional Planning Commission in conjunction with the director planning and development may require a different type of buffer than those specified below.

(4) Impact classification. (a) (N) No Impact:

- (i) Any use, unless otherwise listed below, which is permitted in a R-1 or R-1A zoning district;
- (ii) Cemeteries;
- (iii) Golf course;
- (iv) Parks and similar uses.

(b) (L) Low Impact:

- (i) Any use, unless otherwise listed as a no impact use, which is permitted in the R-2, R-3 or B-1 zoning districts;
- (ii) Community and neighborhood recreational facilities and similar uses.

(c) (M) Medium Impact:

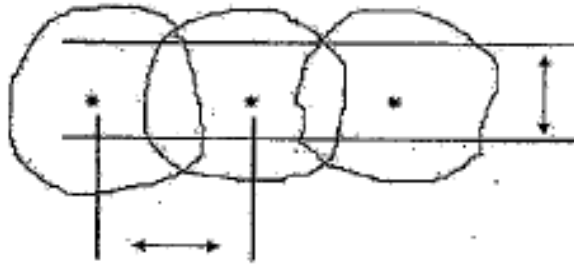
- (i) Any use, unless otherwise considered as a no impact or low impact use, which is permitted in the B-3 and B-4 zoning districts;
- (ii) Gasoline service stations;
- (iii) Convenience stores;
- (iv) Parking garages;
- (v) Auto repair garages and similar uses; and
- (vi) Mini-warehouses.
- (d) (H) High Impact:
 - (i) Any use only permitted in the M-1 or M-2 zoning districts; and
 - (ii) Any proposed development which would create more than five hundred (500) parking spaces.
- (5) Proposed use classification.

Adjoining Use Classification	No Impact (N)	Low Impact (L)	Medium Impact (M)	High Impact (H)
No impact	None	1	2	3
Low impact	None	None	1	3
Medium impact	None	None	None	1
High impact	None	None	None	None

Example: A new apartment complex (a low impact use) located in R-3 zoning district will abut an existing single-family residential (a no impact use) area. The developers of the apartment complex (the higher impact use) will be responsible for creating and arranging for the maintenance of a Class 1 buffer. However, if this apartment complex were to abut any equal or lower impact use, the developers of the complex would not be responsible for creating any new buffer area. (2000 Code, § 14-1608)

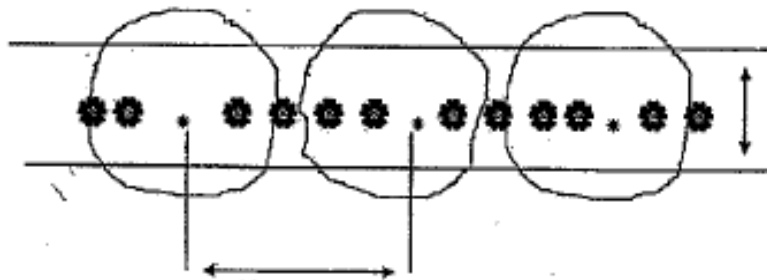
14-1609. Classification of buffer areas. (1) Class 1. A Class 1 buffer area is designed for those abutting uses which are only mildly incompatible. For example, an apartment complex abutting a duplex. As a result, the buffer requirements associated with the Class 1 buffer are minimal. One of the following three (3) options would be credited as an acceptable minimum buffer.

- (a) Option A1. One (1) row of evergreen trees spaced no greater than eight feet (8') on center. Species which may require different spacing standards may be approved, provided adequate documentation is submitted to justify a variation.



Tree 8Ft Canopy
8 Ft. Max between center of trees

(b) Option B1. One (1) row of evergreen trees with a minimum width spaced no greater than twelve feet (12') on center and a minimum of four (4) shrubs provided per tree.



8 Ft Minimum
12 Ft Max

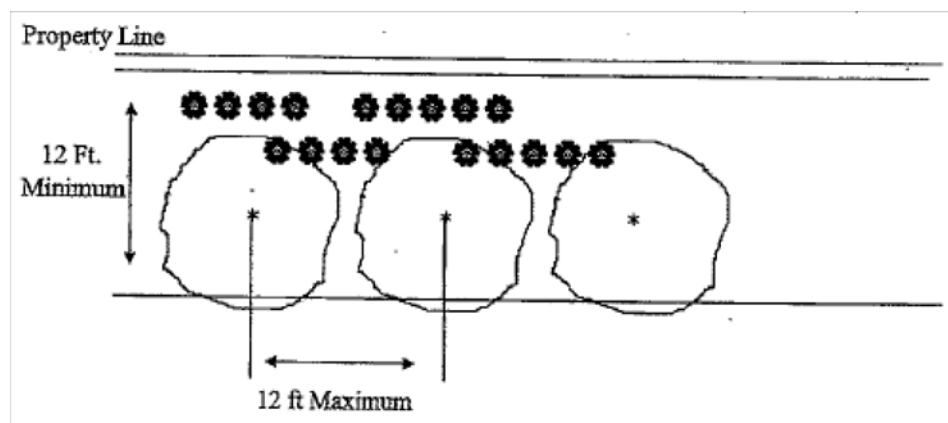
(c) Option C1. A solid barrier brick or masonry wall or wooden fence or equivalent at least six feet (6') in height. Where a landscaped berm is used and would be periodically mowed, for maintenance purposes, no slope shall exceed twenty-five percent (25%). Berms planted with ground cover and shrubs may be steeper; however, no slope shall exceed fifty percent (50%).

(2) Class 2. Class 2 buffer areas are designed to provide greater shielding than is provided in the Class 1. Class 2 buffers are for incompatible

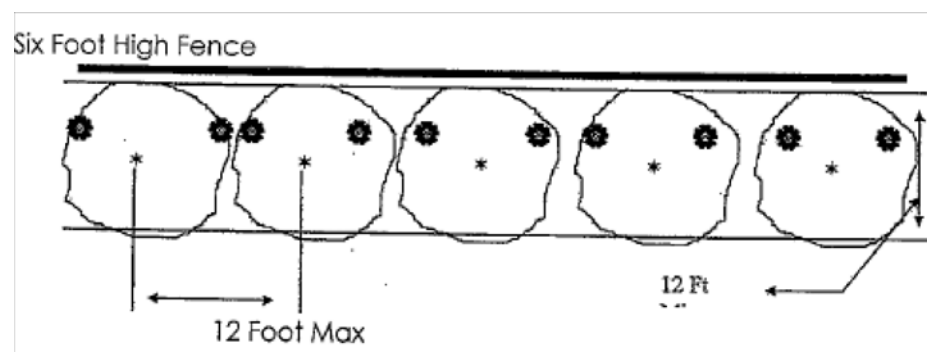
uses, which, because of noise, lighting, smell, etc. require larger buffers. For example, a proposed commercial use abutting an existing single-family neighborhood would require a Class 2 buffer. The Class 2 buffering requirements could be met by completing, at a minimum, one of the following options:

(a) Option A2. A minimum buffer strip width of twelve feet (12') with a row of trees no greater than twelve feet (12') on center and with no less than six (6) shrubs per tree.

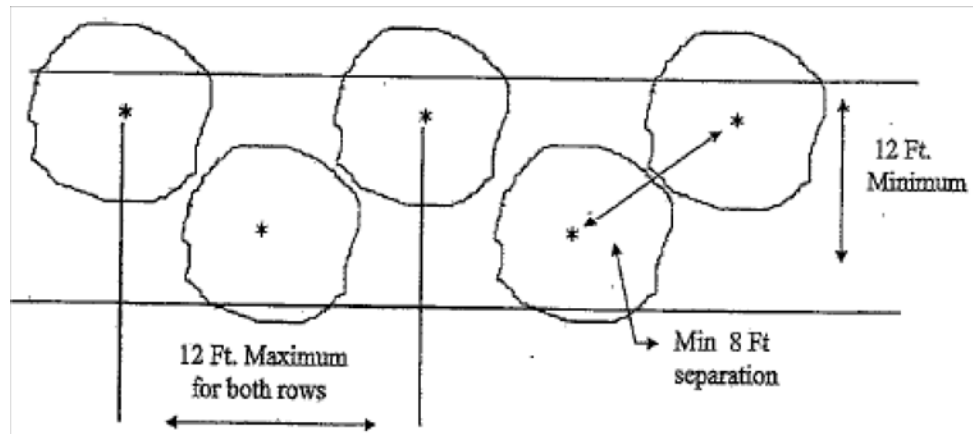
(b) Option B2. A minimum buffer strip width of twelve feet (12') and a minimum six foot (6') high fence, specifically approved by the planning commission, with a row of trees no greater than twelve feet (12') on center and with no less than two (2) shrubs per tree.



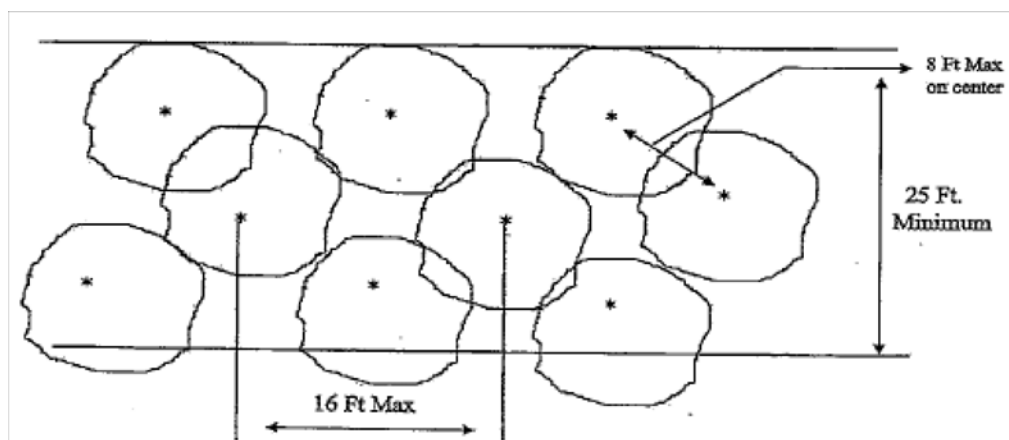
(c) Option C2. A minimum buffer strip width of twelve feet (12') with a double row of buffer trees, with a minimum row separation of eight feet (8') planted a maximum of twelve feet (12') on center.



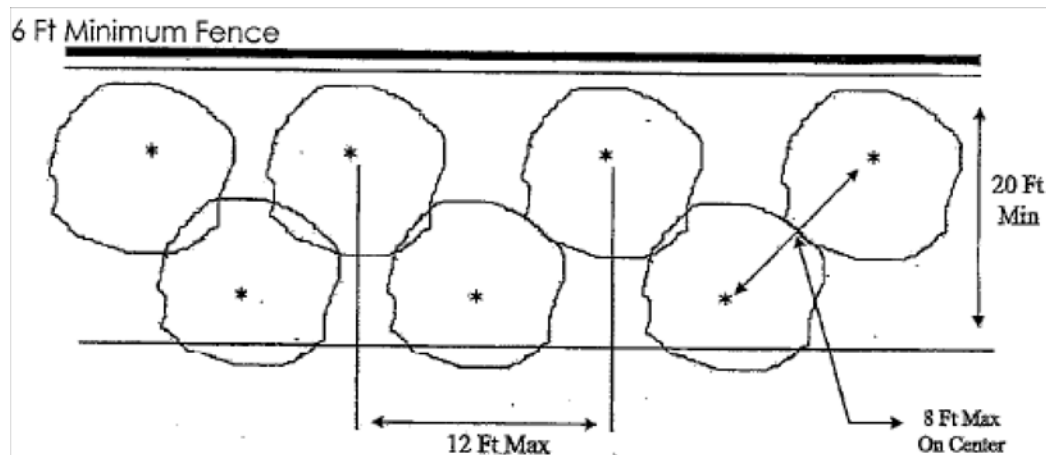
(3) Class 3. The Class 3 buffer is designed for abutting uses which are completely incompatible. For example, a development which will have a high level of noise, light, traffic (industry, large development) abutting a low density residential neighborhood would be required to construct a Class 3 buffer along the abutting property lines. At minimum, Class 3 buffer requirements could be met by adhering to one (1) of the following options:



(a) Option A3. A buffer strip with a minimum width of twenty-five feet (25') and with no less than three (3) rows of buffer trees with a minimum row separation of eight feet (8') and spaced no more than sixteen feet (16') on center.



(b) Option B3. A minimum six foot (6') high fence, specifically approved by the planning commission, with two (2) rows of trees with row separation of no more than eight feet (8') and space no less than twelve feet (12') on center. The buffer strip shall be a minimum of twenty feet (20').



(2000 Code, § 14-1609)

14-1610. Protective screening. (1) Applicability. Excluding the development of individual single-family or two-family detached dwelling units, protective screening shall be provided in all zones.

(2) Screening requirements. A protective screen in the form of a masonry wall, wood fence, or opaque landscaping to prevent public view from any street right-of-way (excluding alleys) or adjoining property shall be provided for the following:

(a) Dumpsters; and

(b) All mechanical equipment which is larger than five feet by five feet by four feet (5'x5'x4') high shall be screened. Mechanical units smaller than this shall not require screening if they are located to the side or rear of the building and are not visible from a collector, arterial, or freeway. (2000 Code, § 14-1610)

14-1611. Parking lot landscaping. (1) Intent. The purpose of landscaping within and around parking areas is to:

(a) Enhance a development's property value and business opportunities by making it more inviting to customers or visitors.

(b) Provide shade for comfort when walking and after returning to the parked vehicle, as well as to reduce heat build up produced by asphalt surfaces on hot days and to buffer winter winds.

(c) Muffle noise in and around the development and the parking area.

(d) Filter the air by absorbing exhaust gases and giving off pure oxygen.

(e) Protect water quality by modifying the rate of erosion, and stormwater runoff into natural and man-made drainage areas.

(f) Break up the mass of pavement associated with parking lots which will provide sense of human scale, slow traffic through the lot, and provide safe pedestrian routes from the building to the automobile.

(g) Minimize the hazard of nighttime headlight glare for drivers and pedestrians.

(2) Applicability. Parking lot landscaping shall be required for all uses which involve the creation of more than twenty (20) off-street parking spaces, either as a new use or by expansion. Where parking spaces are not paved and striped, parking lot landscaping shall be provided, as required by this section, for uses which designate more than four thousand (4,000) square feet of the site for parking purposes. "Interior" landscaping shall not be required for parking garages or other enclosed parking structures. Such use, however, shall be buffered, as required.

(3) Planting requirements. Where parking lot landscaping is required, one (1) shade tree or two (2) ornamental trees and at least two (2) shrubs per required tree shall be planted for every ten (10) parking spaces or, in the case of existing parking lots which are enlarged, every additional ten (10) spaces. Unmarked lots shall have one (1) shade tree or two (2) ornamental trees and at least two (2) shrubs per required tree for every two thousand (2,000) square feet of area designed or used on a daily basis for parking.

(4) Standards for trees used specifically in parking lot landscaping.

(a) Shall have a clear trunk of a least six foot (6') above finished grade to provide for maximum vision clearance;

(b) Shall be able to thrive in existing soil and should be tolerant of excessive heat, de-icing, salt, and the oils and other chemicals often found in additional volume in parking lot environments;

(c) Shall be species with strong wood which is not prone to breakage in wind or ice storms;

(d) Shall be fruitless or otherwise free of parts that fall and could damage vehicles, clog drains, or make pavement slippery;

(e) Shall not interfere with either above or below ground utilities;

(f) Shall have pavement cut outs of sufficient size for tree survival and growth (approved by a professional landscaper) when landscaping is placed in a previously developed and paved portion of a site.

(5) Spacing requirements. Trees required for parking lot landscaping may be clustered. However, in no case shall any individual parking space be greater than seventy-five feet (75') from the trunk of a required parking lot tree and no more than one hundred twenty-five feet (125') from two (2) or more

required parking lot trees. Distances shall be measured in a straight line from the DBH to the nearest portion of the individual parking space. Parking lot landscaping shall not extend more than fifteen feet (15') beyond any area designated or commonly used for parking. Furthermore, in no case, shall parking lot landscaping be counted toward fulfilling any other landscaping (e.g. buffering) requirements of this chapter.

(6) Interior planting islands--dimensions. Where interior planting islands are used to meet the requirements of this section, each island shall be no less than three feet (3') wide at its greatest point in any dimension. Each planting island shall be bordered by a minimum six inch (6") concrete raised curb or wheel stop to prevent damage to required landscaping. Where a tree is located within a planting island, there shall be provided at least sixty (60) square feet of pervious land area for each tree within the island. Required trees shall be planted so that the base of the tree, as measured six inches (6") above the ground shall be at least three and one-half feet (3 1/2') behind the curb or traffic barrier to prevent damage to the tree by auto bumpers. Where an island is parallel to parking spaces, the island shall be at least nine feet (9') wide to allow ample radius for car doors to swing open.

(7) Interior planting islands and parking requirements. Where parking spaces abut planting islands, the required parking may be reduced in order to free up space needed to meet any of the parking lot landscaping requirements of this chapter. In all cases, any modifications to parking requirements shall be specifically approved by the planning commission. (2000 Code, § 14-1611)

14-1612. Landscape areas. (1) Intent. In addition to parking lot landscaping and buffering requirements, planting shall also be provided along the public road frontage for those applicable situations noted below in order to:

- (a) Better define parking spaces;
- (b) Shield views of parked cars to passing motorists and pedestrians;
- (c) Create a pleasing, harmonious appearance along the roadway; and
- (d) Promote individual property values and pleasing community atmosphere.

(2) Applicability. Any new family, multi-family, commercial or industrial development, which will front along the same public street or permanent transportation easement for at least fifty (50) linear feet, shall be required to plant frontage landscaping along that frontage. Frontage landscaping shall also be required where an existing lot of record is used by an existing multi-family, commercial, or industrial entity and is combined with adjacent property to create at least fifty feet (50') of additional public road frontage. In which case, frontage landscaping shall be required along that additional frontage.

(3) **Requirements.** Landscaping along any public road or permanent transportation easement frontage shall be within a strip which is at least ten feet (10') wide. This strip shall include at least one (1) shade tree or evergreen tree or two (2) ornamental trees for each fifty (50) linear feet of public street or permanent transportation easement frontage. Required trees may be clustered or spaced in any manner desirable to the developer and owner, provided such spacing does not interfere with utility line locations or vision clearance. Between required trees, additional landscaping in the form of shrubs, berms, and masonry walls or other landscaping or combinations of landscaping acceptable to the planning commission shall be provided. This landscaping shall be at least three feet (3') in height or, in the case of plantings, capable of reaching three feet (3') in height within three (3) years and shall be spaced so that no non-landscaped "gaps," excluding driveways and sight line, exist which are greater than six (6) linear feet. Plantings other than trees shall be at least eighteen inches (18") high when planted. A gap greater than six (6) linear feet may be permitted by the planning commission where a clear safety concern is demonstrated or a more natural look would otherwise be conveyed. (2000 Code, § 14-1612, as amended by Ord. #48-16, Sept. 2012)

14-1613. Completion bond. In order to ensure the acceptable completion of required landscaping, the building inspector may withhold a certificate of occupancy until required plantings are installed per the approved landscape plans. If a certificate of occupancy is desired and it is not an appropriate time of year for planting, a completion bond, irrevocable letter of credit, or similar security measure shall be provided by the developer to the Elizabethton Regional Planning Commission. If landscaping is not planted according to the approved landscape plan the City of Elizabethton shall retain the right to cash the bond or security measure, after providing written notification to the developer, in order to complete the landscaping. (2000 Code, § 14-1613)

14-1614. Maintenance/replacement bond. An amount equal to at least one hundred ten percent (110%) of the projected cost of the landscaping of the approved landscape plan shall be placed by the developer with the City of Elizabethton for a period of not less than two (2) years. This bond shall be placed with the City of Elizabethton after all landscaping has been satisfactorily completed. If landscaping has died and not been removed and replaced, the City of Elizabethton shall retain the right to cash the bond, after providing written notification to the developer, in order to complete the maintenance, removal and/or replacement of the affected landscaping. As a rule, plantings that are required to be planted or those that are preserved shall be removed and replaced with equivalent plantings if such plantings are not living within one (1) year after the issuance of a certificate of occupancy or the release of a completion bond. (2000 Code, § 14-1614)

14-1615. Continued maintenance requirements. (1) Upon expiration or release of any applicable maintenance and replacement bond, property owners shall remain responsible for maintaining plantings in a healthy and orderly manner. Specifically, this shall mean that:

(a) All plant growth in landscaped areas shall be controlled by pruning, trimming, or other suitable methods so that plant materials do not interfere with public utilities, restrict pedestrian or vehicular access, or otherwise constitute a traffic or pedestrian hazard;

(b) All planted areas shall be maintained in a relatively weed-free condition and clear of undergrowth;

(c) All planting shall be fertilized and irrigated at intervals necessary to promote optimum growth;

(d) All trees, shrubs, ground covers, and other plant materials shall be replaced if they die or become unhealthy because of accidents, drainage problems, disease, or other causes.

(2) Also, where man-made materials are used alongside landscaping, such materials shall be maintained in good repair, including, where applicable, periodic painting or finishing. Subsequent building permits may be withheld if, after written notification, landscaping, either required or preserved, is not properly maintained. (2000 Code, § 14-1615)

14-1616. Application procedures--new developments. Where landscaping plans are required, such plans shall be submitted as part of the site plan review process. These plans, shall be reviewed by the Elizabethton Regional Planning Commission, and shall be submitted no later than twenty-one (21) days before the regular meeting date in order to be on the commission's agenda. The planning commission will render an acceptance, denial, or conditional acceptance. Where plans are approved subject to certain conditions, such conditions may be satisfied by working with the planning and development director, provided such conditions are classified as "minor." (2000 Code, § 14-1616)

14-1617. Application procedures--expansions of and/or alterations to existing developments. When a use of a property is expanded or changed so as to require landscaping, provisions of this chapter shall apply so the City of Elizabethton is provided with a "security" that the landscaping will be installed and maintained as required in this chapter. Where required landscaping can only be provided in existing paved areas, pavement cut-out shall be of sufficient size to ensure the survival of the species. Adequate space shall be provided to permit air and water to the root system. In general, the site should be prepared by digging or rototilling an area twelve inches (12") deep and typically five (5) times the diameter of the planting ball. This area should be backfilled with native soil. (2000 Code, § 14-1617)

14-1618. Minor changes to approved or conditionally approved plans. Minor changes made to approved landscape plans shall be first approved by the planning staff before any such changes may be made to these original plans. Where such proposed changes would clearly compromise the intent and purpose of this chapter, such changes shall be deemed as "major" and shall be presented to the Elizabethton Regional Planning Commission for a decision. (2000 Code, § 14-1618)

14-1619. Expiration of approved landscape plans. In conjunction with site development requirements, work related to an approved landscape plan shall be initiated within twenty-four (24) months after formal approval by the planning commission. Where such work is not initiated, the plans shall be resubmitted to the planning commission for approval of the proposed landscaping. (2000 Code, § 14-1619)

14-1620. Alternative methods of compliance. In cases where a strict interpretation of the requirements of these regulations may by reason of topographical conditions, practical difficulties, or undue hardship, the developer may present an alternative method of compliance. In all cases, such alternative means of complying with the provisions of this chapter shall only be permitted by the planning commission if they remain true to the intent of the landscape ordinance. The Elizabethton Regional Planning Commission will evaluate the petitioner's request for alternative compliance based upon whether one (1) or more of the following conditions clearly would apply:

- (1) The development has obvious space limitations or is on an unusually shaped parcel;
- (2) Topography, soil, vegetation, or other site conditions are such that full compliance is impossible, impractical, or unnecessary;
- (3) Due to a change of use of an existing site, the required buffer yard is larger than can be provided;
- (4) Obvious safety considerations are involved;
- (5) An alternative plan, as demonstrated by a landscape specialist, would clearly improve the environmental quality, traffic safety, and the overall aesthetics of the city to an extent much greater than would be possible by adhering to the provisions of this chapter.

(6) In all cases, if an alternate means of compliance is permitted, such compliance shall approximate the requirements of this chapter to the greatest extent possible. (2000 Code, § 14-1620)

14-1621. Conflict. If the provisions of this chapter conflict with other ordinances or regulations, the more stringent limitation of requirement shall govern or prevail to the extent of the conflict. (2000 Code, § 14-1621)

14-1622. Severability. If any section, subsection, clause, or phrase of this chapter or its application to any person or circumstance is held invalid by the decision of any court of competent jurisdiction, the remainder of this chapter, or the application of the provision to other persons or circumstances is in effect and shall remain in full force and effect. (2000 Code, § 14-1622)

CHAPTER 17

ELIZABETHTON TREE REGULATIONS¹

SECTION

- 14-1701. Definitions.
- 14-1702. Tree board.
- 14-1703. Tree maintenance.
- 14-1704. Tree removal.

14-1701. Definitions. (1) "Brush." Small, stunted vegetation similar to undergrowth, small trees, and shrubs.

(2) "City manager." The City Manager of the City of Elizabethton, Tennessee, or his/her designee. (Ord. #48-26, Dec. 2012)

14-1702. Tree board. (1) Creation of a tree board. The Elizabethton Tree Board may be formed and organized at the mayor's discretion and shall consist of five (5) members. The board shall be charged with working with the city manager to enforce and amend this chapter and develop policies to regulate weeds, brush, plants, trees, or other vegetation in the public alleys, streets, other rights-of-way, and city owned property, plant trees within the city, and maintain tree coverage within the city.

(2) Appointment. With the confirmation of the city council, the mayor shall appoint members of the Elizabethton Tree Board for three (3) years, staggered terms. At least one (1) member must be a trained arborist, dendrologist, forester, botanist, horticulturist, or, if none of the previous can be found, a representative of a local environmental conservation organization. (Ord. #48-26, Dec. 2012)

14-1703. Tree maintenance. (1) Maintenance of trees and vegetation in public rights-of-way. (a) The city shall not be required to cut, trim or provide standard maintenance to weeds, brush, plants, grass, trees, or other vegetation growing in the developed or undeveloped public alleys, streets, or other rights-of-way. Any adjacent property owner or tenant, at their own expense, may cut, trim or provide standard maintenance of any weeds, brush, plants, grass, trees, or other vegetation growing in the public alleys, streets, or other rights-of-way.

(b) Removal of trunks and limbs generated by cutting, trimming or providing standard maintenance to weeds, brush, plants, grass, trees, or other vegetation performed by adjacent property owners or tenants shall conform to the requirements of title 17 of the Elizabethton

¹Municipal code reference

Landscape regulations: title 14, chapter 16.

Municipal Code and specifically, § 17-104 which states "No person shall perform any service of economic gain wherein trees or shrubbery are cut, trimmed, removed or altered, and wherein an accumulation of brush, wood, vines, debris or other refuse attendant to landscaping as a result of such work or service without being equipped with a truck or other vehicle capable of removing said brush, wood, vines, debris or other refuse which shall be so removed by the person causing or creating its accumulation."

(c) Exception. City crews may cut back brush, plants, trees or other vegetation which does not provide eight feet (8') of vertical clearance for sidewalks, fourteen feet (14') of vertical clearance for developed streets, alleys or other rights-of-way, or interferes with vehicle or pedestrian traffic upon the discretion of the city manager.

(2) Maintenance of trees and vegetation on city property. No private citizen shall cut, prune, plant, or remove any weeds, brush, plants, trees, or other vegetation on city-owned property without first seeking written permission from the city manager. Similarly, no private citizen shall intentionally damage, cut, carve, transplant or remove any tree on public property, nor attach any rope, wire, nails, advertising posters or other contrivance to any tree on city-owned property, nor allow any gaseous liquid or solid substance which is harmful to such trees to come in contact with them, nor set fire or permit any fire to burn when such fire or the heat thereof will injure any portion of any tree on city-owned property without first seeking written permission from the city manager. (Ord. #48-26, Dec. 2012)

14-1704. Tree removal. (1) Tree removal in public rights-of-way.

(a) The city shall not be required to cut and/or remove trees growing in the public alleys, streets, or other rights-of-way, developed or undeveloped. Any adjacent property owner or tenant, at their own expense, may cut and/or remove any trees growing in the developed or undeveloped public alleys, streets, or other rights-of-way.

(b) Exception. Trees that may present interference with vehicle or pedestrian traffic may be cut and/or removed by city crews upon the discretion of the city manager.

(2) Tree removal on city property. No private citizen shall cut and/or remove trees on city owned property without first seeking written permission from the city manager. (Ord. #48-26, Dec. 2012)

CHAPTER 18

HIGHWAY ENTRANCE OVERLAY DISTRICT

SECTION

14-1801. Intent.

14-1802. Applicability.

14-1803. Development standards.

14-1801. Intent. The purpose of this overlay district is to establish higher environmental, aesthetic, and design standards for designated areas of the City of Elizabethton and Carter County, Tennessee, which are visible from specified highways. Because these standards shall apply without regard to the underlying use of the land, they are created in a special overlay district which can be over any zoning district located along a designated highway. (2000 Code, § 14-1801)

14-1802. Applicability. The highway entrance overlay district shall be in effect in all zoning districts along designated highways. Property fronting on highways in the highway entrance overlay district and parcels with more than half of its area within the overlay are subject to these requirements. As an overlay, this district is applied in addition to those standards of the underlying district. Developments within the geographic limits of this district shall conform to the requirements of both districts or the more restrictive of the two. Single-family land uses shall be exempt from the provisions of this overlay. (2000 Code, § 14-1802)

14-1803. Development standards. The following standards and guidelines shall apply to all development, construction, reconstruction, or alteration:

(1) **Building facades.** Buildings which have their front, back or side facing the designated highway shall be designed and constructed to avoid lengthy, unbroken facades with no scale, detailing, or metal. No building facade (whether front, side or rear) will consist of architectural materials inferior in quality, appearance, or detail to any other facade of the same building.

(2) **Mechanical equipment.** All ground-mounted mechanical equipment shall be screened from view from the designated highway by the use of walls, fences, or landscaping. All roof-mounted mechanical equipment shall be properly screened to minimize visual impact, where such screening will be effective. Where screening will not be effective, the color of the equipment shall be the same as the building.

(3) **Service, loading, and equipment storage areas.** Service areas, including storage, special equipment, maintenance, and loading areas shall be screened with landscaping and/or architectural treatment so as not to be visible

from the highway. Refuse collection areas shall be visually screened with a solid perimeter wall consisting of materials and colors compatible with those of the adjacent structure and shall be roofed if the contents are visible from the highway.

(4) Utilities. All new utility lines, including but not limited to, electric, telephone, internet and television cable shall be placed underground.

(5) Fencing. Fencing along the highway right-of-way is discouraged, but if used, such fencing shall be landscaped to minimize visibility from the highway.

(6) Parking lots. Vehicular movement and parking areas shall be paved with concrete, asphalt or other similar material. Vehicular movement and parking areas surfaced with gravel or other similar material shall be prohibited. Concrete curb and gutter or other stormwater management structure as approved by the planning commission shall be installed around the perimeter of all driveways and parking areas. Drainage shall be designed so as not to interfere with pedestrian traffic. Parking lot paving shall not encroach on the highway right-of-way.

(7) Design. The design of structures and their materials and colors including retaining walls, shall be visually harmonious with the overall appearance, history and cultural heritage of Carter County and the City of Elizabethton.

(8) Lighting. Direct light and glare from lights can be both a hazard and a nuisance to drivers and neighboring residential development. Exterior lighting shall not omit any light above horizontal plane. Searchlights, laser source lights, or any similar high intensity light for advertising purposes shall be prohibited. The maximum height of lights not located in the public right-of-way shall be twenty-five feet (25'). Site lighting shall be of low intensity from a concealed source, shall be of a clear white or amber light that does not distort colors, and shall not spill over onto adjoining properties, buffers, highways, or in any way interfere with the vision of on-coming motorists. Such lighting fixtures or devices shall be of a directional type capable of shielding the light source from direct view. The development plan must show the relationship of fixtures and the light patterns to each other, to the project site, to the unit development, and to the highway corridor.

(9) Signage. All signage located within the overlay shall comply with the requirements of the underlying zoning unless modified below. All freestanding and development identification signs shall be ground mounted signs that do not exceed eight feet (8') in height and two hundred (200) square feet in area.

(10) Prohibited uses. The following uses shall be prohibited in the HEO District:

- (a) Tower structures.

(b) Corrugated metal siding. Alternative structures or materials which meet the aesthetic intent of this chapter may be permitted upon review by the Elizabethon Regional Planning Commission.

(11) Uses permitted by approval as special exception. An alternative tower structure is permitted when approved by the board of zoning appeals as a special exception as provided by § 14-205. (2000 Code, § 14-1803, modified)