

TITLE 14

ZONING AND LAND USE CONTROL

CHAPTER

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CHAPTER 1

MUNICIPAL PLANNING COMMISSION

SECTION

- 14-101. Creation and membership.
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- 14-103. Additional powers.

14-101. Creation and membership. Pursuant to the provisions of Tennessee Code Annotated, § 13-4-101, there is hereby created a municipal planning commission, hereinafter referred to as the planning commission. The planning commission shall consist of seven (7) members: two (2) of these shall be the mayor or a person designated by the mayor and a council member selected by the city council; one (1) member shall be the general manager of the Athens Utilities Board; the other four (4) members shall be appointed by the mayor. All members of the planning commission shall serve as such without compensation. The terms of the four (4) members appointed by the mayor shall be for three (3) years each. The term of the mayor and his designee and the council member selected by the governing body shall be for two (2) years each and shall coincide with the biennial election of the office of mayor. The utilities board general manager shall serve an indefinite term. Any vacancy resulting in an unexpired term in an appointive membership shall be filled by the mayor. (as replaced by Ord. #927, Jan. 2005)

14-102. Organization, powers, duties, etc. The planning commission shall be organized and shall carry out its powers, functions, and duties in accordance with all applicable provisions of Tennessee Code Annotated, title 13. (1972 Code, § 11-102)

14-103. Additional powers. Having been designated as a regional planning commission, the municipal planning commission shall have the additional powers granted by, and shall otherwise be governed by the provisions of the state law relating to regional planning commissions. (1972 Code, § 11-103)

CHAPTER 2

ZONING ORDINANCE

SECTION

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

14-201. Land use to be governed by zoning ordinance. Land use within the City of Athens shall be governed by Ordinance Number 914, July 15, 2003, referred to as "the Athens Municipal Zoning Ordinance and Map," and any amendments thereto.<sup>1</sup>

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<sup>1</sup>Ordinance No. 914, and any amendments thereto, are published as separate documents and are of record in the office of the city manager.

CHAPTER 3

GRADING PERMIT POLICY

SECTION

- 14-301. Purpose/scope, and authority.
- 14-302. Definitions.
- 14-303. Permitting procedures.
- 14-304. Exceptions for grading permits.
- 14-305. Responsibility not waived.
- 14-306. Site plan and/or conceptual grading plan requirements.
- 14-307. Plan submittal, review, and approval process for grading permits.
- 14-308. Grading permit fees.
- 14-309. Erosion and sedimentation control.
- 14-310. Control measures.
- 14-311. Responsibility and enforcement of policy.

14-301. Purpose/scope, and authority. The purpose/scope and authority is:

(1) The intended purpose of this policy is to safeguard life, limb, property, and public welfare by regulating clearing, earthwork, excavation, and other land disturbing activity and by requiring temporary and permanent provisions for its control. It should be used as a planning and engineering implement to facilitate the necessary control of grading and earthwork.

(2) This policy sets forth standards and rules for grading and earthwork and establishes the requirement of a formal permitting procedure. This policy applies to all areas within the city limits and establishes administrative procedures for the issuance of permits and the enforcement thereof, requires the submission of necessary plans (site or conceptual plans) for such work, and the observation and inspection of grading and/or earthwork operations.

(3) This policy is developed, implemented, and recognized as a standard practice for the City of Athens, Tennessee. The city council has approved this document for the management of grading and earthwork activities within the Athens City Limits. It will be utilized in conjunction with the existing site plan ordinance, subdivision regulations, zoning ordinance, stormwater management policy, landscape ordinance, and other such municipal codes and texts. The Community Development and Public Works Departments of the City of Athens shall administer and enforce the provisions of this policy in regard to the review and approval of grading, excavation, earthwork, and related activities and such management practices as described herein. (as added by Ord. #894, April 2002)

14-302. Definitions. For the purposes of this chapter the following terms, phrases, and words shall have the meaning given herein:

- (1) "Bedrock." In-place, solid, and undisturbed rock.
- (2) "Clearing." The removal from land of trees, shrubs, grass, and/or other varied ground cover and vegetation useful for windbreaks, water retention, and the maintenance of topsoil.
- (3) "Compaction." The densification of materials by mechanical means.
- (4) "Cut." See excavation.
- (5) "Earth material." Any rock and/or natural soil exclusive of any decomposable matter.
- (6) "Earthwork." Excavation, fill and back fill, compaction, and grading.
- (7) "Erosion." The wearing away of the ground surface as a result of movement of wind, water, and/or ice.
- (8) "Excavation." The mechanical removal of earth material.
- (9) "Fill or backfill." A deposit of earth by artificial means.
- (10) "Finish or final grade." The grade of the subject site, which conforms to the permitted plan.
- (11) "Grade." The vertical location of the ground surface to a predetermined elevation datum.
- (12) "Grading." The operation of raising or lowering the ground surface to a predetermined grade.
- (13) "Grading permit." A document allowing or authorizing the initiation of grading, excavation, or related earthwork according to city policies, procedures, and ordinances in conformity to the approved plan(s).
- (14) "Rough grade." The stage of construction at which the grade approximately conforms to the permitted plan.
- (15) "Sediment." Solid material, both material and organic, that is in suspension, is being transported, or has been moved from its origin by air, water, gravity, or ice as a product of erosion.
- (16) "Site." For purposes of this policy, a specific location on which any of the following activities are underway: excavation, cutting, or filling of earth or related earthwork.
- (17) "Soil." Naturally occurring surface deposits overlying bedrock.
- (18) "Site plan." The graphical plan, usually in map form, prepared pursuant to title 14, Zoning and Land Use Control, and chapter 4, Site Plans and Land Development, of the Athens Municipal Code; and the Subdivision Regulations of the City of Athens.
- (19) "Stormwater." The waters derived from rain falling or snow melting within a tributary drainage basin, flowing over the surface of the ground or collected in a stormwater drainage system. (as added by Ord. #894, April 2002)

14-303. Permitting procedures. Unless otherwise stated, no person(s) shall perform any clearing, excavation, or earthwork within the City of Athens without first having obtained a grading permit from the public works department. A separate permit will be required for each and every individual site.

This section explains the procedure for applying for grading permits and the process by which the public works department reviews and approves permits.

This policy is applicable but is not limited to the following activities:

- (1) Excavating, cutting, filling, grading, draining, or paving of lots, parcels, or other areas.
- (2) Altering, rerouting, deepening, widening, obstructing, or changing in any way an existing drainage system or feature.
- (3) Development for: residential (greater than one (1) lot or other subdivisions), commercial, institutional, industrial, utility or other activities.
- (4) Commencing any other development or excavation which may: significantly increase or decrease the rate and/or quantity of surface water runoff; degrade the quality of water; adversely affect any sinkhole, water course, or water body. (as added by Ord. #894, April, 2002)

14-304. Exceptions for grading permits. The following described activities shall not require a grading permit in order to perform clearing, excavation, or related earth work:

- (1) Basement or footer excavations for single or two family (duplex) residential dwellings.
- (2) Cemetery graves.
- (3) Sanitary landfill or refuse disposal sites controlled by other regulations.
- (4) Excavations for wells or tunnels (unless performed on the public right-of-way).
- (5) Mining operations controlled by other regulations.
- (6) Temporary stockpiling or storing of materials provided that such operations do not affect adjacent properties and all drainage and erosion control requirements. Temporary stockpiling/storage shall be defined as ninety (90) days or less.
- (7) Exploratory excavations/drilling under the direction and/or supervision of a licensed soils engineer or geologist.
- (8) Excavation for any structure(s) located within an approved subdivision for which there exists an approved, current, grading or site plan with which the developer/owner/builder intends to comply.
- (9) Accepted agricultural practices such as plowing, cultivation, construction of agricultural structures, nursery operations, tree cutting, logging operations leaving the stump and root mat intact, and cultivated sod operations.

(10) Construction, repair, or rebuilding of rail tracks or related facilities belonging to and located on railroad property.

(11) Installation, repairs, and maintenance of utilities by the utility owner/operator or their contractor or representative.

(12) Grading associated with general maintenance, landscaping, excavation, or placement of fill so long as 50 cubic yards or less of soil is disturbed on one (1) lot AND the existing contours are not altered in excess of two (2) feet AND all work is in compliance of all requirements for erosion and sedimentation control AND the proposed work does not impact or obstruct a natural drainage source. (as added by Ord. #984, April 2002)

14-305. Responsibility not waived. The grading permit exceptions listed in § 14-304 do not relieve the owner, developer, contractor, or other legal representative of the responsibility of installing and properly maintaining the proper erosion/sedimentation control measures or other liability resulting from such activities. (as added by Ord. #984, April 2002)

14-306. Site plan and/or conceptual grading plan requirements. Title 14, Zoning and Land Use Control, Chapter 4, Site Plans and Land Development, of the Athens Municipal Code requires an approved site plan for the activities listed below unless excepted as described in § 14-402. Exceptions:

- (1) Erecting any building or structure.
- (2) Enlarging or altering any building or structure.
- (3) Disturbing land (Alter the grade of any land so as to change the contours in excess of two feet).
- (4) Construction of any streets, alleys, sidewalks, curbs, gutters, retaining walls, drain or sewer, or off street parking lots.
- (5) Changing or diverting the flow of stormwater or natural watercourses.

If the site plan is inadequate in detail for stormwater management, a separate drainage plan will be required. A licensed civil engineer may be required to design stormwater systems and plans. These plans shall contain, as a minimum, the following items or information. (In addition to basic information such as owner name and address, date, scale, north indication, and etc., other information is required aside from drainage requirements. These requirements are listed in § 14-409 of the chapter.)

- (1) Total land area.
- (2) Existing and proposed topography of existing land and impervious land and impervious areas shown in five-foot intervals (two-foot intervals may be required).
- (3) Elevations of all existing and proposed streets, alleys, utilities, sanitary and stormwater sewers, and existing buildings and structures.
- (4) All existing and proposed impervious areas.
- (5) Natural or artificial watercourses.

- (6) Limits of flood plains (if applicable).
- (7) Existing and proposed slopes, terraces, or retaining walls.
- (8) All existing and proposed stormwater drainage structures or features.
- (9) All stormwater structures/features immediately upstream and downstream of the site.
- (10) Erosion and siltation control plans.
- (11) Drainage calculations when required.
- (12) Drainage easements when required.

If the proposed grading is for purposes of other than actual building construction, a conceptual grading plan may be submitted. This plan will contain all of the above requirements with the exception of any buildings or paving details.

If the proposed work is for grading only, this should be indicated on the conceptual plan. A permit will be issued for "grading only." Any future or additional work to include building construction, paving, etc. will require that a site plan be submitted and approved and the necessary permits obtained. (as added by Ord. #984, April 2002)

14-307. Plan submittal, review, and approval process for grading permits. Site, drainage, conceptual grading, and erosion control plans for the purpose of obtaining a grading permit shall be submitted to the public works department. They are to be submitted in such time that the public works director is to receive the submitted plans no less than five (5) working days prior to the intended date to begin site alterations. These plans can be submitted to the public works director at the public works service center located at 219 Alford Street.

An application for a grading permit shall be submitted along with the necessary plans.

For all other purposes, the community development department is the central point for receiving preliminary, revised, and final submittals. The issuance of all other permits is based upon approvals of submitted plans.

All site, drainage, conceptual grading, and erosion control plans and specifications are to be approved by the public works director, the city engineer, or the city manager's designee.

A licensed civil engineer may be required to design site, drainage, conceptual grading, and erosion control plans when required by the public works director, the city engineer, or the city manager's designee. Such requirements will be based upon the complexity of the conditions, the adjacent properties, and the site itself.

If an applicant determines that his/her plan has been unjustly disapproved or that the public works director or city staff has made requests that are considered above and beyond this policy, he/she may appeal the decision to the city manager.

(1) Once the necessary plans and application have been submitted and approved and the necessary fees have been received, a grading permit will be issued.

(2) The necessary fees can be paid and the permit issued at the public works service center located at 219 Alford Street.

(3) The permit is valid for a period of six (6) months from the date of issue. Extensions will be considered based on the circumstances.

(4) The permit and copies of the approved drawings are to be present on site at all times when work is underway. The city's representative may ask to see these at any time.

(5) A grading permit can be suspended or revoked for violation of this or other related policies, procedure, or city ordinances. A stop work order may be issued if work continues after the grading permit has been revoked. Further action can and will be taken if necessary to insure compliance with this policy. (as added by Ord. #984, April 2002)

14-308. Grading permit fees. The fee for the grading permit is intended to assist the City of Athens in recovering some of the expenses associated with the permit process. These costs consist primarily of administration, inspection, and enforcement activities and shall be approved and set by the Athens City Council. Fees are due upon submission of the permit application. (as added by Ord. #984, April 2002)

14-309. Erosion and sedimentation control. Developers and/or property owners shall use appropriate erosion and sedimentation control measures to ensure that erosion, or adverse conditions caused by erosion or sedimentation, is eliminated or held to an acceptable minimum and does not cross to an adjoining property, R.O.W., street, or stream.

When deemed necessary, the public works director, community development director, city manager, and/or the planning commission may require that a separate, detailed erosion and sedimentation control plan be submitted along with the site plan. Otherwise, control measures should be indicated on the site plan.

All control measures will be approved in the field by the appropriate city staff, typically the public works director or his designee, and maintained by the developer. (as added by Ord. #984, April 2002)

14-310. Control measures. The following control measures should be used as a minimum for erosion control:

(1) The smallest practical area of land should be exposed at any one time during development. Mulching or other protective measures should be used to protect exposed areas.

(2) Areas that will be exposed for more than three (3) months shall be seeded and mulched or landscaped.



(3) Temporary furrows, terraces, sediment or debris basins should be installed to prevent washing and erosion during construction.

(4) In areas where soil may wash onto the roadway or into a drainage basin, the developer will be required to install and maintain a silt fence, hay bales, or both.

(5) Final vegetation should be installed as soon as practical in the development after the land is exposed.

(6) A gravel construction entrance shall be constructed prior to any site work. The owner or his/her contractor throughout the construction process will maintain this construction entrance.

(7) Sediment washed onto roadways or into drainage ditches or basins, and soil tracked onto roadways by construction equipment/vehicles or daily ingress and egress onto the site shall be removed at the end of each working day by the contractor, developer, or property owner. (as added by Ord. #984, April 2002)

14-311. Responsibility and enforcement of policy This policy is adopted by the City Council of the City of Athens and by the Athens Municipal Regional Planning Commission.

Inspection and enforcement of the conditions described in this policy are the responsibility of, but not limited to, the public works director, or his designee, or the city building inspector, or other person(s) as designated by the city manager.

Any clearing, earthwork, excavation, and other land disturbing activity not meeting the requirements of this policy will be stopped at the direction of the public works director, his designee, the city building inspector, his designee, or the city manager, or his designee. Such work may not resume until such time that all provisions are adequately met.

Intentional or continued violation of this policy is considered a civil offense, and each separate violation shall be deemed punishable by a civil penalty in accordance with City of Athens Ord. #802, § 5 entitled "Penalty Clause," of the Athens Municipal Code. (as added by Ord. #984, April 2002)

CHAPTER 4

SITE PLANS AND LAND DEVELOPMENT

SECTION

- 14-401. Definitions.
- 14-402. Exceptions.
- 14-403. Approved site plan required to erect buildings.
- 14-404. Approved site plan required to enlarge buildings.
- 14-405. Approved site plan required to disturb land.
- 14-406. Development according to site plan.
- 14-407. Permits not to be issued without approved site plans.
- 14-408. Site plan submission.
- 14-409. Site plan.
- 14-410. Requirements, regulations, and restrictions.
- 14-411. Appeals.

14-401. Definitions. For the purposes of this chapter the following words and phrases shall have the meanings assigned below, except in those instances where the context clearly indicates a different meaning.

(1) "Building." Any structure built for the support, shelter, housing, or enclosure of persons, animals, or property of any kind.

(2) "Commission." The planning commission of the City of Athens, Tennessee.

(3) "City." The City of Athens, Tennessee.

(4) "Dwelling." A building or portion thereof which is designed or used exclusively for residential purposes.

(5) "Dwelling unit." A group of one or more rooms designed for or intended for occupancy by a single family.

(6) "Flood plain." That area of a stream bed or its adjoining land subject to recurrent overflow or inundation in time of flood.

(7) "Row dwelling." One of a series of three or more attached dwelling units under a common roof with a common exterior wall and separated from one another by continuous vertical party walls without openings from basement to roof.

(8) "Single family dwelling." A detached building designed for or intended to be occupied by one family.

(9) "Site plan." A plan delineating the overall scheme of development of a tract of land, including but not limited to grading, engineering design, construction details, and survey data for existing and proposed improvements; size, height, shape and location of buildings; location and design of parking areas, pedestrian and vehicular circulation on site, and circulation for emergency apparatus.

(10) "Structure." Anything which is built or constructed. An assembly of materials or any piece of work artificially built up or composed of parts joined together in some definite manner.

(11) "Two family dwelling." A building designed for, or intended to be occupied by not over two families living independently of each other. This shall include both duplex (one dwelling unit above another) and semi-detached (two dwelling units having a common vertical party wall). (1972 Code, § 11-201, as renumbered by Ord. #894, April 2002)

14-402. Exceptions. The provisions of this chapter shall not apply to:

(1) Single family dwellings, two family dwellings, accessory buildings thereto, or to the land on which they are situated or proposed.

(2) Additions to buildings where the total gross floor area of the proposed addition does not exceed one third of the total gross floor area of the existing building or 1,000 square feet, whichever is smaller.

(3) New buildings where the total gross floor area does not exceed 1,000 square feet; provided there is no alteration of the drainage flow of the land or grading exceeding a cut or fill of one foot, the site is not in the flood plain, and the site is not in excess of 10,000 square feet.

(4) Improvements for off-street parking purposes when appurtenant only to existing buildings and where access will be provided by existing driveways, provided such improvement does not provide more than five additional parking spaces.

(5) Grading of open areas, either by excavation or fill, for the sole purpose of bringing the land to a grade compatible with the surrounding area, provided the city engineer finds on an inspection of the site that such grading will have no adverse effect on the land of surrounding property owners, will not encroach on or impair existing drainage channels or flood plains, and will not cause problems of erosion, ponding, and/or silting on adjoining properties. (1972 Code, § 11-202, as renumbered by Ord. #894, April 2002)

14-403. Approved site plan required to erect buildings. Except as hereinbefore provided in § 14-402, it shall be unlawful for any person to construct or erect any building or structure on any land within the city until a site plan has been submitted and approved in accordance with the provisions of this chapter. (1972 Code, § 11-203, as renumbered by Ord. #894, April 2002)

14-404. Approved site plan required to enlarge buildings. Except as hereinabove provided in § 14-402, it shall be unlawful for any person to alter any building or structure on any land within the City of Athens, Tennessee, in such a manner as to increase the floor area or change the land area covered by the building or structure until a site plan has been submitted and approved in accordance with the provisions of this chapter. (1972 Code, § 11-204, as renumbered by Ord. #894, April 2002)

14-405. Approved site plan required to disturb land. Except as hereinbefore provided in § 14-402, it shall be unlawful for any person to: Alter the grade of any land in such a manner as to change the contours in excess of two feet within ten feet of adjacent land, or in excess of three feet elsewhere; construct any streets, alleys, sidewalks, curbs, or gutters; build any retaining walls; construct any off-street parking facility; construct any drain or sewer or change or divert the flow of storm water or natural water courses until a site plan has been submitted and approved in accordance with this chapter. (1972 Code, § 11-205, as renumbered by Ord. #894, April 2002)

14-406. Development according to site plan. It shall be unlawful for any person to construct, erect, or alter any building or structure or to develop, change, or improve land for which an approved site plan is required by this chapter, except in accordance with the approval final site plan. (1972 Code, § 11-206, as renumbered by Ord. #894, April 2002)

14-407. Permits not be issued without approved site plans. No permit shall be issued to erect or alter any building or structure or alter the grade of any land that is subject to this chapter until a site plan has been submitted and approved in accordance with the provisions of this chapter. (1972 Code, § 11-207, as renumbered by Ord. #894, April 2002)

14-408. Site plan submission. The owner or developer shall submit three copies (or as many as may be required by the city engineer) of his proposed site plan to the city engineer five days prior to his intended date of site alterations. The city engineer shall consider the site plan in light of the provisions of this chapter and approve or disapprove same as required. The plan shall then be returned to the owner or his agent with the date of such approval or disapproval noted thereon over the signature of the city engineer. (1972 Code, § 11-208, as renumbered by Ord. #894, April 2002)

- 14-409. Site plan. (1) The site plan shall show the following:
- (a) Name of development or address.
  - (b) Name and address of owner of record and the applicant.
  - (c) Present zoning of the site and abutting property.
  - (d) Date, scale, and north point with reference to source of meridian.
  - (e) Courses and distances of center lines of all streets and all property lines.
  - (f) All building restricting lines, highway setback lines, easements, covenants, reservations, and rights-of-way.
  - (g) The total land area.
  - (h) Topography of existing ground and paved areas and elevations of streets, alleys, utilities, sanitary and storm sewers, and

buildings and structures. Topography to be shown by dashed line illustrating two foot or five foot contours as required by the city engineer and by spot elevations where necessary to indicate flat areas, as based on U.S.C. and G.S. datum.

- (i) Two spaces for the signed approval of the commission.
- (2) The site plan shall show the location of the following when existing:
  - (a) Sidewalks, streets, alleys, easements, and utilities.
  - (b) Buildings and structures.
  - (c) Public sewer systems.
  - (d) Slopes, terraces, and retainings walls.
  - (e) Driveways, entrances, exits, parking areas, and sidewalks.
  - (f) Water mains and fire hydrants.
  - (g) Trees and shrubs.
  - (h) Recreational areas and swimming pools.
  - (i) Natural and artificial water courses.
  - (j) Limits of flood plains.
- (3) The site plan shall show the location, dimensions, size, and height of the following when proposed:
  - (a) Sidewalks, streets, alleys, easements, and utilities.
  - (b) Buildings and structures.
  - (c) Public sewer systems.
  - (d) Slopes, terraces, and retaining walls.
  - (e) Driveways, entrances, exits, parking areas, and sidewalks.
  - (f) Water mains and fire hydrants.
  - (g) Trees and shrubs.
  - (h) Recreational areas.
  - (i) Distances between buildings.
  - (j) Estimates of the following.
    - (i) Number of dwelling units.
    - (ii) Number of parking spaces.
    - (iii) Number of loading spaces.
    - (iv) Square feet of floor space.
    - (v) Number of commercial or industrial tenants and employees.
  - (vi) Plans for collecting storm water and methods of treatment of natural and artificial water courses including a delineation of limits of flood plains if any.
  - (vii) Proposed grading, surface drainage, terraces, retaining wall heights, grades on paving areas, and ground floor elevations of proposed buildings and structures. Proposed topography of site shall be shown by two or five foot contours as required by the city engineer.

(4) The site plan shall include an adequate "erosion control plan" which meets the specifications of the soil conservation district. (1972 Code, § 11-209, as renumbered by Ord. #894, April 2002)

14-410. Requirements, regulations, and restrictions. (1) Any building or structure erected or altered shall comply with the provisions of the municipal code as amended and any applicable laws of the State of Tennessee.

(2) Any work or development on the site, including but not limited to the following, shall comply with the provisions of the municipal code as amended and any applicable laws of the State of Tennessee: The grading of land; the installation of utilities; the construction of curbs, gutters and sidewalks; the construction of streets, alleys, and retaining walls; the construction of drains and sewers; the construction of off-street parking; the construction or erection of any improvement on the site.

(3) Any public or structure shall be reasonably accessible to fire, police, emergency, and service vehicles. When deemed necessary for access by the fire chief or city engineer, emergency vehicle easements shall be provided. The access for fire, police, and emergency vehicles shall be unobstructed at all times.

(4) The width, grade, location, alignment, and arrangement of streets, sidewalks, and alleys shall conform to the master plan and/or subdivision regulations of the city as near as is reasonably practicable.

(5) Off-street parking facilities shall have a reasonable slope and be accessible, safe, and properly drained.

(6) Streets, sidewalks, and alleys shall, insofar as reasonably practicable, provide access and good traffic circulation to and from adjacent lands, existing streets, alleys, and sidewalks and proposed or planned streets, alleys, and sidewalks. Where deemed necessary by the planning commission, commercial property fronting on major or secondary thoroughfares (also known as arterials or collectors) shall be required to provide a frontage access road of no less than 27 feet in width with permanent or temporary access to the public thoroughfare to be provided at a location deemed desirable by the planning commission.

(7) Adequate water mains and fire hydrants shall be provided in accessible places in accordance with good fire fighting and fire prevention practice acceptable to the chief of the fire department.

(8) Adequate provision shall be made for the collection and disposition of all on site and off site storm water and natural surface water. Natural drainageways shall be used when it is reasonably practicable to do so, and improvements shall be made to said ways in accordance with good engineering practice when, in the opinion of the city engineer, good engineering practice indicates the need for improvements.

(9) Adequate provision shall be made for the collection and disposition of all on and off site sanitary sewage.

(10) Adequate provision shall be made to control flooding.

(11) The obstruction of natural water courses shall be avoided.

(12) Adequate provision shall be made to control the slippage, shifting, erosion, accretion, and subsidence of soil.

(13) Adequate provision shall be made to control the slipping and shifting of buildings and structures.

(14) Adequate provision shall be made to protect other lands, structures, persons, and property. (1972 Code, § 11-210, as renumbered by Ord. #894, April 2002)

14-411. Appeals. If an applicant determines that his site plan has been unjustly disapproved or that the city engineer has made requests for conformity to standards other than those set forth in this chapter, he may appeal the decision of the city engineer to the city council. (1972 Code, § 11-211, as renumbered by Ord. #894, April 2002)

CHAPTER 5

STORMWATER MANAGEMENT POLICY

**SECTION**

- 14-501. General provisions.
- 14-502. Waivers.
- 14-503. Stormwater system design and management standards.
- 14-504. Post construction.
- 14-505. Existing locations and developments.
- 14-506. Illicit discharges.
- 14-507. Enforcement.
- 14-508. Penalties.
- 14-509. Appeals.

**14-501. General provisions.** (1) Purpose. It is the purpose of this chapter to:

(a) Protect, maintain, and enhance the environment of the City of Athens and the public health, safety and the general welfare of the citizens of the city, by controlling discharges of pollutants to the city's stormwater system and to maintain and improve the quality of the receiving waters into which the stormwater outfalls flow, including, without limitation, lakes, rivers, streams, ponds, wetlands, and groundwater of the city;

(b) Enable the City of Athens to comply with the National Pollution Discharge Elimination System permit (NPDES) and applicable regulations, 40 CFR '122.26 for stormwater discharges;

(c) Allow the City of Athens to exercise the powers granted in Tennessee Code Annotated 68-221-1105, which provides that, among other powers municipalities have with respect to stormwater facilities, is the power by ordinance or resolution to:

(i) Exercise general regulation over the planning, location, construction, and operation and maintenance of stormwater facilities in the municipality, whether or not owned and operated by the municipality;

(ii) Adopt any rules and regulations deemed necessary to accomplish the purposes of this statute, including the adoption of a system of fees for services and permits;

(iii) Establish standards to regulate the quantity of stormwater discharged and to regulate stormwater contaminants as may be necessary to protect water quality;

(iv) Review and approve plans and plats for stormwater management in proposed subdivisions or commercial developments;



(v) Issue permits for stormwater discharges, or for the construction, alteration, extension, or repair of stormwater facilities;

(vi) Suspend or revoke permits when it is determined that the permittee has violated any applicable ordinance, resolution, or condition of the permit;

(vii) Regulate and prohibit discharges into stormwater facilities of sanitary, industrial, or commercial sewage or waters that have otherwise been contaminated; and

(viii) Expend funds to remediate or mitigate the detrimental effects of contaminated land or other sources of stormwater contamination, whether public or private.

(2) Administering entity. The City of Athens shall administer the provisions of this chapter.

(3) Stormwater management policy. The City of Athens has adopted a stormwater management policy. The intended purpose of this policy is to safeguard properly and public welfare by regulating stormwater drainage and requiring temporary and permanent provisions for its control. It should be used as a planning and engineering implement to facilitate the necessary control of stormwater. (as added by Ord. #894, April 2002, and replaced by Ord. #922, Oct. 2004)

**14-502. Waivers.** (1) General. Any construction or site work project shall provide for stormwater management as required by this ordinance, unless a written request is filed to waive this requirement. Requests to waive the stormwater management plan requirements shall be submitted to the City of Athens for approval.

(2) Conditions for waiver. The minimum requirements for stormwater management may be waived in whole or in part upon written request of the applicant, provided that at least one of the following conditions applies:

(a) It can be demonstrated that the proposed development is not likely to impair attainment of the objectives of this chapter.

(b) Alternative minimum requirements for on-site management of stormwater discharges have been established in a stormwater management plan that has been approved by the City of Athens.

(c) Provisions are made to manage stormwater by an off-site facility. The off-site facility must be in place and designed to provide the level of stormwater control that is equal to or greater than that which would be afforded by on-site practices. Further, the facility must be operated and maintained by an entity that is legally obligated to continue the operation and maintenance of the facility.

(3) Downstream damage, etc. prohibited. In order to receive a waiver, the applicant must demonstrate to the satisfaction of the City of Athens that the waiver will not lead to any of the following conditions downstream:

- (a) Deterioration of existing culverts, bridges, dams, and other structures;
  - (b) Degradation of biological functions or habitat;
  - (c) Accelerated streambank or streambed erosion or siltation;
  - (d) Increased threat of flood damage to public health, life or property.
- (4) Grading permit not to be issued where waiver requested. No grading permit shall be issued where a waiver has been requested until the waiver is granted. If no waiver is granted, the plans must be resubmitted with a stormwater management plan. (as added by Ord. #922, Oct. 2004)

**14-503. Stormwater system design and management standards.**

(1) Stormwater design or BMP manual. (a) Adoption. The municipality adopts as its stormwater design and best management practices (BMP) manual the following publications, which are incorporated by reference in this ordinance as is fully set out herein:

- (i) TDEC Sediment and Erosion Control Manual;
- (ii) TDEC Manual for Post Construction.

(b) This manual includes a list of acceptable BMPs including the specific design performance criteria and operation and maintenance requirements for each stormwater practice. The manual may be updated and expanded from time to time, at the discretion of the governing body of the municipality, upon the recommendation of the City of Athens, based on improvements in engineering, science, monitory and local maintenance experience. Stormwater facilities that are designed, constructed and maintained in accordance with these BMP criteria will be presumed to meet the minimum water quality performance standards.

(2) General performance criteria for stormwater management. Unless granted a waiver or judged by the City of Athens to be exempt, the following performance criteria shall be addressed for stormwater management at all sites:

(a) All site designs shall control the peak flow rates of stormwater discharge associated with design storms specified in this ordinance or in the BMP manual and reduce the generation of post construction stormwater runoff to pre-construction levels. These practices should seek to utilize pervious areas for stormwater treatment and to infiltrate stormwater runoff from driveways, sidewalks, rooftops, parking lots, and landscaped areas to the maximum extent practical to provide treatment for both water quality and quantity.

(b) To protect stream channels from degradation, specific channel protection criteria shall be provided as prescribed in the BMP manual.

(c) Stormwater discharges to critical areas with sensitive resources (i.e., cold water fisheries, shellfish beds, swimming beaches,

recharge areas, water supply reservoirs) may be subject to additional performance criteria, or may need to utilize or restrict certain stormwater management practices.

(d) Stormwater discharges from hot spots may require the application of specific structural BMPs and pollution prevention practices.

(e) Prior to or during the site design process, applicants for land disturbance permits shall consult with the City of Athens to determine if they are subject to additional stormwater design requirements.

(f) The calculations for determining peak flows as found in the BMP manual shall be used for sizing all stormwater facilities.

(3) Minimum control requirements. (a) Stormwater designs shall meet the multi-stage storm frequency storage requirements as identified in the BMP manual unless the City of Athens has granted the applicant a full or partial waiver for a particular BMP under Section 4.

(b) If hydrologic or topographic conditions warrant greater control than that provided by the minimum control requirements, the City of Athens may impose any and all additional requirements deemed necessary to control the volume, timing, and rate of runoff.

(4) Stormwater management plan requirements. The stormwater management plan shall include sufficient information to allow the City of Athens to evaluate the environmental characteristics of the project site, the potential impacts of all proposed development of the site, both present and future, on the water resources, and the effectiveness and acceptability of the measures proposed for managing stormwater generated at the project site. To accomplish this goal the stormwater management plan shall include the following:

(a) Topographic base map: Topographic base map of the site which extends a minimum of 100 feet beyond the limits of the proposed development and indicates:

(i) Existing surface water drainage including streams, ponds, culverts, ditches, sink holes, wetlands; and the type, size, elevation, etc., of nearest upstream and downstream drainage structures;

(ii) Current land use including all existing structures, locations of utilities, roads, and easements;

(iii) All other existing significant natural and artificial features;

(iv) Proposed land use with tabulation of the percentage of surface area to be adapted to various uses; drainage patterns; locations of utilities, roads and easements; the limits of clearing and grading;

(v) Proposed structural BMPs;

(vi) A written description of the site plan and justification of proposed changes in natural conditions may also be required.

(b) Calculations: Hydrologic and hydraulic design calculations for the pre-development and post-development conditions for the design storms specified in the BMP manual. These calculations must show that the proposed stormwater management measures are capable of controlling runoff from the site in compliance with this chapter and the guidelines of the BMP manual. Such calculations shall include:

- (i) A description of the design storm frequency, duration, and intensity where applicable;
- (ii) Time of concentration;
- (iii) Soil curve numbers or runoff coefficients including assumed soil moisture conditions;
- (iv) Peak runoff rates and total runoff volumes for each watershed area;
- (v) Infiltration rates, where applicable;
- (vi) Culvert, stormwater sewer, ditch and/or other stormwater conveyance capacities;
- (vii) Flow velocities;
- (viii) Data on the increase in rate and volume of runoff for the design storms referenced in the BMP manual; and
- (ix) Documentation of sources for all computation methods and field test results.

(c) Soils information: If a stormwater management control measure depends on the hydrologic properties of soils (e.g., infiltration basins), then a soils report shall be submitted. The soils report shall be based on on-site boring logs or soil pit profiles and soil survey reports. The number and location of required soil borings or soil pits shall be determined based on what is needed to determine the suitability and distribution of soil types present at the location of the control measure.

(d) Maintenance and repair plan: The design and planning of all stormwater management facilities shall include detailed maintenance and repair procedures to ensure their continued performance. These plans will identify the parts or components of a stormwater management facility that need to be maintained and the equipment and skills or training necessary. Provisions for the periodic review and evaluation of the effectiveness of the maintenance program and the need for revisions or additional maintenance procedures shall be included in the plan. A permanent elevation benchmark shall be identified in the plans to assist in the periodic inspection of the facility.

(e) Landscaping plan: The applicant must present a detailed plan for management of vegetation at the site after construction is finished, including who will be responsible for the maintenance of vegetation at the site and what practices will be employed to ensure that

adequate vegetative cover is preserved. Where it is required by the BMP, this plan must be prepared by a registered landscape architect licensed in Tennessee.

(f) Maintenance easements: The applicant must ensure access to the site for the purpose of inspection and repair by securing all the maintenance easements needed. These easements must be binding on the current property owner and all subsequent owners of the property and must be properly recorded in the land record.

(g) Maintenance agreement:

(i) The owner of property to be served by an on-site stormwater management facility must execute an inspection and maintenance agreement that shall operate as a deed restriction binding on the current property owner and all subsequent property owners.

(ii) The maintenance agreement shall:

(A) Assign responsibility for the maintenance and repair of the stormwater facility to the owner of the property upon which the facility is located and be recorded as such on the plat for the property by appropriate notation.

(B) Provide for a periodic inspection by the property owner for the purpose of documenting maintenance and repair needs and ensure compliance with the purpose and requirements of this chapter. The property owner will arrange for this inspection to be conducted by a registered professional engineer licensed to practice in the State of Tennessee who will submit a sealed report of the inspection to the City of Athens. It shall also grant permission to the city to enter the property at reasonable times and to inspect the stormwater facility to ensure that it is being properly maintained.

(C) Provide that the minimum maintenance and repair needs include, but are not limited to: the removal of silt, litter and other debris, the cutting of grass, grass cuttings and vegetation removal, and the replacement of landscape vegetation, in detention and retention basins, and inlets and drainage pipes and any other stormwater facilities. It shall also provide that the property owner shall be responsible for additional maintenance and repair needs consistent with the needs and standards outlined in the BMP manual.

(D) Provide that maintenance needs must be addressed in a timely manner, on a schedule to be determined by the City of Athens.

(E) Provide that if the property is not maintained or repaired within the prescribed schedule, the City of Athens shall perform the maintenance and repair at its expense, and bill the same to the property owner. The maintenance agreement shall also provide that the City of Athens' cost of performing the maintenance shall be a lien against the property.

(iii) The municipality shall have the discretion to accept the dedication of any existing or future stormwater management facility, provided such facility meets the requirements of this ordinance, and includes adequate and perpetual access and sufficient areas, by easement or otherwise, for inspection and regular maintenance. Any stormwater facility accepted by the municipality must also meet the municipality's construction standards and any other standards and specifications that apply to the particular stormwater facility in question.

(h) Sediment and erosion control plans: The applicant must prepare a sediment and erosion control plan for all construction activities that complies with section (5) below.

(5) Sediment and erosion control plan requirements. The sediment and erosion control plan shall accurately describe the potential for soil erosion and sedimentation problems resulting from land disturbing activity and shall explain and illustrate the measures that are to be taken to control these problems. The length and complexity of the plan is to be commensurate with the size of the project, severity of the site condition, and potential for off-site damage. The plan shall be sealed by a registered professional engineer licensed in the state of Tennessee. The plan shall also conform to the requirements found in the BMP manual, and shall include at least the following:

(a) Project description - Briefly describe the intended project and proposed land disturbing activity including number of units and structures to be constructed and infrastructure required.

(b) A topographic map with contour intervals of five (5) feet or less showing present conditions and proposed contours resulting from land disturbing activity.

(c) All existing drainage ways, including intermittent and wet-weather. Include any designated floodways or flood plains.

(d) A general description of existing land cover. Individual trees and shrubs do not need to be identified.

(e) Stands of existing trees as they are to be preserved upon project completion, specifying their general location on the property. Differentiation shall be made between existing trees to be preserved, trees to be removed and proposed planted trees. Tree protection measures must be identified, and the diameter of the area involved must also be identified on the plan and shown to scale. Information shall be

supplied concerning the proposed destruction of exceptional and historic trees in setbacks and buffer strips, where they exist. Complete landscape plans may be submitted separately. The plan must include the sequence of implementation for tree protection measures.

(f) Approximate limits of proposed clearing, grading and filling.

(g) Approximate flows of existing stormwater leaving any portion of the site.

(h) A general description of existing soil types and characteristics and any anticipated soil erosion and sedimentation problems resulting from existing characteristics.

(i) Location, size and layout of proposed stormwater and sedimentation control improvements.

(j) Proposed drainage network.

(k) Proposed drain tile or waterway sizes.

(l) Approximate flows leaving site after construction and incorporating water run-off mitigation measures. The evaluation must include projected effects on property adjoining the site and on existing drainage facilities and systems. The plan must address the adequacy of outfalls from the development: when water is concentrated, what is the capacity of waterways, if any, accepting stormwater off-site; and what measures, including infiltration, sheeting into buffers, etc., are going to be used to prevent the scouring of waterways and drainage areas off-site, etc.

(m) The projected sequence of work represented by the grading, drainage and sedimentation and erosion control plans as related to other major items of construction, beginning with the initiation of excavation and including the construction of any sediment basins or retention facilities or any other structural BMPs.

(n) Specific remediation measures to prevent erosion and sedimentation run-off. Plans shall include detailed drawings of all control measures used; stabilization measures including vegetation and non-vegetation measures, both temporary and permanent, will be detailed. Detailed construction notes and a maintenance schedule shall be included for all control measures in the plan.

(o) Specific details for: the construction of rock pads, wash down pads, and settling basins for controlling erosion; road access points; eliminating or keeping soil, sediment, and debris on streets and public ways at a level acceptable to the City of Athens. Soil, sediment, and debris brought onto streets and public ways must be removed by the end of the work day by machine, broom or shovel to the satisfaction of the City of Athens. Failure to remove the sediment, soil or debris shall be deemed a violation of this ordinance.

(p) Proposed structures; location (to the extent possible) and identification of any proposed additional buildings, structures or development on the site.

(q) A description of on-site measures to be taken to recharge surface water into the ground water system through infiltration. (as added by Ord. #922, Oct. 2004)

**14-504. Post construction.** (1) As built plans. All applicants are required to submit actual as built plans for any structures located on-site after final construction is completed. The plan must show the final design specifications for all stormwater management facilities and must be sealed by a registered professional engineer licensed to practice in Tennessee. A final inspection by the City of Athens is required before any performance security or performance bond will be released. The City of Athens shall have the discretion to adopt provisions for a partial pro-rata release of the performance security or performance bond on the completion of various stages of development. In addition, occupation permits shall not be granted until corrections to all BMPs have been made and accepted by the City of Athens.

(2) Landscaping and stabilization requirements. (a) Any area of land from which the natural vegetative cover has been either partially or wholly cleared by development activities shall be revegetated according to a schedule approved by the City of Athens. The following criteria shall apply to revegetation efforts:

(i) Reseeding must be done with an annual or perennial cover crop accompanied by placement of straw mulch or its equivalent of sufficient coverage to control erosion until such time as the cover crop is established over ninety percent (90%) of the seeded area.

(ii) Replanting with native woody and herbaceous vegetation must be accompanied by placement of straw mulch or its equivalent of sufficient coverage to control erosion until the plantings are established and are capable of controlling erosion.

(iii) Any area of revegetation must exhibit survival of a minimum of seventy-five percent (75%) of the cover crop throughout the year immediately following revegetation. Revegetation must be repeated in successive years until the minimum seventy-five percent (75%) survival for one (1) year is achieved.

(b) In addition to the above requirements, a landscaping plan must be submitted with the final design describing the vegetative stabilization and management techniques to be used at a site after construction is completed. This plan will explain not only how the site will be stabilized after construction, but who will be responsible for the



maintenance of vegetation at the site and what practices will be employed to ensure that adequate vegetative cover is preserved.

(3) Inspection of stormwater management facilities. Periodic inspections of facilities shall be performed in accordance with this chapter.

(4) Records of installation and maintenance activities. Parties responsible for the operation and maintenance of a stormwater management facility shall make records of the installation of the stormwater facility, and of all maintenance and repairs to the facility, and shall retain the records for at least three (3) years. These records shall be made available to the City of Athens during inspection of the facility and at other reasonable times upon request.

(5) Failure to meet or maintain design or maintenance standards. If a responsible party fails or refuses to meet the design or maintenance standards required for stormwater facilities under this chapter, the City of Athens, after reasonable notice, may correct a violation of the design standards or maintenance needs by performing all necessary work to place the facility in proper working condition. In the event that the stormwater management facility becomes a danger to public safety or public health, the City of Athens shall notify in writing the party responsible for maintenance of the stormwater management facility. Upon receipt of that notice, the responsible person shall have thirty (30) days to effect maintenance and repair of the facility in an approved manner. In the event that corrective action is not undertaken within that time, the City of Athens may take necessary corrective action. The cost of any action by the City of Athens under this section shall be charged to the responsible party. (as added by Ord. #922, Oct. 2004)

**14-505. Existing locations and developments.** (1) Requirements for all existing locations and developments. The following requirements shall apply to all locations and development at which land disturbing activities have occurred previous to the enactment of this ordinance:

(a) Denuded areas must be vegetated or covered under the standards and guidelines specified in the BMP manual and on a schedule acceptable to the City of Athens.

(b) Cuts and slopes must be properly covered with appropriate vegetation and/or retaining walls constructed.

(c) Drainage ways shall be properly covered in vegetation or secured with rip-rapp, channel lining, etc., to prevent erosion.

(d) Trash, junk, rubbish, etc. shall be cleared from drainage ways.

(e) Stormwater runoff shall be controlled to the extent reasonable to prevent pollution of local waters. Such control measures may include, but are not limited to, the following:

(i) Ponds

(A) Detention pond

(B) Extended detention pond

- (C) Wet pond
- (D) Alternative storage measures
- (ii) Constructed wetlands
- (iii) Infiltration systems
  - (A) Infiltration/percolation trench
  - (B) Infiltration basin
  - (C) Drainage (recharge) well
  - (D) Porous pavement
- (iv) Filtering systems
  - (A) Catch basin inserts/media filter
  - (B) Sand filter
  - (C) Filter/absorption bed
  - (D) Filter and buffer strips
- (v) Open channel
  - (A) Swale

(2) Requirements for existing problem locations. The City of Athens shall in writing notify the owners of existing locations and developments of specific drainage, erosion or sediment problem affecting such locations and developments, and the specific actions required to correct those problems. The notice shall also specify a reasonable time for compliance.

(3) Inspection of existing facilities. The City of Athens may, to the extent authorized by state and federal law, establish inspection programs to verify that all stormwater management facilities, including those built before as well as after the adoption of this ordinance, are functioning within design limits. These inspection programs may be established on any reasonable basis, including but not limited to: routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; inspection of drainage basins or areas identified as higher than typical sources of sediment or other contaminants or pollutants; inspections of businesses or industries of a type associated with higher than usual discharges of contaminants or pollutants or with discharges of a type which are more likely than the typical discharge to cause violations of the municipality's NPDES stormwater permit; and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include, but are not limited to: reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in drainage control facilities; and evaluating the condition of drainage control facilities and other BMPs.

(4) Corrections of problems subject to appeal. Corrective measures imposed by the stormwater utility under this section are subject to appeal under § 14-514 of this chapter. (as added by Ord. #922, Oct. 2004)

**14-506. Illicit discharges.** (1) Scope. This section shall apply to all water generated on developed or undeveloped land entering the municipality's separate storm sewer system.

(2) Prohibition of illicit discharges. No person shall introduce or cause to be introduced into the municipal separate storm sewer system any discharge that is not composed entirely of stormwater. The commencement, conduct or continuance of any non-stormwater discharge to the municipal separate storm sewer system is prohibited except as described as follows:

- (a) Uncontaminated discharges from the following sources:
  - (i) Water line flushing or other potable water sources;
  - (ii) Landscape irrigation or lawn watering with potable water;
  - (iii) Diverted stream flows;
  - (iv) Rising ground water;
  - (v) Groundwater infiltration to storm drains;
  - (vi) Pumped groundwater;
  - (vii) Foundation or footing drains;
  - (viii) Crawl space pumps;
  - (ix) Air conditioning condensation;
  - (x) Springs;
  - (xi) Non-commercial washing of vehicles;
  - (xii) Natural riparian habitat or wet-land flows;
  - (xiii) Swimming pools (if dechlorinated - typically less than one PPM chlorine);
  - (xiv) Fire fighting activities;
  - (xv) Any other uncontaminated water source.

(b) Discharges specified in writing by the City of Athens as being necessary to protect public health and safety.

(c) Dye testing is an allowable discharge if the City of Athens has so specified in writing.

(3) Prohibition of illicit connections. (a) The construction, use, maintenance or continued existence of illicit connections to the separate municipal storm sewer system is prohibited.

(b) This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

(4) Reduction of stormwater pollutants by the use of best management practices. Any person responsible for a property or premises, which is, or may be, the source of an illicit discharge, may be required to implement, at the person's expense, the BMPs necessary to prevent the further discharge of pollutants to the municipal separate storm sewer system. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this section.

(5) Notification of spills. Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for

emergency response for a facility or operation has information of any known or suspected release of materials which are resulting in, or may result in, illicit discharges or pollutants discharging into stormwater, the municipal separate storm sewer system, the person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials the person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, the person shall notify the City of Athens in person or by telephone or facsimile no later than the next business day. Notifications in person or by telephone shall be confirmed by written notice addressed and mailed to the City of Athens within three (3) business days of the telephone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three (3) years. (as added by Ord. #922, Oct. 2004)

**14-507. Enforcement.** (1) Enforcement authority. The city manager or his designees shall have the authority to issue notices of violation and citations, and to impose the civil penalties provided in this section.

(2) Notification of violation. (a) Written notice. Whenever the city manager or his designees finds that any permittee or any other person discharging stormwater has violated or is violating this ordinance or a permit or order issued hereunder, the director may serve upon such person written notice of the violation. Within ten (10) days of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted to the director. Submission of this plan in no way relieves the discharger of liability for any violations occurring before or after receipt of the notice of violation.

(b) Consent orders. The director is empowered to enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with the person responsible for the noncompliance. Such orders will include specific action to be taken by the person to correct the noncompliance within a time period also specified by the order. Consent orders shall have the same force and effect as administrative orders issued pursuant to paragraphs (d) and (e) below.

(c) Show cause hearing. The director may order any person who violates this chapter or permit or order issued hereunder, to show cause why a proposed enforcement action should not be taken. Notice shall be served on the person specifying the time and place for the meeting, the proposed enforcement action and the reasons for such action, and a request that the violator show cause why this proposed enforcement action should not be taken. The notice of the meeting shall be served

personally or by registered or certified mail (return receipt requested) at least ten (10) days prior to the hearing.

(d) Compliance order. When the director finds that any person has violated or continues to violate this chapter or a permit or order issued thereunder, he may issue an order to the violator directing that, following a specific time period, adequate structures, devices, be installed or procedures implemented and properly operated. Orders may also contain such other requirements as might be reasonably necessary and appropriate to address the noncompliance, including the construction of appropriate structures, installation of devices, self-monitoring, and management practices.

(e) Cease and desist orders. When the director finds that any person has violated or continues to violate this chapter or any permit or order issued hereunder, the director may issue an order to cease and desist all such violations and direct those persons in noncompliance to:

- (i) Comply forthwith; or
- (ii) Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and terminating the discharge.

(iii) Conflicting standards. Whenever there is a conflict between any standard contained in this chapter and in the BMP manual adopted by the municipality under this ordinance, the strictest standard shall prevail. (as added by Ord. #922, Oct. 2004)

**14-508. Penalties.** (1) Violations. Any person who shall commit any act declared unlawful under this chapter, who violates any provision of this chapter, who violates the provisions of any permit issued pursuant to this chapter, or who fails or refuses to comply with any lawful communication or notice to abate or take corrective action by the City of Athens, shall be guilty of a civil offense.

(2) Penalties. Under the authority provided in Tennessee Code Annotated § 68-221-1106, the municipality declares that any person violating the provisions of this chapter may be assessed a civil penalty by the City of Athens of not less than fifty dollars (\$50.00) and not more than five thousand dollars (\$5,000.00) per day for each day of violation. Each day of violation shall constitute a separate violation.

(3) Measuring civil penalties. In assessing a civil penalty, the city manager or his designees may consider:

- (a) The harm done to the public health or the environment;
- (b) Whether the civil penalty imposed will be a substantial economic deterrent to the illegal activity;
- (c) The economic benefit gained by the violator;

- (d) The amount of effort put forth by the violator to remedy this violation;
  - (e) Any unusual or extraordinary enforcement costs incurred by the municipality;
  - (f) The amount of penalty established by ordinance or resolution for specific categories of violations; and
  - (g) Any equities of the situation which outweigh the benefit of imposing any penalty or damage assessment.
- (4) Recovery of damages and costs. In addition to the civil penalty in subsection (2) above, the municipality may recover:
- (a) All damages proximately caused by the violator to the municipality, which may include any reasonable expenses incurred in investigating violations of, and enforcing compliance with, this chapter, or any other actual damages caused by the violation.
  - (b) The costs of the municipality's maintenance of stormwater facilities when the user of such facilities fails to maintain them as required by this chapter.
- (5) Other remedies. The municipality may bring legal action to enjoin the continuing violation of this chapter, and the existence of any other remedy, at law or equity, shall be no defense to any such actions.
- (6) Remedies cumulative. The remedies set forth in this section shall be cumulative, not exclusive, and it shall not be a defense to any action, civil or criminal, that one (1) or more of the remedies set forth herein has been sought or granted. (as added by Ord. #922, Oct. 2004)

**14-509. Appeals.** Pursuant to Tennessee Code Annotated 68-221-1106(d), any person aggrieved by the imposition of a civil penalty or damage assessment as provided by this chapter may appeal said penalty or damage assessment to the municipality's governing body.

(1) Appeals to be in writing. The appeal shall be in writing and filed with the municipal recorder or clerk within fifteen (15) days after the civil penalty and/or damage assessment is served in any manner authorized by law.

(2) Public hearing. Upon receipt of an appeal, the municipality's governing body shall hold a public hearing within thirty (30) days. Ten (10) days prior notice of the time, date, and location of said hearing shall be published in a daily newspaper of general circulation. Ten (10) days notice by registered mail shall also be provided to the aggrieved party, such notice to be sent to the address provided by the aggrieved party at the time of appeal. The decision of the governing body of the municipality shall be final.

(3) Appealing decisions of the municipality's governing body. Any alleged violator may appeal a decision of the municipality's governing body pursuant to the provisions of Tennessee Code Annotated, title 27, chapter 8. (as added by Ord. #922, Oct. 2004)

CHAPTER 6

LANDSCAPE ORDINANCE

SECTION

- 14-601. Definitions.
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- 14-607. Conflict with other articles in the zoning ordinance and existing zoning conditions.
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- 14-614. Plant installation specifications.
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- 14-616. Maintenance/bonding.
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- 14-618. Appeals.
- 14-619. Responsibility and enforcement of policy.

14-601. Definitions. For the purposes of this chapter, the following terms, phrases, and words shall have the meaning given herein:

(1) "Caliper." A measurement of the tree trunk diameter measured at 2 and ½ feet above grade level.

(2) "Gross floor area." The total interior space as defined by the Southern Building Code.

(3) "Impervious surfaces." Includes concrete, asphalt, brick, metal, or any other material constructed or erected on landscaped or natural buffer areas that impede the percolation of water into the ground.

(4) "Interior parking bay." All parking bays that do not qualify as a perimeter bay.

(5) "Landscaped area/landscape yard." An area to be planted with grass, trees, shrubs or other natural ground cover. No impervious surfaces are permitted in these areas.

(6) "Landscaped island." A landscaped area defined by a curb and surrounded by paving on all sides.

(7) "Landscaped peninsula." A landscaped area defined by a curb and surrounded by paving on three sides.

(8) "Natural buffer." An area of land set aside for preservation in its natural vegetative state. Plants may not be removed with the exception of poisonous or non-native plant species. In addition, fill/cutting activities, storage of materials, and impervious surfaces are not permitted in these areas.

(9) "New development." Construction of a new building or structure on its own lot is considered as new development. New buildings or structures constructed on a lot which already contains existing buildings is considered as an expansion.

(10) "Perimeter bay." All parking bays that are adjacent to the perimeter of a development.

(11) "Screening shrubs." Evergreen shrubs that maintain their foliage year-round.

(12) "Screening trees." Evergreen trees that maintain their foliage year-round.

(13) "Street yard." A designated landscaped area where private property abuts the public street right-of-way for planting of grass, trees, and shrubs. (as added by Ord. #895, April 2002)

14-602. Purpose and intent. The purpose and intent of this section is to preserve and promote the health, safety, and the general welfare of the public; to facilitate the creation of a convenient, attractive, and harmonious community; to conserve properties and their values; and to preserve the character of an area by preventing the harmful effects of prejudicial land uses. More specifically, this section is intended to require the landscaping of parking lots in order to reduce the harmful effects of wind and air turbulence, heat and noise, the glare of motor vehicle lights, the level of carbon dioxide in the atmosphere, and soil erosion, while providing shade, and enhancing the blighted appearance of parking lots. (as added by Ord. #895, April 2002)

14-603. Applicability. The requirements of this section shall apply to:

(1) All new public/private development.

(2) Existing public/private developments. For existing developments and parking facilities, expansions in gross floor area (GFA) or parking spaces shall trigger landscape requirements based on the scope of work proposed as established below. Where both the building expansion and parking lot expansion requirements are applicable, the building expansion requirements shall supercede:

(a) Building expansions: (i) If an existing building, structure, or development is expanded by fifty (50%) percent or more in gross floor area, then the entire building, structure, or development shall comply with the provisions of this chapter.

(ii) If an existing building, structure, or development is expanded by forty-nine (49%) percent or less in gross floor area,



then the entire building, structure, or development shall be exempt from complying with the provisions of this chapter.

(b) Parking lot expansions: (i) If the number of existing parking spaces for an existing building, structure or development is expanded by twenty-five (25%) percent to forty-nine (49%) percent, then the area of expansion shall comply with the provisions of this chapter.

(ii) If the number of existing parking spaces for an existing building, structure or development is expanded by fifty (50%) percent or more, then the entire parking lot shall comply with the provisions of this chapter.

(3) Exemptions: One-family detached and two-family residential dwellings are exempt from landscaping requirements. (as added by Ord. #895, April 2002, and replaced by Ord. #920, Aug. 2004)

14-604. Landscape plan submittal. Proposed developments subject to the provisions of this section shall submit a landscape site plan to the building inspections office. A licensed landscape architect, architect, or engineer may be required to design the landscape plan. Such requirements will be based on the complexity of the conditions, the adjacent properties, and the site itself. This determination will be made by the city manager, public works director, community development director, or their designee. This plan may be incorporated into a site plan or parking/paving plan, provided the scale is not less than one (1) inch equals forty (40) feet. The following elements shall be shown on the landscape site plan:

- (1) Zoning of site and adjoining properties;
- (2) Existing and proposed contours at 5 feet intervals or less;
- (3) Boundary lines and lot dimensions;
- (4) Date, graphic scale, north arrow, title and name of owner, and the phone number of the person or firm responsible for the landscape plan;
- (5) Location of all proposed structures and storage areas;
- (6) Existing and proposed drainage features and 100-year floodplain, if applicable;
- (7) Parking lot layout including parking stalls, bays, and driving lanes;
- (8) Existing and proposed utility lines, and easements;
- (9) All paved surfaces and curbs, including curb breaks/cuts for drainage;
- (10) Existing trees or natural areas to be retained, and
- (11) Location of all required landscaping areas (street yard, landscaped peninsulas, landscaped islands, and screening buffers). (as added by Ord. #895, April 2002)

14-605. Plant installation detail plan. Prior to receiving a certificate of occupancy, a plant installation plan shall be submitted to the building inspections office and approved containing the following information:

(1) Location, installation size, quantity, and scientific and common names of landscaping to be installed; and

(2) Spacing between trees and shrubs used for screening.

The applicant has the option of submitting both the landscape plan and the plant installation detail plan at the same time. (as added by Ord. #895, April 2002)

14-606. Hardships. (1) Intent. This section does not intend to create undue hardship on affected properties. The required landscaping should not exceed 15% of the total lot area. For existing developments, where the GFA or parking areas are being increased, the loss of off-street parking spaces (required by zoning ordinance) as a result of compliance with the landscaping provisions should not exceed 10%.

(2) Special administrative remedies. Lots with a depth of 150 feet or less, or an area of 15,000 square feet or less, have the following special exceptions:

(a) An automatic fifty percent (50%) reduction in landscape yard depth requirements for screening, street yard, and parking lot landscaping sections; and

(b) A twenty-five percent (25%) reduction in planting requirements for all sections except for the required evergreen plantings for screening.

Lots, which front on more than one street, have the following special exception: all street frontages other than the primary street frontage may have a street yard with a minimum depth of four (4) feet.

In situations where the landscape requirements would result in the demolition of an existing building, a loss of more than ten percent (10%) of the gross required off-street parking for an existing development; or a loss greater than fifteen percent (15%) of the lot area for development, the following administrative remedies may be applied:

(i) Reduce the required minimum landscaped area widths up to fifty percent (50%); and

(ii) Reduce the tree planting requirements by up to twenty-five percent (25%).

(3) Administrative guidelines. (a) Where possible, reduction of landscaping requirements in one area should be offset by an increase of landscaping requirements in other portions of the site.

(b) The first priority is to provide trees along the street frontage.

(c) The second priority is to provide trees within portions of the parking lot that are highly visible from the street.

(d) A screen should always be provided if it is required by this section. Where there are space limitations or potential sight distance problems, reduce the landscape yard as necessary. If the planting area is less than five (5) feet in width, require a minimum six (6) feet tall wood or composite fence or masonry wall. (as added by Ord. #895, April 2002)

14-607. Conflict with other articles in the zoning ordinance and existing zoning conditions. Where any requirement of this section conflicts with the requirement of another article or existing zoning conditions in the zoning ordinance, the provisions of this landscaping section shall override. (as added by Ord. #895, April 2002)

14-608. Trees projecting over streets, alleys, or sidewalks prohibited. In accordance with title 16 entitled "Streets and Sidewalks, etc." of the Athens Municipal Code, it shall be unlawful for any property owner or occupant to allow any limbs of trees on his/her property to project out and/or over any street, alley or sidewalk at a height of less than fourteen (14) feet. (as added by Ord. #895, April 2002)

14-609. Trees, etc., obstructing view at intersections prohibited. In accordance with title 16 entitled "Streets and Sidewalks, etc." of the Athens Municipal Code, it shall be unlawful for any property owner or occupant to have or maintain on his property any fence, tree, hedge or billboard which prevents persons driving vehicles on public streets or alleys from obtaining a clear view of traffic when approaching an intersection. The above mentioned obstructions shall not be above two (2) feet in height and shall not be allowed within fifty (50) feet from the centerline of any street. The aforementioned is not applicable to buildings or their appendages or retaining walls. (as added by Ord. #895, April 2002)

14-610. Street yard requirements. (1) Intent. The intent of this section is to add quality and definition to the street by planting trees within a landscaped area along the edges of the right-of-way.

(2) Dimensions. Except for points of access, a street yard shall be provided where the proposed development site adjoins the public street right-of-way. Alleys are exempt from this requirement. The street yard shall have a minimum depth of eight (8) feet as measured from the edge of the public street right-of-way towards the interior of the property. The yard shall consist of sod grass or other natural living ground cover material. No impervious surfaces are permitted in the street yard area. If the area between the street right-of-way and/or property line and the edge of pavement or back of curb is disturbed, that area shall be restored to the original condition prior to disturbance.

(3) Plantings. Trees shall be planted within the street yard at a minimum ratio of one (1) tree per thirty-five (35) linear feet of right-of-way frontage. Trees do not have to be evenly spaced in thirty-five (35) feet increments. Fractions of trees shall be rounded up to the nearest whole number. The minimum spacing between trees is fifteen (15) feet measured trunk to trunk. The maximum spacing is fifty (50) feet measured trunk to trunk. The trees referred to in this section shall have a minimum expected maturity height of at least twenty-five (25) feet and should be of a species common to southeast Tennessee.

(4) Existing woodlands. Existing woodlands along the street right-of-way frontage can be substituted for the street yard requirements subject to the following:

(a) Existing woodlands to be set aside shall have a minimum depth of 25 feet as measured from the public street right-of-way;

(b) Number of woodland trees (not including prohibited trees) having a minimum caliper of 6 inches shall equal or exceed the minimum street tree planting ratio of 1 tree per 35 linear feet;

(c) No impervious surfaces are permitted within the protected woodlands area except for approved access points to the site or as a part of the stormwater plan; and

(d) No cutting/filling activities or storage of materials/equipment are permitted within the protected woodlands.

(5) Exemptions/special situations. Properties adjoining rights-of-way that encroach into established parking areas more than twenty feet have the following street yard options:

(a) Plant street trees within the right-of-way provided written permission is obtained from the owner of the public right-of-way;

(b) If permission cannot be obtained to plant in the right-of-way, no street yard will be required. However, the street trees will be relocated somewhere within the site in an area highly visible from the street. These trees cannot be used to meet requirements in other sections.

Existing street trees planted within the right-of-way (not including the center median or opposite side of the street) can be used to meet the street yard requirements.

Where overhead powerlines encroach into the street yard, smaller shade trees may be substituted for larger shade trees.

Stormwater facilities may be located within the street yard subject to the following conditions:

(i) Trees and other living organic materials can be planted along the stormwater facility; however, the facility must be maintained in accordance with the stormwater management policy;

(ii) The stormwater facility must meet all requirements of the City of Athens.

With the written approval of the right-of-way owner, portions of the public right-of-way may be used to meet the street yard requirements. (as added by Ord. #895, April 2002)

14-611. Parking lot requirements. (1) Intent. The intent of this section is to breakup the expanse of asphalt, to provide shade, and to reduce the glare from parked cars and loading docks.

(2) Design criteria. (a) No parking space shall be more than sixty (60) feet from a tree;

(b) Ends of all interior parking bays that contain a minimum of ten (10) contiguous parking spaces shall be bordered on both sides by a landscape island;

(c) Ends of all perimeter parking bays shall be bordered by a landscaped peninsula;

(d) Side and front-facing truck delivery stalls and loading bays shall be screened from the public right-of-way as described below.

(3) Dimensions/planting criteria. Landscaped islands and peninsulas used to meet the landscaping requirements shall have a minimum width of eight (8) feet and a minimum landscaped area of two hundred (200) square feet. Landscaped islands and peninsulas used to meet the landscaping requirements shall be planted with at least one tree. The trees referred to in this parking section shall be of a species common to southeast Tennessee. In the special situations specified below, smaller shade trees may be substituted for larger shade trees:

(a) An overhead obstacle such as a canopy or powerline limits the tree height; or

(b) The tree is located within twenty (20) feet of a building. All landscaped islands, and peninsulas shall be bordered by a curb or a wheel stop. Curb breaks should be utilized to allow stormwater to enter planted areas. The screening material for loading docks and delivery stalls shall consist of the following:

(i) One row of evergreen shrubs spaced a maximum of five (5) feet on-center or a row of evergreen trees spaced a maximum of ten (10) feet on-center; and

(ii) Provide a landscaped yard with a minimum depth of eight (8) feet for the planted screen. (as added by Ord. #895, April 2002)

14-612. Screening requirements. (1) Intent. To provide a transition between incompatible land uses and to protect the integrity of less-intensive uses from more intensive uses, screening and buffering will be required. The purpose of the screen is to provide a year-round visual obstruction. The buffer

provides transition between the incompatible uses by requiring a landscape yard of a minimum specified depth along the shared property line.

(2) Procedure. Refer to the matrix below to determine any screening requirements for the proposed development. First, identify the type of zoning for the proposed development (along the left side of the matrix) and each adjoining property (along the top of the matrix). Find where the zoning of the proposed development and each adjoining property intersect on the matrix. If a screen is required, a capital letter will indicate the type of screen to be applied. A description of each screen type is provided below.

**EXISTING**

	Manufacturing Warehousing	Commercial	Office	High-Density Residential	Low-Density Residential
Manufacturing Warehousing	Δ	C	B	A	A
Commercial	Δ	Δ	Δ	B	B
Office	Δ	Δ	Δ	C	C
Residential High-Density	A	B	C	Δ	C

No screen or buffer required = Δ

**ZONING DISTRICTS**

Manufacturing/Warehousing	I-1, I-2
Commercial	B-1, B-2, B-3 and B-4
Office	M-1, and P-1
Residential (High Density)	R-2, R-3, and R-4
Residential (Low Density)	R-E, and R-1

(3) Screening types. (a) **Type A**- thirty (30) feet deep landscape yard planted with:

- (i) Evergreen trees spaced a maximum of ten (10) feet on-center or two staggered rows {spaced a maximum of seven (7) feet apart} of shrubs spaced a maximum of eight (8) feet on-center;

and two (2) rows of shade trees spaced a maximum of thirty-five (35) feet on-center.

(ii) All plantings shall be of a species common to southeast Tennessee.

(b) **Type B** - twenty (20) feet deep landscape yard planted with:

(i) Evergreen trees spaced a maximum of ten (10) feet on-center or two staggered rows {spaced a maximum of seven (7) feet apart} of shrubs spaced a maximum of eight (8) feet on-center; and one (1) row of shade trees spaced a maximum of thirty-five (35) feet on-center.

(ii) All plantings shall be of a species common to southeast Tennessee.

(c) **Type C** - ten (10) feet deep landscape yard planted with:

(i) Evergreen trees spaced a maximum of ten (10) feet on-center or two staggered rows {spaced a maximum of seven (7) feet apart} of shrubs spaced a maximum of eight (8) feet on-center.

(ii) All plantings shall be of a species common to southeast Tennessee.

(d) **Type D** - Dumpsters to be screened in the manner described below:

(i) Screening shall be a minimum height of six (6) feet;

(ii) All four sides of the dumpster shall be screened;

(iii) The screen should incorporate access to the dumpster by using a wood fence or other opaque device to serve as a gate;

(iv) Screening materials can be any combination of evergreen plantings, wood, composite or masonry material.

(e) **Type E** - Stormwater facilities located in the landscaped yard subject to the following conditions:

(i) Trees and other living organic materials can be planted along stormwater facility. (as added by Ord. #895, April 2002)

14-613. Landscaping credits for buffering along perennial streams. Credits for landscaping are available for leaving natural buffers along perennial streams. All credits and buffer designs are subject to the review and approval of the building inspections office and/or the public works department.

(1) A natural buffer with a minimum width equal to three (3) times the stream width shall be provided on each side of the stream; the required width per side shall be no less than twenty-five (25) feet and no more than one hundred (100) feet; the width of the buffer shall be measured from edge of the stream bank.

(2) No vegetation within the natural buffer shall be removed or disturbed except for poisonous, non-native, or noxious plant species.

(3) No fill or cutting activities, including the storage of materials or equipment shall be permitted in the natural buffer area.

(4) No impervious surfaces are permitted in the buffer unless approved as a part of the stormwater plan.

(5) Trees located within the buffer area with a minimum six-inch caliper can be used to meet the landscaping requirements.

(6) The maximum landscaping credit allowance is twenty-five percent (25%) of the landscaping requirements for trees. (as added by Ord. #895, April 2002)

14-614. Plant installation specifications. (1) Intent. All landscaping materials shall be installed in a sound professional manner, and according to professionally accepting good planting procedures. Any landscape material, which fails to meet the minimum requirements at the time of installation, shall be removed and replaced with acceptable materials.

(2) Prohibited plants. The following plants are prohibited from being used to meet these requirements due to problems with hardiness, maintenance, or nuisance:

- |                      |                 |
|----------------------|-----------------|
| Kudzu Vine           | Garlic Mustard  |
| Purple Loosestrife   | Paulownia       |
| Japanese Honeysuckle | Multiflora Rose |
| Shrub Honeysuckle    | Siberian Elm    |
| Autumn Olive         | Silver Poplar   |
| Common Privet        | Mimosa          |
| Tree of Heaven       | Mulberry        |
| Silver Maple         |                 |

(as added by Ord. #895, April 2002)

14-615. Utility easement policy. (1) Intent. To avoid damage to utility lines and landscape plantings, all trees and shrubs should be planted outside of existing and proposed utility easements.

(2) Policy. Any tree or shrub used to meet the requirements of this article shall not be located within proposed or existing utility easements unless it meets one of the special exceptions as defined below.

(3) Special exceptions:

(a) Written permission has been obtained from the holder of the utility easement.

(b) Where overhead powerlines cross an area required by the ordinance to be planted with shade trees, smaller shade trees may be substituted.

(4) If none of the special exceptions above apply, the following options shall be considered in order of priority:



(a) **Priority 1** - Plant the tree as close to the easement as possible.

(b) **Priority 2** - For highly visible areas (street yards, parking lots in front), plant the tree in the same general area where it can be seen from the street or parking lot.

(5) In order to allow fire department personnel adequate visibility and access to fire hydrant locations, a three (3') foot buffer with visibility shall be required/provided around all fire hydrants located in areas where landscaping is required by the provisions of this chapter. (as added by Ord. #895, April 2002, and amended by Ord. #920, Aug. 2004)

14-616. Maintenance/bonding. The persons in charge of or in control of the property whether as owner, lessee, tenant, occupant or otherwise, shall be responsible for the continued proper maintenance of all landscaping materials, and shall keep them in proper, neat and orderly appearance, from refuse and debris, at all times. All unhealthy or dead plant material shall be replaced within one (1) year, or by the next planting period, whichever comes first. Other defective landscape material shall be replaced or repaired within three (3) months that meet the requirements of this article. A maintenance/replacement bond in an amount equal to one hundred ten percent (110%) of the projected cost of landscaping shall be provided to the City of Athens of a period not less than one (1) year. (as added by Ord. #895, April 2002)

14-617. Certificate of occupancy/bonding. If the landscaping has not been installed and inspected for proper installation prior to receiving certificate of occupancy, a certificate of occupancy may be granted provided the following conditions are met:

(1) Property owner posts a performance bond or irrevocable letter of credit with the city treasurer;

(2) The amount of the bond or letter of credit shall be based on material and installation costs of the uninstalled landscape material, including a 10% contingency cost, as shown on the submitted landscape plan; and

(3) The cost of the landscaping shall be certified by a licensed contractor.

After receiving the certificate of occupancy, the remaining landscape material shall be installed within six (6) months. The bond or letter of credit shall be called if the required landscaping has not been installed by the end of the six (6) month period, and the funds shall be applied to complete the landscaping work. (as added by Ord. #895, April 2002)

14-618. Appeals. Any person aggrieved by the administration, interpretation, or enforcement of this section may appeal to the board of zoning appeals within thirty (30) days of the decision imposed by the building inspector, city manager, public works director, or any other agent of the City of Athens.

Decisions of the board of zoning appeals may be appealed to court of competent jurisdiction. Should any court of competent jurisdiction find any portion of this section to be unlawful or unconstitutional, such finding shall not affect this section as a whole or any portion of it not found invalid. (as added by Ord. #895, April 2002)

14-619. Responsibility and enforcement of policy. This policy is adopted by the City Council of the City of Athens and by the Athens Municipal Regional Planning Commission.

Inspection and enforcement of the conditions described in this policy are the responsibility of, but not limited to, the public works director, or his designee, or the city building inspector, or other person(s) as designated by the city manager.

Intentional or continued violation of this policy is considered a civil offense as described in City of Athens Ord. #802, § 5 entitled "Penalty clause," of the Athens Municipal Code. (as added by Ord. #895, April 2002)

CHAPTER 7

MOBILE HOMES

SECTION

- 14-701. Definitions as used in this chapter.
- 14-702. General regulations for mobile homes.
- 14-703. General regulations for mobile home parks.
- 14-704. General regulations for travel trailers and travel trailer parks.
- 14-705. Permits.
- 14-706. Fees for permits.
- 14-707. Application for permit.
- 14-708. Enforcement of chapter.
- 14-709. Appeals.
- 14-710. Violations.

14-701. Definitions as used in this chapter. Except as specifically defined herein, all words used in this chapter have their customary dictionary definitions where not inconsistent with the context. For the purposes of this chapter certain words or terms are defined as follows:

The term "shall" is mandatory.

When not inconsistent with the context, words used in the singular number include the plural and those used in the plural number include the singular.

Words used in the present tense include the future.

(1) "Mobile home (trailer)." A detached single-family dwelling unit with any or all of the following characteristics:

(a) 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.

(b) Designed to be transported after fabrication on its own wheels, or on a flatbed or other trailers or detachable wheels.

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

(d) EXCLUSION. A unit constructed with a minimum of a nominal 2" x 4" studded walls, at least 20' wide which is placed on a permanent masonry foundation, and from which all evidence of mobility has been removed, and which has a sloped roof, shall NOT be considered a "mobile home" regardless of how it is transported to the building site.

(2) "Mobile home park." The term mobile home park shall mean any plot of ground on which two (2) or more mobile homes occupied for dwelling or sleeping purposes, are located.

(3) "Mobile home space." The term shall mean a plot of ground within a mobile home park designated for the accommodation of one (1) mobile home.

(4) "Travel trailer." A travel trailer, pick-up camper, converted bus, tent-trailer, tent, or similar device used for temporary portable housing or a unit which:

(a) can operate independent of connections to external sewer, water, and electrical systems;

(b) contains water storage facilities and may contain a lavatory, kitchen sink, and/or bath facilities.

(5) "Travel trailer park." The term travel trailer park shall mean any plot of ground on which two (2) or more travel trailers, occupied for camping or periods of short stay, are located.

(6) "Health officer." The director of a city, county, or district health department having jurisdiction over the community health in a specific area, or his duly authorized representative.

(7) "Permit (license)." A permit is required for mobile home parks, single mobile homes, and travel trailer parks. Fees charged for mobile home and travel trailer parks under the permit requirements are for inspection and the administration of this chapter.

(8) "Buffer strip." An evergreen buffer shall consist of a greenbelt planted strip not less than ten (10) feet in width. Such a greenbelt shall be composed of one (1) row of evergreen trees, spaced not more than forty (40) feet apart and not less than two (2) rows of shrubs or hedge, spaced not more than five (5) feet apart and which grow to a height of five (5) feet or more after one (1) full growing season and which shrubs will eventually grow to not less than ten (10) feet. (1972 Code, § 8-401, as renumbered by Ord. #894, April 2002, and Ord. #895, April 2002)

14-702. General regulations for mobile homes. (1) It shall be unlawful for any mobile home to be used, stored, or placed on any lot or serviced by the utilities of the city where said mobile home is outside of any designated and licensed mobile home park or approved mobile home subdivision (see subdivision regulations) after the date of passage of the provisions in this chapter, excepting mobile homes located on licensed mobile home sales lots, and except as provided in the following subsection.

(2) Any mobile home already placed on a lot outside of a mobile home park on or before the date of passage of the provisions in this chapter will be permitted to remain at its present location. Any mobile home site at any location with utility connections and other facilities constructed specifically for utilization as a permanent mobile home parking site, in existence prior to the date of passage of the provisions, shall be permitted to be utilized for parking

and servicing mobile homes hereafter. If said present mobile home shall remain vacant for a period of sixty (60) days, said mobile home owner shall be given, at the end of that sixty (60) days, a period not to exceed fifteen (15) days in which to remove said mobile home and to comply with all provisions of this chapter.

(3) No mobile home shall be used, placed, stored or serviced by utilities within the City of Athens or within any mobile home park in said city unless there is posted near the door of said mobile home a valid Tennessee State License. Mobile homes in mobile home subdivisions and any individually located mobile homes shall be assessed property taxes. (1972 Code, § 8-402, as renumbered by Ord. #894, April 2002, and Ord. #895, April 2002)

14-703. General regulations for mobile home parks. (1) Permit for mobile home park. No place or site within the city shall be established or maintained by any person, group of persons, or corporation as a mobile home park unless a valid permit is issued by the city building inspector in the name of such person or persons for the specific mobile home park. The city building inspector is authorized to issue, suspend, or revoke permits in accordance with the provisions of this chapter. See §§ 14-705 and 14-707.

Mobile home parks in existence as of the effective date of these provisions shall be required to obtain a mobile home park permit. Existing mobile home parks which cannot comply with the requirements regarding mobile home parks shall be considered as a non-conforming use, provided, however, if at any time the ownership of said park shall change, said new owner shall be given a period not to exceed thirty (30) days in which to comply with current mobile home park regulations in all respects and his failure to do so shall render him ineligible for a mobile home park permit at his present location.

Said existing mobile home parks shall comply with all state regulations applicable thereto which were in force prior to the establishment of said mobile home park.

(2) Inspections by city building inspector. The city building inspector is hereby authorized and directed to make inspections to determine the condition of mobile home parks in order that he may perform his duty of safeguarding the health and safety of occupants of mobile home parks and of the general public. The city building inspector shall have the power to enter at reasonable times upon any private or public property for the purpose of inspecting and investigating conditions relating to the enforcement of this chapter.

(3) Length of occupancy. No mobile home space shall be rented in any mobile home park except for periods of sixty (60) 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 American Standards Association Code Provisions A-119.1 - 1963, American Standard for Installation in Mobile Homes of Electrical, Heating and Plumbing Systems, or Mobile Homes Manufacturers Association, Mobile Home Standards for Plumbing, Heating and Electrical

Systems or any state administered code insuring equal or better plumbing, heating, or electrical installations.

(4) Location and planning. The mobile home park shall be located on a well-drained site and shall be so located that its drainage will not endanger any water supply and shall be in conformity with a plan approved by the city planning commission and shall be located in districts as specified in the zoning ordinance.

(5) Minimum size of mobile home park. The tract of land for the mobile home park shall comprise an area of not less than five (5) acres. The tract of land shall consist of a single plot so dimensioned and related as to facilitate efficient design and management.

(6) Minimum number of spaces. Minimum number of spaces completed and ready for occupancy before first occupancy is twelve (12).

(7) Minimum mobile home space and spacing of mobile homes. Each mobile home space shall be adequate for the type of facility occupying the same. Mobile homes shall be parked on each space so that there will be at least fifteen (15) feet of open space between mobile homes or any attachment such as a garage or porch,<sup>1</sup> and at least fifteen (15) feet end to end spacing between trailers and any building or structure, twenty (20) feet between any trailer and property line and thirty-five (35) feet from the right-of-way of any public street or highway and ten (10) feet from streets within the park. In addition, each mobile home space shall contain:

(a) A minimum lot area of three thousand (3,000) square feet;

(b) A minimum width of at least forty (40) feet and a minimum depth of at least seventy-five (75) feet;

(c) A minimum depth with end parking of an automobile equal to the length of the mobile home plus thirty (30) feet;

(d) A minimum depth with side or street parking equal to the length of the mobile home plus fifteen (15) feet.

(8) Common area. A centrally located area shall be provided for recreational use by the occupants of the mobile home park. This area shall be maintained in an attractive manner and shall be well drained and free from flood. The minimum size of this area shall be equal to three hundred (300) square feet per mobile home.

(9) Water supply. Where a public water supply is available, it shall be used exclusively. The development of an independent water supply to serve the mobile home park shall be made only after written approval of plans and specifications has been granted by the city engineer and county health officer.

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<sup>1</sup>If the construction of additional rooms or covered areas is to be allowed beside the mobile homes, the mobile home spaces shall be made wider to accommodate such construction in order to maintain the required fifteen (15) feet of open space.

In those instances where an independent system is approved, the water shall be from a supply properly located, protected, and operated, and shall be adequate in quantity and approved in quality. Samples of water for bacteriological examination shall be taken before the initial approval of the physical structure and thereafter at least every four (4) months and when any repair or alteration of the water supply system has been made. If a positive sample is obtained, it will be the responsibility of the mobile home park operator to provide such treatment as is deemed necessary by the health officer to maintain a safe, potable water supply. Water shall be furnished at the minimum capacity of two hundred and fifty (250) gallons per day per mobile home space. An individually metered water service connection shall be provided for each mobile home space.

(10) Sewage disposal. An adequate sewage disposal system must be provided and must be approved in writing by the health officer and city engineer. Each mobile home space shall be equipped with at least a six (6) inch sewer connection, trapped below the frost line and reaching at least four (4) inches above the surface of the ground. All sewer lines shall be laid in trenches separated at least ten (10) feet horizontally from any drinking water supply line.

Every effort shall be made to dispose of the sewage through a public sewerage system. In lieu of this, a septic tank and subsurface soil absorption system may be used provided the soil characteristics are suitable and an adequate disposal area is available. The minimum size of any septic tank to be installed under any condition shall not be less than seven hundred fifty (750) gallons working capacity. This size tank can accommodate a maximum of two (2) mobile homes. For each additional mobile home on such a single tank, a minimum additional liquid capacity of one hundred seventy-five (175) gallons shall be provided. The sewage from no more than twelve (12) mobile homes shall be disposed of in any one (1) single tank installation. The size of such tank shall be a minimum of two thousand five hundred (2,500) gallons liquid capacity.

The amount of effective soil absorption area or total bottom area of overflow trenches will depend on local soil conditions and shall be determined only on the basis of the percolation rate of the soil. The percolation rate shall be determined as outlined in Appendix A of the Tennessee Department of Health Bulletin, entitled "Recommended Construction of Large Septic Tank Disposal Systems for Schools, Factories and Institutions." This bulletin is available on request from the department. No mobile home shall be placed over a soil absorption field.

In lieu of a public sewerage or septic tank system, an officially approved package treatment plant may be used.

(11) Refuse. The storage, collection, and disposal of refuse in the park shall be so managed as to create no health hazards. All refuse shall be stored in fly proof, water tight, and rodent proof containers. Satisfactory container racks or holders shall be provided. Garbage shall be collected and disposed of in an approved manner at least twice per week.

(12) Electricity. An electrical outlet supplying at least two hundred twenty (220) volts shall be provided for each mobile home space and shall be weather proof and accessible to the parked mobile home. All electrical installations shall be in compliance with the National Electrical Code and Tennessee Department of Insurance and Banking Regulation No. 15, entitled "Regulation Relating to Electrical Installations in the State of Tennessee," and shall satisfy all requirements of the local electric service organization.

(13) Streets. Minimum widths of various streets within mobile home parks shall be:

- One-way, with no on-street parking . . . . . 12 ft.
- One-way, with parallel parking on one side only . . . . . 18 ft.
- One-way, with parallel parking on both sides . . . . . 26 ft.
- Two-way, with no on-street parking . . . . . 20 ft.
- Two-way, with parallel parking on one side only . . . . . 28 ft.
- Two-way, with parallel parking on both sides . . . . . 36 ft.

(14) Street or road base. The base shall consist of crushed stone, grade D, class B, compacted to six (6) inches, and constructed as specified in Section 303, Tennessee Department of Highways' Standard Specifications for Road and Bridge Construction, 1968.

(15) Asphaltic concrete surface course (hot mix). The asphaltic concrete surface course (paved surface) shall be constructed with asphaltic concrete (grading E) compacted to two (2) inches with not less than an average weight of two hundred (200) pounds per square yard and constructed as specified in Section 411, pages 258 through 260 of the Tennessee Department of Highways' Standard Specifications for Road and Bridge Construction (and subsequent revisions), January 1, 1968.<sup>1</sup>

(16) Parking spaces. Car parking spaces shall be provided in sufficient number to meet the needs of the occupants of the property and their guests without interference with normal movement of traffic. Such facilities shall be provided at the rate of at least one (1) car space for each mobile home lot plus an additional car space for each three (3) lots to provide for guest parking, for two-car tenants and for delivery and service vehicles. Car parking spaces shall be located for convenient access to the mobile home spaces. Where practical, one (1) car space shall be located on each lot and the remainder located in adjacent parking bays. The size of the individual parking space shall have a minimum width of not less than ten (10) feet and a length of not less than twenty (20) feet. The parking spaces shall be located so access can be gained only from internal streets of the mobile home park.

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<sup>1</sup>Standards and specifications as indicated in the Tennessee Department of Highways' Standard Specifications for Road and Bridge Construction, are subject to periodic revision. Revisions made in Sections 35 and 104 should be incorporated in new road construction.



(17) Buffer strip. An evergreen buffer strip shall be planted along all boundaries of the mobile home park (see definition). (1972 Code, § 8-403, as renumbered by Ord. #894, April 2002, and Ord. #895, April 2002)

14-704. General regulations for travel trailers and travel trailer parks.

(1) Occupied travel trailers restricted to parks. It shall be unlawful for any travel trailer to be occupied or serviced outside of any properly designated travel trailer park. This provision shall not apply to the storage of travel trailers provided said trailer unit is neither temporarily nor permanently occupied as a dwelling unit while within the city limits.

(2) Permit for travel trailer park. No place or site within the city shall be established or maintained by any person, group of persons, or corporation as a travel trailer park unless he holds a valid permit issued by the city building inspector in the name of such person or persons for the specific travel trailer park. The city building inspector is authorized to issue, suspend, or revoke permits in accordance with the provisions of this chapter.

(3) Inspections by city building inspector or county health officer. The city building inspector or county health officer is hereby authorized and directed to make inspections to determine the condition of travel trailer parks, in order that he may perform his duty of safeguarding the health and safety of the occupants of travel trailer parks and of the general public. The building inspector or county health officer shall have the power to enter at reasonable times upon any private or public property for the purpose of inspecting and investigating conditions relating to the enforcement of this chapter.

(4) Length of occupancy. Travel trailer spaces shall be rented by the day or week only, and the occupant of such space shall remain in the same travel trailer park not more than fourteen (14) days.

(5) Location. Travel trailer parks shall be located in districts as specified in the zoning ordinance of the City of Athens.

(6) Minimum size of travel trailer space. Each travel trailer space shall have a minimum width of thirty (30) feet and a minimum length of fifty (50) feet.

(7) Site planning improvements. Site planning improvements shall conform to the standards established in Regulations VIXX of the State Regulations Governing the Construction, Operation and Maintenance of Organized Camps in Tennessee, as provided in Chapter 65, Public Acts of 1965. (1972 Code, § 8-404, as renumbered by Ord. #894, April 2002, and Ord. #895, April 2002)

14-705. Permits. It shall be unlawful for any person or persons to maintain or operate, within the corporate limits of the city, any mobile home park unless such person or persons shall first obtain a permit therefor. (1972 Code, § 8-405, as renumbered by Ord. #894, April 2002, and Ord. #895, April 2002)

14-706. Fees for permits. An annual permit fee shall be required for mobile home parks and travel trailer parks.

(1) Mobile home parks. The annual permit fee for mobile home parks shall be twenty-five (25) dollars.

(2) Travel trailer parks. The annual permit fee for each travel trailer park shall be twenty-five (25) dollars. (1972 Code, § 8-406, as renumbered by Ord. #894, April 2002, and Ord. #895, April 2002)

14-707. Application for permit. (1) Mobile home parks. The application for a mobile home park shall be filed with and issued by the city building inspector subject to the planning commission's approval of the mobile home park plan. The application shall be in writing and signed by the applicant and shall be accompanied by an approved plan of the proposed mobile home park. The plan shall contain the following information and conform to the following requirements:

- (a) The plan shall be clearly and legibly drawn at a scale not smaller than one hundred (100) feet to one (1) inch;
- (b) Name and address of owner of record;
- (c) Proposed name of park;
- (d) North point and graphic scale and date;
- (e) Vicinity map showing location and acreage of mobile home park;
- (f) Exact boundary lines of the tract by bearing and distance;
- (g) Names of owners of record of adjoining land;
- (h) Existing streets, utilities, easements, and water courses on and adjacent to the tract;
- (i) Proposed design including streets, proposed street names, lot lines with approximate dimensions, easements, land to be reserved or dedicated for public uses, and any land to be used for purposes other than mobile home spaces;
- (j) Provisions for water supply, sewerage, and drainage;
- (k) Such information as may be required by the city to enable it to determine if the proposed park will comply with legal requirements; and

(l) The application and all accompanying plans and specifications shall be filed in triplicate.

Certificates that shall be required are:

- (i) owner's certification;
- (ii) planning commission's approval signed by the secretary; and
- (iii) any other certificate deemed necessary by the planning commission.

(2) Individual mobile homes. The application for an individual mobile home permit shall be filed with and issued by the city building inspector.

Applications shall be in triplicate form and signed by the applicant. The application shall contain the following:

- (a) The name of the applicant who is to reside in the mobile home;
- (b) The location of the mobile home;
- (c) A description of the mobile home, make, model and year;
- (d) The state mobile home license number and date; or if property taxes are being paid by the applicant for said mobile home, applicant shall indicate date taxes last paid and amount.
- (e) Any additional information as may be required by the city to enable it to determine if the mobile home and site will comply with all legal requirements.

(3) Travel trailer parks. Applications for travel trailer parks shall meet the same requirements as contained in subsection (1). (1972 Code, § 8-407, as renumbered by Ord. #894, April 2002, and Ord. #895, April 2002)

14-708. Enforcement of chapter. It shall be the duty of the county health officer and city building inspector to enforce provisions of this chapter.

Where septic tanks are to be used, the planning commission shall require certificates of approval by the county health officer. (1972 Code, § 8-408, as renumbered by Ord. #894, April 2002, and Ord. #895, April 2002)

14-709. Appeals. (1) Board of appeals. The Athens Regional Planning Commission shall serve as the board of appeals and shall be guided by procedures and powers compatible with state law.

Any party aggrieved because of an alleged error in any order, requirement, decision, or determination made by the building inspector in the enforcement of this chapter may appeal for and receive a hearing by the board of appeals (advised by the city attorney) for an interpretation of pertinent chapter provisions. In exercising this power of interpretation of this chapter, the board of appeals, with advice from the city attorney, may, in conformity with the provisions of this chapter, reverse or affirm any order, requirement, decision, or determination made by the building inspector.

(2) Appeals from board of appeals. Any person or persons or any board, taxpayer, department, or bureau of the city aggrieved by any decision of the board of appeals and the city attorney may seek review, by a court of record, of such decision in the manner provided by the laws of the State of Tennessee. (1972 Code, § 8-409, as renumbered by Ord. #894, April 2002, and Ord. #895, April 2002)

14-710. Violations. Any person or corporation who violates the provisions of this chapter or the rules and regulations adopted pursuant hereto, or fails to perform the reasonable requirements specified by the city building inspector or county health officer, after receipt of five (5) days written notice of such

requirements, shall be fined under the general penalty clause for this code of ordinances. (1972 Code, § 8-410, as renumbered by Ord. #894, April 2002, and Ord. #895, April 2002)