

TITLE 11

PLANNING AND ZONING

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CHAPTER 1

MUNICIPAL PLANNING PROVISIONS

SECTION

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11-101. Creation and purpose. In order to guide and accomplish a coordinated and harmonious development of the town which will, in accordance with existing and future needs, best promote public health, safety, morals, order, convenience, prosperity, and general welfare as well as efficiency and economy in the process of development, a municipal planning commission is hereby created and established as authorized by title 13, chapter 4, part 1,

Tennessee Code Annotated, and the planning commission shall be organized and empowered as provided in this chapter. (Ord. of June 8, 1967)

11-102. Membership. The municipal planning commission shall consist of nine (9) members. One (1) of the members shall be the Mayor of the Town of Jonesborough or a person designated by the mayor. One (1) shall be a member of the board of mayor and aldermen, selected by said board. Five (5) members shall be citizens of Jonesborough approved by the mayor. Two (2) members shall be citizens of Washington County appointed by the mayor who reside outside of Jonesborough's corporate limits but within Jonesborough's planning region. The terms of the seven (7) appointive members shall be for three (3) years. Any vacancy in an appointive membership shall be filled for the unexpired term by the mayor, who shall have the authority to remove an appointive member at his or her pleasure. The term of the member selected from the board of mayor and aldermen shall run concurrently with his or her membership on the board of mayor and aldermen. All members shall serve without compensation. (Ord. of June 8, 1967, as amended by Ord. #96-06, July 1996, and replaced by Ord. #2007-10, Sept. 2007)

11-103. Organization, rules, staff, and finances. The planning commission shall elect its chairman from among its appointive members. The term of chairman shall be one year with eligibility for re-election. The planning commission shall adopt rules for the transactions, findings, and determinations, which record shall be a public record. The planning commission may appoint such employees and staff as it may deem necessary for its work and may contract with town planners and other consultants for such services as it may require. The expenditures of the planning commission, exclusive of gifts, shall be within the amounts appropriated for the purpose by the board of mayor and aldermen. (Ord. of June 8, 1967)

11-104. Powers and duties. From and after the time when the planning commission shall have organized and selected its officers, together with the adoption of its rules or procedures, then it shall have all the powers, duties, and responsibilities as authorized by all applicable provisions of title 13 of the Tennessee Code Annotated or other acts relating to the duties and powers of municipal planning commissions adopted subsequent thereto. (Ord. of June 8, 1967)

11-105. Public notification. The planning commission shall attempt to provide written notification of any rezoning requests to either the ten (10) closest adjacent property owners or every property owner within two hundred (200) feet of the property requested to be rezoned, whichever will potentially result in contacting the most property owners. Said notification shall be no fewer than ten (10) calendar days before the commission meets to consider the

request with the time requirement beginning the day the notification is postmarked or delivered to the residence if not mailed. The planning commission shall notify adjacent property owners in writing of any rezoning request a minimum of ten (10) calendar days before the commission meets to consider the request. Notification shall include identification of the parcel, current zoning status, the requested zone, and the date, location and time of the planning commission meeting in which the request will be considered. In addition, the planning commission will direct the building inspector, or his/her designee, to erect a sign on the parcel requested to be rezoned, stating the zone requested and the date and location of the meeting in which the rezoning request will be considered. Said sign will be erected a minimum of ten (10) days before the meeting in which the request is considered, shall be erected in the most visible location to the general public, and shall be a minimum size of two (2) feet by three (3) feet. A notification fee of two hundred fifty dollars (\$250.00) must accompany any rezoning request made to the Jonesborough Planning Commission. (as added by Ord. #93-09, Oct. 1993, and amended by Ord. #2007-02, March 2007)

CHAPTER 2

STORMWATER MANAGEMENT AND EROSION
AND SEDIMENT CONTROL

SECTION

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11-201. Short title. This chapter shall be known as the "Peak Stormwater Management and Erosion and Sediment Control Ordinance of the Town of Jonesborough, Tennessee." (Ord. of Feb. 12, 1974, as replaced by Ord. #99-12, Sept. 1999, Ord. #2001-13, Sept. 2001, Ord. #2005-09, March 2005, Ord. #2008-13, Oct. 2008, Ord. #2012-09, July 2012, and Ord. #2015-04, April 2015 *Ch14_04-09-18*)

11-202. Purpose. The purpose of this chapter is to conserve the land, water and other natural resources of the Town of Jonesborough; and promote the public health and welfare of the people by establishing requirements for the peak flow control of stormwater, erosion and sediment and by establishing procedures whereby these requirements shall be administered and enforced; and to diminish threats to public safety from degrading water quality caused by the run-off of excessive stormwaters and associated pollutants; and to reduce flooding and the hydraulic overloading of the town's stormwater system; and to reduce the economic loss to individuals and the community at large. (Ord. of Feb. 12, 1974, as replaced by Ord. #99-12, Sept. 1999, Ord. #2001-13, Sept. 2001, Ord. #2005-09, March 2005, Ord. #2008-13, Oct. 2008, Ord. #2012-09, July 2012, and Ord. #2015-04, April 2015 *Ch14_04-09-18*)

11-203. Definitions. For the purpose of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

(1) "Adequacy of outfalls." The capacity of the receiving channel, stream, waterway, storm drain system, etc., and a determination whether it is adequately sized to receive runoff from the developed site so as to not cause erosion and/or flooding.

(2) "Best Management Practices (BMPs)." A schedule of activities, prohibitions of practices, design, construction and maintenance procedures, and other management practices to prevent the pollution of stormwater runoff.

(3) "Development." Any activity on one (1) acre or more or on three (3) lots or more that involves making changes to the land contour by grading, filling, excavating, removal, or destruction of topsoil, trees, or vegetative covering.

(4) "Denuded area." Areas disturbed by grading, tilling, or other such activity in which all vegetation has been removed and soil is exposed directly to the elements allowing for the possibility of erosion and stormwater and sediment run-off.

(5) "Developer." Any person, owner, individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or their legal representatives, agents or assigns.

(6) "Drainage." A general term applied to the removal of surface or subsurface water from a given area either by gravity or by pumping; commonly applied to surface water/stormwater.

(7) "Drainage ways and local waters." Any and all streams, creeks, branches, ponds, reservoirs, springs, wetlands, wells, drainage ways and wet weather ditches, or other bodies of surface or subsurface water, natural or artificial including Jonesborough's stormwater system; lying within or forming a part of the boundaries of the Town of Jonesborough, or the areas under the regulatory responsibility of the Jonesborough Planning Commission that are adjacent to or intended to be served by the Jonesborough Sewer System.

(8) "Enforcement officer." The building inspector, the public works director or any other person designated by the Jonesborough Board of Mayor and Aldermen to enforce the stormwater management, erosion and sediment control ordinance.

(9) "Erosion." The general process whereby soils are moved by flowing surface or subsurface water.

(10) "Exceptional and historical trees." Those trees or stands of trees that are exceptional representatives of their species in terms of size, age, or unusual botanical quality, or which are associated with historical events.

(11) "Exceptional waters of the state." Surface waters of the State of Tennessee that satisfy the characteristics as listed in Rule 1200-4-3-.06 of the official compilation - rules and regulations of the State of Tennessee. Characteristics include waters with exceptional biological diversity or other waters with outstanding ecological or recreational value as determined by the State of Tennessee.

(12) "Grading permit." The permit that must be issued by the building inspector, or in his/her absence, an enforcement officer, before any land disturbing activity is undertaken by a developer; or when grading, filling, or excavating is proposed on any project. Even though issued separately, grading permit fees shall be covered under the cost of building permits.

(13) "Impaired waters of the state." Any segment of surface waters that has been identified by the State of Tennessee as failing to support classified uses. The State of Tennessee periodically compiles a list of such waters known as the 303(d) list.

(14) "Land disturbing activity." Means any activity which may result in soil erosion from water or wind and the movement of sediments into drainage

ways, or local waters, including, but not limited to, clearing, grading, excavating, transportation and filling of land, except that the term shall not include:

- (a) Such minor land disturbing activities as home gardens and individual home landscaping, repairs and maintenance work.
- (b) Construction, installation or maintenance of utility lines and individual service connections, or septic lines and drainage fields.
- (c) Emergency work to protect life, limb or property.

(15) "Stormwater management facility." Term is used in a general sense to mean retention ponds, detention ponds, sediment basins, sediment traps, and any other structure that is constructed to reduce or control stormwater run-off and prevent silt and other pollutants from entering the town's waterways. When terms such as sediment basins and detention ponds are used in this chapter, they are also intended to describe a variety of possible structures whose applications in certain circumstances helps control stormwater and waterway pollutants.

(16) "Stormwater plan." For the purpose of this chapter; a stormwater plan refers to a formal written document and/or drawing addressing grading, stabilization using vegetation, stormwater conveyance, stormwater management, and erosion and sediment controls, as specified in §§ 11-205 through 11-208, that is reviewed by the public works director and/or building inspector with possible other technical assistance as deemed necessary, reviewed by the Jonesborough Planning Commission, and if approved by the planning commission is used as the basis for the building inspector to issue a grading permit that allows land disturbing activity to proceed.

(17) "SWPPP (Stormwater Pollution Prevention Plan)." This is a combination of an erosion and sediment control plan and a narrative in accordance with the State of Tennessee's current construction general permit.

(18) "Waters of the state." Defined in the Tennessee Water Quality Control Act and means any and all water, public or private, on or beneath the surface of the ground, which are contained within, flow through or border upon Tennessee or any portion thereof except those bodies of water confined to and retained within the limits of private property in single ownership which do not combine to effect a junction with natural surface or underground waters. (Ord. of Feb. 12, 1974, as replaced by Ord. #99-12, Sept. 1999; Ord. #2001-13, Sept. 2001, Ord. #2005-09, March 2005, Ord. #2008-13, Oct. 2008, Ord. #2012-09, July 2012, and Ord. #2015-04, April 2015 **Ch14_04-09-18**)

11-204. Regulated land disturbing activities. (1) Except as provided in subsections 11-204(2) and (3), it shall be unlawful for any person to engage in any land disturbing activity on any commercial development, on any multi-family development, or any single-family development, construction, or renovation activity involving at least one (1) acre of land disturbance, construction activity that is part of a larger common development or sale that

would disturb at least one (1) acre of land, or three (3) lots or more without submitting and obtaining approval of a stormwater plan as detailed in §§ 11-206 through 11-209 of this chapter, and being issued a grading permit by the building inspector.

(2) Any person who owns, occupies and operates private agriculture or forest lands shall not be deemed to be in violation of this chapter of land disturbing activities which result from the normal functioning of these lands, however, the public works director and the building inspector have the authority to require "best practices" erosion and sediment control measures if pollution and run-off problems are evident.

(3) Any state or federal agency not under the regulatory authority of the Town of Jonesborough for stormwater management, erosion and sediment control. (Ord. of Feb. 12, 1974, as replaced by Ord. #99-12, Sept. 1999, Ord. #2001-13, Sept. 2001, Ord. #2005-09, March 2005, Ord. #2008-13, Oct. 2008, and Ord. #2015-04, April 2015 *Ch14_04-09-18*)

11-205. Permit required for any land disturbing activity. Any land disturbing activity, as defined, shall require a grading permit, in addition to any building permit, which must be issued by the building inspector prior to the commencement of any work. Grading permits for regulated land disturbing activities as defined in § 11-204 will be issued by the building inspector only upon the developer meeting requirements outlined in §§ 11-206 through 11-209 of this chapter which includes obtaining approval of a stormwater plan by the Jonesborough Planning Commission. Building permit fees will cover the cost of obtaining a grading permit.

A grading permit is also required for any development or construction activity on less than one (1) acre of land. However, said development and construction activities do not require a formal stormwater plan unless they are commercial or multi-family developments or a stormwater plan is specifically requested by the planning commission.

A pre-construction meeting shall be held between the Town of Jonesborough and the developer (or their representative) for any project that discharges directly into or is immediately upstream of a siltation or stream-side habitat impaired or exceptional waters of the state. No grading operations may take place until after the pre-construction meeting and perimeter sediment control devices are in place and functional. (Ord. of Feb. 12, 1974, as replaced by Ord. #99-12, Sept. 1999, Ord. #2001-13, Sept. 2001, Ord. #2005-09, March 2005, Ord. #2008-13, Oct. 2008, Ord. #2012-09, July 2012, and Ord. #2015-04, April 2015 *Ch14_04-09-18*)

11-206. Stormwater plan required. A stormwater plan shall be required for all developments, subdivisions, or construction activities involving one (1) or more acres, of land disturbance, construction activity that is part of a larger common development or sale that would disturb at least one (1) acre of land, or

three (3) lots or more, except as exempted in §§ 11-204(2) and 11-204(3) of this chapter. A stormwater plan shall be required for all commercial construction or renovation, or any multi-family residential facility regardless of the acreage or number of units. If necessary to protect the health and safety of the people, the planning commission may, at its discretion, require a stormwater plan for any development or renovation under an acre, or single-family subdivision with less than three (3) lots. (Ord. of Feb. 12, 1974, as replaced by Ord. #99-12, Sept. 1999, Ord. #2001-13, Sept. 2001, Ord. #2005-09, March 2005, Ord. #2008-13, Oct. 2008, Ord. #2012-09, July 2012, and Ord. #2015-04, April 2015 *Ch14_04-09-18*)

11-207. Plan requirements. The stormwater plan shall be prepared and designed by a registered design professional qualified to prepare stormwater plans in accordance with State of Tennessee law and in accordance with the current State of Tennessee Construction General Permit, where applicable. The length and complexity of the plan is to be commensurate with the size of the project, severity of the site condition, and the potential for off-site damage.

For projects which require a construction general permit through the State of Tennessee, the SWPPP (plan and narrative) shall be prepared by a person in accordance with the current State of Tennessee Construction General Permit and submitted to the town. The SWPPP shall contain all required information at required by the current State of Tennessee Construction General Permit. Be aware that the requirements for projects which drain into impaired or exceptional waters of the state are different than for projects draining to an unimpaired water of the state.

The plan shall include at least the following:

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

(2) Contour intervals of five feet (5') or less showing present conditions and proposed contours resulting from land disturbing activity.

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

(4) A general description of existing land cover; individual trees and shrubs do not need to be identified.

(5) 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 in feet per inches. 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 but must

meet guidelines established in chapter 5 of title 11 of the municipal code. The plan must include the sequence of implementation for tree protection measures.

(6) Limit of disturbance showing approximate limits of proposed clearing, grading and filling.

(7) Drainage area map showing pre and post development stormwater leaving any portion of the site.

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

(9) Location, size, details, and layout of proposed stormwater management improvements. Provide appropriate details such as a profile through the principal spillway with cut-off trench, anti-seep control, trash rack details, compaction/backfill details or notes, riser detail, outlet stabilization, and emergency spillway detail for detention ponds and other details/sections as needed for the contractor to build the structures.

Any opening in a riser structure and its overflow shall have a trash rack to prevent the openings, the riser, and/or the principal spillway from becoming clogged. The trash racks shall not be flat across the openings.

Provide hydraulic calculations sealed by a registered professional engineer for stormwater facilities. As a minimum, the calculations shall include a pre and post development drainage area map, brief narrative, pre and post development run-off data, and routing calculations to determine the outflow rate.

(10) Proposed closed and open drainage network.

(11) Proposed storm drain or waterway sizes.

(12) Location and amount of stormwater run-off leaving site after construction and stormwater management measures proposed. 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 and storm drains, if any, accepting stormwater off-site, and what measures including infiltration, sheeting into buffers, outfall setbacks, etc. are to be used to spread concentrated run-off and prevent the scouring of waterways and drainage areas off-site.

If the downstream storm drain or waterway is not of sufficient size to handle the post development run-off, or even the pre-development a review shall be undertaken to determine if any reasonable accommodation can be given in the stormwater plan to reducing the likelihood of problems downstream. The plan will be expected to address, to the extent reasonable, improvements that will reduce the release rate to no greater than the capacity of the downstream storm drains or waterways.

Outfall pipes from storm drain systems and stormwater management facilities shall be setback sufficiently from off-site properties to allow the concentrated water to spread out back to pre-development flow characteristics.

Under no circumstance shall an outfall pipe, as measured from the end section, headwall, or pipe, if no end structures used, be any closer than ten feet (10') from the off-site property unless a drainage easement from the off-site property owner is obtained and recorded. The outfall setback shall be determined by the engineer and shall be based on outflow rate and the receiving channel or pipe characteristics.

Stormwater discharge from a concentrated point such as a pipe outfall shall discharge onto rip-rap or other velocity/energy dissipating method to reduce erosion potential. All rip-rap or other stone used to reduce velocity shall be placed on a geotextile to prevent scouring and the stone from sinking into the underlying soil.

The overflow path through the site and from any stormwater management device for stormwater run-off above the design storm event, shall not impact any structure.

(13) The projected sequence of construction represented by the grading, drainage and erosion and sediment 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 stormwater facilities. The sequence of construction is a vital component of the stormwater plan and it explains to the contractor, and building inspector, when the drainage and sediment control devices are to be in place.

The sequence of construction shall state that no clearing or grading may begin until all perimeter sediment control devices are in place and functional.

(14) Specific remediation measures to prevent erosion and sediment run-off and to meet approved standards as outlined in § 11-208 of this chapter. Plans shall include detailed drawings of all control measures used; stabilization measures including vegetation and non-vegetative 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.

If a detention pond is to be used initially as a temporary sediment basin, then appropriate details and notes shall be provided showing how the pond will increase the residence time of the sediment laden water and when and how the sediment basin is to be converted to a permanent detention pond. Typically this conversion occurs once the upland drainage area to the pond has been stabilized. The sequence of construction shall include notes on when these activities are to take place.

The use of earth berms/dikes, swales, sediment traps, outlet structures, and sediment basins are strongly encouraged over the use of silt fence and straw bales for long term projects and where concentrated run-off is present.

All disturbed areas that will not be disturbed again within fourteen (14) days shall be temporarily or permanently stabilized with seed, mulch, and/or other appropriate measures within fourteen (14) days of grading or clearing operations ceasing. It is very important that disturbed soil be stabilized as soon as possible to prevent sediment run-off. For slopes 3:1 or steeper, they must be

temporarily or permanently stabilized within seven (7) days of grading ceasing on those slopes.

(15) A stone construction exit per the Tennessee Sediment Control Handbook shall be provided for all construction ingress/egress points for all construction projects including single lot construction. This is required in order to prevent mud, sediment, and debris on Jonesborough streets and public ways at a level acceptable to the public works director or building inspector. Mud, sediment, and debris brought onto streets and public ways must be removed by the end of the day by machine, broom or shovel to the satisfaction of the public works director. Failure to remove said sediment, mud or debris shall be deemed a violation of this chapter.

It is the contractor's responsibility to prevent sediment from leaving the construction site and this includes sediment leaving the site by way of run-off flowing out the entrance or by vehicular tires carrying the sediment into the street. If there is run-off flowing down the construction exit to the street, a mountable stone berm or equivalent measures shall be used to direct the run-off to sediment control devices adjacent to the exit. The use of smaller stone or gravel other than shown in the Tennessee Sediment Control Handbook is not permitted.

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

(17) A description of on-site measures to be taken to recharge surface water in to the ground water system through infiltration, if appropriate for the site.

(18) The plan must have the seal of the design professional responsible for creating the plan. The stamped and signed plan, if approved, shall be copied and be the official plan that must be available in the field during construction. (as added by Ord. #99-12, Sept. 1999, and replaced by Ord. #2001-13, Sept. 2001, Ord. #2005-09, March 2005, Ord. #2008-13, Oct. 2008, Ord. #2012-09, July 2012, and Ord. #2015-04, April 2015 *Ch14_04-09-18*)

11-208. Plan must contain measures to meet approved standards. The stormwater plan shall contain measures that will ensure development, construction or site work will meet or exceed the following standards:

(1) The development fits within the topography and soil conditions in a manner that allows stormwater and erosion and sediment control measures to be implemented in a manner satisfactory to the Jonesborough Planning Commission. Development shall be accomplished so as to minimize adverse effects upon the natural or existing topography and soil conditions and to minimize the potential for erosion.

(2) Plans for development and construction shall seek to minimize cut and fill operations. Construction and development plans calling for excessive cutting and filling shall be justified to the Jonesborough Planning Commission.

(3) During development and construction, adequate protective measures shall be provided to minimize damage from surface water to the cut face of excavations or the sloping surfaces of fills. Fills shall not encroach upon natural water courses, their flood plains; or constructed channels in a manner so as to adversely affect other properties.

(4) Pre-construction vegetation ground cover shall not be removed, destroyed, or disturbed prior to obtaining a grading permit. Perimeter sediment controls shall be in place prior to the start of clearing or grading operations.

(5) Developers shall be responsible upon completion of land disturbing activities to leave slopes and developed or graded areas so that they will not erode. Such methods include, but are not limited to, re-vegetation, mulching, rip-rapping or gunniting, and retaining walls. Bank cuts and fills should preferably be 3:1 slopes or flatter; however, they shall not exceed a 2:1 slope without planning commission approval and must be permanently stabilized. Regardless of the method used, the objective is to leave the site as erosion and maintenance free as is practical.

(6) Provisions are implemented that accommodate any increased in stormwater run-off generated by the development in a manner in which the pre-development levels of run-off for the two- and ten-year storm events are not increased during and following development and construction. The board of mayor and aldermen reserves the right to require stormwater management to maintain pre-development levels of run-off for the 25-, 50-, 100-year storm event, when it is determined that it is in the best interest of the town to consider "partnering" with the developer to further reduce stormwater flows onto adjoining properties or if a known flooding problem exists downstream.

Any stormwater detention or retention pond shall also be designed to pass the 100-year storm (peak attenuation to the 100-year pre-development rate is not required) through the pond without over topping any portion of the dam. This can be accomplished through the principal spillway and emergency spillway, which shall be installed on virgin soil and not to be placed on fill material or the dam. If it is not feasible to place the emergency spillway on virgin soil then the principal spillway shall be designed for the 100-year storm.

To the extent necessary, sediment in run-off water must be trapped by the use of sediment basins, silt traps or other sediment control measures until the disturbed area is stabilized. Structural controls shall be designed and maintained as required to prevent pollution. The town strongly encourages the use of sediment traps/basins and earth berms/dikes for sediment control measures. Silt fence may be used but should not always be the first or only device considered.

All off site surface water flowing toward the construction or development area shall, to the extent possible, be diverted around the disturbed area by using berms, channels, or other measures as necessary. Limiting the amount of run-off, especially concentrated run-off, from flowing through the construction site can be extremely helpful in preventing or significantly reducing sediment

run-off. Under no circumstances, unless a drainage easement is obtained, may be diverted off site run-off be redirected onto off site properties or be diverted onto an off site property's existing drainage way in a manner that would cause harm to the property.

(7) All grading, vegetation, drainage, stormwater, erosion and sediment control mitigation measures shall conform to any or all best management practices approved and revised from time to time by the board of mayor and aldermen and meet the requirements of the current State of Tennessee's Erosion and Sediment Control Handbook.

(8) All perimeter sediment control devices such as earth berms/dikes, swales, sediment basins, sediment traps, and other perimeter drainage and sediment control measures shall be installed in conjunction with initial work and must be in place and functional prior to the initial grading operations. These measures must be maintained throughout the development process. Sediment basins and/or sediment traps may be temporary, but shall not be removed without the approval of an enforcement officer.

(9) Existing trees shall not be cut or otherwise damaged or destroyed within portions of the property to be used for required open space, if required, setback or buffer requirements of the Jonesborough Zoning Ordinance or the Jonesborough Landscape Ordinance, without the formal approval of the Jonesborough Planning Commission. When hardships or development problems exist in these areas, the Jonesborough Planning Commission may entertain plans that include planted trees and vegetation in setback and buffer areas.

The town strongly encourages the developer or builder to not remove existing trees in order to construct a stormwater management facility.

(10) Heritage trees in setbacks, buffer strips and required open spaces shall not be removed without receiving approval of the Jonesborough Planning Commission. The Jonesborough Building Inspector, with the possible technical assistance of the Washington County Extension Agent and the soil conservationist, shall make the initial determination related to any exceptional and/or historical trees prior to review by the planning commission and the issuance of grading and building permits.

(11) A permanent undisturbed buffer shall be provided from the top of bank along both sides of streams, rivers, lakes, wetlands, or other waters of the state except as necessary for the installation of utilities, development of roads crossing the waterway, trails and walkways, or construction of outfalls for stormwater facilities and related drainage improvements and for removal of invasive species to enhance the existing buffer. These utility, road, trail/walkway, and stormwater outfall disturbances shall be designed to minimize disturbance and impact on the waters of the state and their buffers. Any disturbance to streams, wetlands, or other waters of the state require an aquatic resource alteration permit through the State of Tennessee.

The buffer widths are based on the drainage area to the point along the stream or other waters of the state where the buffer is being determined:

(a) For drainage area less than one (1) square mile, the buffer is thirty feet (30').

(b) For drainage areas one (1) square mile or more, the buffer is sixty feet (60') average with a thirty foot (30') minimum width. To use the sixty foot (60') average/thirty foot (30') minimum method, it must be shown that the straight sixty foot (60') width would be a hardship to developing the property and may not be based solely on the difficulty or the cost of implementation.

If it is not practical to provide the required buffer or only a portion of the buffer can be provided, approval through the Town of Jonesborough Board of Zoning Appeals must be obtained. Justification for this variance must be justified in accordance with the Town of Jonesborough Board of Zoning Appeals criteria.

During construction, a temporary thirty foot (30') average (fifteen foot (15') minimum) undisturbed buffer or equivalent measures, shall be provided from the top of the stream bank. If the stream or water of the state is impaired due siltation or streamside habitat removal or is an exceptional water of the state, the temporary undisturbed buffer during construction is increased to a sixty foot (60') average (thirty foot (30') minimum) or equivalent measures.

(12) Soil and other materials shall not be temporarily or permanently stored in locations which would cause suffocation of root systems of trees intended to be preserved. Stockpiled soils shall have silt fencing or other sediment control measures surrounding, and shall be located away from street, curbs and drainage ways to prevent sediment from getting into local waters or streets and public ways.

(13) Land shall be developed to the extent possible in increments of workable size, which can be completed in a single construction season, spring to fall. Erosion and sediment control measures shall be coordinated with the sequence of construction, development and construction operations. Control measures such as berms, interceptor ditches, terraces, and sediment and silt traps shall be put into effect prior to any next stage of development.

(14) The permanent vegetation shall be installed on areas of the construction site that are outside of the building area, pad or footprint, as soon as utilities are in place and final grades are achieved. Without prior approval of an alternate plan by the Jonesborough Planning Commission, permanent or temporary soil stabilization must be applied to disturbed areas outside of the building pad or footprint within fourteen (14) days from substantial completion of grading, or where these disturbed areas outside the building site will remain unfinished for more than fourteen (14) calendar days. The building area should be stabilized with a concrete pad or the footprint covered with gravel.

(15) Stormwater management facilities and drainage structures shall, where possible, use natural topography and natural vegetation. In lieu thereof, these structures shall have planted trees and vegetation such as shrubs and permanent ground cover on their borders, except no woody vegetation such as

trees and shrubs shall be planted on dam areas or within twenty-five feet (25') of the dam. Plant varieties shall be those sustainable in a drainage way environment or as may be outlined in best management practices.

Landscaping of detention ponds shall be in accordance with the Town of Jonesborough Detention Pond Landscape Manual.

(16) In many situations stormwater management facilities and drainage structures need to be fenced in order to protect public safety. The Jonesborough Planning Commission may require fencing for any basin or structure. When fencing is required, the following specifications apply:

(a) Height minimum of forty-two inches (42").

(b) For residential areas and high visibility commercial areas, the fencing shall be split rail with black or green vinyl coated wire attached, or some other type of attractive fencing but shall not be chain link fencing.

For commercial and industrial uses, the fencing may be chain link up to six feet (6') tall if the fencing is not visible from residential zone or used property or a public right of way. Under no circumstances may barbed wire be used.

(c) A lockable access gate of a minimum width of twelve feet (12') must be provided to allow access by equipment and machinery as needed for maintenance.

(d) An adequate access road to the gate sufficient for maintenance vehicles and equipment.

The Jonesborough Planning Commission may consider and approve other fencing alternatives provided that the alternatives presented meet minimum safety and security objectives.

(17) Stormwater plans must meet minimum requirements established by the State of Tennessee's Construction General Permit, where applicable, and in their erosion and sediment control handbook. If there is a conflict between these regulations and the State of Tennessee's regulation, the most stringent regulation shall apply.

All erosion and sediment control devices shall be designed for the two (2) year, 24-hour storm as a minimum. For drainage area of ten (10) acres or more to a single outfall point, a sediment basin(s) or equivalent measures shall be used and designed for the 2-year, 24-hour storm.

For projects which drain into an impaired or exceptional water of the state, the erosion and sediment control devices shall be designed for the 5-year, 24-hour storm and a sediment basin or equivalent measures shall be used for drainage areas of five (5) acres or more to a single outfall point.

(18) The Town of Jonesborough wishes to minimize the negative effects of development on our environment, on our economy, and on our health while at the same time reducing development costs for the developers and maintenance costs for the town and the developer. All efforts should be utilized to implement site design and non-structural stormwater management practices

to reduce and minimize runoff in new development. Efforts to enhance infiltration, passage or movement of water into the soil surface, reduction of hard surfaces, minimizing the concentration of runoff, and lengthening of the time of concentration should be a priority.

The following BMPs and stormwater credits can be applied to the peak and water quality stormwater calculations thereby reducing the size and cost of the stormwater BMPs:

(a) Natural area conservation. The preservation of forest, wetlands, pasture land, and other sensitive areas of existing vegetation thereby retaining pre-development hydrologic and water quality characteristics. If these areas are undisturbed and placed in a recorded protective easement, these areas may be subtracted from the total site area when calculating water quality volume. The post development curve numbers for these areas can be modeled as forest in good condition.

(b) Disconnection of rooftop runoff. Rooftop runoff that is disconnected from another impervious surface and directed over a pervious area will infiltrate into the soil or be filtered by the surface material. The longer the flow path of the water from the pipe across vegetated areas, the greater the filtering and infiltration of the run-off which in turn improves water quality and reduces downstream run-off.

If the lot is graded to disperse the rooftop runoff as sheet flow through at least fifty feet (50') of thick grass or other thick vegetation or through at least twenty-five feet (25') of existing woodlands, fifty percent (50%) of the rooftop impervious area draining through the vegetation may be modeled as grass in good condition when calculating the post development curve number. If reforestation or planted landscape beds equal in area to fifty percent (50%) of the rooftop area is placed in the path of the disconnected rooftop runoff, then the remaining fifty percent (50%) of the rooftop impervious area may be modeled as grass in good condition when calculating the post development curve number.

If the rooftop runoff is discharged into a properly designed and constructed bioretention facility/rain garden onsite, one hundred percent (100%) of the rooftop impervious area draining to the device may be modeled as grass in good condition when calculating the post development curve number.

In addition, under both conditions listed above, the total impervious area in the water quality calculations may be reduced relative to the impervious area reduction associated with the curve number credit.

If downspouts need to be piped away from building foundations to prevent damage to the foundations, the pipes must outfall at least ten feet (10'), preferable further, from any property line. If the downspouts are piped and the runoff cannot disperse in accordance with the above requirements, no stormwater credit is available.

(c) Disconnection of non-rooftop impervious runoff. Rooftop runoff that is disconnected from another impervious surface and directed over a pervious area will infiltrate into the soil or be filtered by the surface material. The longer the flow path of the water across vegetated areas, the greater the filtering and infiltration of the runoff which in turn improves water quality and reduces downstream runoff.

Discharging run-off from impervious surfaces onto pervious surfaces through the use of pervious pavers, permeable paving surfaces, rain gardens/bioretention facilities, grassed swales, use of open road sections in lieu of curbed roads, and by grading the site so that run-off travels from an impervious surface to a pervious surface before being collected in a drainage system. All of these increase filtering and infiltration of stormwater before the flows become concentrated and this in turn improves water quality and reduces downstream run-off which means pipes, swales, ditches, and stormwater facilities can be smaller.

Avoid sending run-off from one impervious surface directly onto another impervious surface. Place pervious surfaces between impervious surfaces along the run-off path.

If the site is graded to disperse the impervious runoff as sheet flow through at least fifty feet (50') of thick grass or other thick vegetation or through at least twenty-five feet (25') of existing woodlands, fifty percent (50%) of the impervious area draining through the vegetation may be modeled as grass in good condition when calculating the post development curve number. If the impervious runoff is discharged into a properly designed and constructed bioretention facility/rain garden onsite, one hundred percent (100%) of the impervious area draining to the device may be modeled as grass in good condition when calculating the post development curve number.

(d) Sheet flow. Maintain sheet flow for as long as possible before the run-off has to be collected in a stormwater conveyance system. Sheet flow increases infiltration and lengthens the time of concentration which in turn improves water quality and reduces run-off downstream. Spread out concentrated flows created by the development before they are discharged offsite using stilling basins, level spreaders, directing run-off through woodlands, or other means so the run-off returns to pre-development characteristics to meet the adequacy of outfall provision of this chapter and to improve water quality and reduce run-off downstream.

(e) Grass channels in lieu of piping or hard surface channels.

(f) Environmentally sensitive development. Maintaining/not disturbing environmentally sensitive areas such as streams, stream buffers, existing woodlands, existing steep slopes, wetlands, etc., the reduction of cut and fill, excavating, etc. and the appropriate balance of buildings and parking on the development site.

(g) Improvements to and the reduction in the impervious areas on the development site. Design parking lots with the minimum amount of hard surface required to meet the zoning regulations. If additional parking area is desired, the town strongly encourages the employee and/or overflow parking areas to be constructed in a more pervious material than asphalt or concrete. If the parking regulations require excessive parking for your type of development, discuss the issue with the town staff. If the town staff feels a reduction in the number of required parking spaces is justified, a variance can be submitted to the board of zoning appeals to reduce the parking requirements which in turn will reduce the amount of impervious surface installed.

(h) Increased use of trees, shrubs and ground cover, which absorb up to fourteen (14) times more rainwater than grass and require less maintenance.

(19) Neighboring persons and property shall be protected from damage or loss resulting from an increase in stormwater run-off above the pre-development rate, soil erosion, or the deposit upon private property, public streets or right-of-ways of silt and debris transported by water from construction, excavating, grading, etc. associated with a development. (as added by Ord. #99-12, Sept. 1999, and replaced by Ord. #2001-13, Sept. 2001, Ord. #2005-09, March 2005, and Ord. #2008-13, Oct. 2008, amended by Ord. #2009-10, Sept. 2009, and replaced by Ord. #2012-09, July 2012, and Ord. #2015-04, April 2015 *Ch14_04-09-18*)

11-209. Permit application. In addition to the stormwater plan, applications for a grading permit involving land disturbing activities must include the following:

- (1) Name of applicant.
- (2) Business or residence address of applicant.
- (3) Name and address of owner(s) of property involved in activity.
- (4) Address and legal description of property, and names of adjoining property owners.
- (5) Name, address and state license number of contractor, if different from applicant, and to the extent possible any subcontractor(s) who shall undertake the land disturbing activity and who shall implement the stormwater plan.
- (6) A brief description of the nature, extent, and purpose of the land disturbing activity.
- (7) Proposed schedule for starting and completing project. (as added by Ord. #2001-13, Sept. 2001, and replaced by Ord. #2005-09, March 2005, Ord. #2008-13, Oct. 2008, Ord. #2012-09, July 2012, and Ord. #2015-04, April 2015 *Ch14_04-09-18*)

11-210. Plan development at owner/developer's expense. Unless approved by the board of mayor and aldermen, all stormwater plans shall be developed and presented at the expense of the owner/developer. (as added by Ord. #2001-13, Sept. 2001, and replaced by Ord. #2005-09, March 2005, Ord. #2008-13, Oct. 2008, Ord. #2012-09, July 2012, and Ord. #2015-04, April 2015 *Ch14_04-09-18*)

11-211. Plan submitted to building inspector. Four (4) copies of the stormwater plan shall be submitted directly to the building inspector who will direct a copy to any other enforcement officer or department, and may provide copies to the soil conservationist and extension agent or others for review. Any insufficiencies and violations determined by the building inspector and other enforcement officer(s) shall be noted and comments will be directed back to the applicant/developer. The plan will then be revised as required prior to being presented to the Jonesborough Planning Commission. (as added by Ord. #2001-13, Sept. 2001, and replaced by Ord. #2005-09, March 2005, Ord. #2008-13, Oct. 2008, Ord. #2012-09, July 2012, and Ord. #2015-04, April 2015 *Ch14_04-09-18*)

11-212. Plan submitted in number satisfactory to planning commission. The Jonesborough Planning Commission shall determine the number of copies of the stormwater plan that must be provided to the commission by the owner/developer. (as added by Ord. #2001-13, Sept. 2001, and replaced by Ord. #2005-09, March 2005, Ord. #2008-13, Oct. 2008, Ord. #2012-09, July 2012, and Ord. #2015-04, April 2015 *Ch14_04-09-18*)

11-213. Plan review. The Jonesborough Planning Commission shall review the stormwater plans as quickly as possible while still allowing for a thorough evaluation of the problems and mitigation measures identified and addressed. (as added by Ord. #2001-13, Sept. 2001, and replaced by Ord. #2005-09, March 2005, Ord. #2008-13, Oct. 2008, Ord. #2012-09, July 2012, and Ord. #2015-04, April 2015 *Ch14_04-09-18*)

11-214. Grading permit and bond. Following approval of the stormwater plan by the planning commission, a grading permit shall be obtained from the building inspector. No grading permit shall be issued until a contractor performance bond or irrevocable line of credit is posted in the amount determined to be reasonable by the planning commission. A project cost summary must accompany the application so that it can be used to help determine the bond amount. The bond may not be higher than an amount equal to the estimated cost of the improvements, and said bond shall only be released by the building inspector following completion of construction and acceptance of the grading, vegetation, drainage, stormwater management, and erosion and sediment control measures. The bond shall be made out to the town of

jonesborough and if issued in conjunction with a subdivision plan, shall include the cost of paving, landscaping, and utilities including streetlights if decorative lights are submitted and approved. If after eight (8) months from the start of construction it appears that the drainage and sediment plan activities approved by the jonesborough planning commission will not be implemented within a twelve (12) month period, the Jonesborough Planning Commission, at its discretion after a notice of non-compliance has been properly issued as outlined in § 11-228 of this chapter and the developer has failed to comply, may cash said contractor's performance bond or utilize the irrevocable line of credit to complete all of the improvements approved or any portion of the stormwater plan activities it deems necessary to protect the health and safety of residents and to protect the quality of local waters. Upon the posting of the bond, the developer must sign and have notarized an approved certification granting permission for any stormwater plan activities, and any landscaping, paving and utility improvements also approved, to be made on the property in case of default. The planning commission may waive the requirement for a contractor's performance bond or line of credit for work on an acre or more in which the land disturbing activities are very minimal and are similar to single lot residential development. (as added by Ord. #2001-13, Sept. 2001, and replaced by Ord. #2005-09, March 2005, Ord. #2008-13, Oct. 2008, Ord. #2012-09, July 2012, and Ord. #2015-04, April 2015 *Ch14_04-09-18*)

11-215. Building inspector/public works director may require additional protective measures. The building inspector and the public works director have the authority at their discretion to require ground cover or other remediation measures preventing stormwater, erosion and sediment run-off, if either determines after construction begins that the plan and/or implementation schedule approved by the planning commission does not adequately provide the protection intended in the chapter and in the approval issued by the commission. Additional protective measures required by the public works director and/or the building inspector that fall under the authority of the planning commission are subject to appeal under the procedures outlined in § 11-231 of this chapter. (as added by Ord. #2001-13, Sept. 2001, and replaced by Ord. #2005-09, March 2005, Ord. #2008-13, Oct. 2008, Ord. #2012-09, July 2012, and Ord. #2015-04, April 2015 *Ch14_04-09-18*)

11-216. Certification of design professional. The registered design professional responsible for developing the stormwater plan may be required to provide written certification to the extent possible that the stormwater management facility approved by the planning commission have been implemented satisfactorily and are in compliance with the approved plan. The building inspector or designee will ultimately have final approval authority through the issuance of a certificate of occupancy as designated in § 11-229. (as added by Ord. #2001-13, Sept. 2001, and replaced by Ord. #2005-09, March

2005, Ord. #2008-13, Oct. 2008, Ord. #2012-09, July 2012, and Ord. #2015-04, April 2015 *Ch14_04-09-18*)

11-217. Stormwater management facilities and drainage structures maintained. All on-site stormwater management and drainage structures shall be properly maintained by the owner/developer during all phases of construction and development so that they do not become a nuisance. Nuisance conditions shall include: improper storage resulting in uncontrolled run-off and overflow; stagnant water with concomitant algae growth, insect breeding, and odors; discarded debris; and safety hazards created by the facilities operation. When problems occur during any phase of construction and development, it is the responsibility of the developer to make the necessary corrections. Corrective actions will be monitored and inspected by the enforcement officer. The board of mayor and aldermen may accept ownership of stormwater management facilities in behalf of the town under the terms set forth in § 11-219 of this chapter, however, unless the town accepts ownership the developer, or a legal entity acceptable to the planning commission, shall have on-going responsibility to see that the stormwater management facility is properly maintained and operational. The developer shall provide the necessary permanent easements to provide town personnel access to the stormwater management facilities and drainage structures for periodic inspection. A right-of-way to conduct such inspections shall be expressly reserved in the permit. (as added by Ord. #2001-13, Sept. 2001, and replaced by Ord. #2005-09, March 2005, Ord. #2008-13, Oct. 2008, Ord. #2012-09, July 2012, Ord. #2015-04, April 2015 *Ch14_04-09-18*)

11-218. Improperly maintained stormwater management facilities and drainage structures a violation. The building inspector and/or the public works director shall periodically monitor and inspect the care, maintenance and operation of stormwater management facilities and drainage structures during and after construction and development. Facilities found to be a nuisance, as defined in § 11-217, are in violation of the ordinance and are subject to fines of up to five thousand dollars (\$5,000.00) per day for each day of violation¹ with each additional day considered a separate violation. (as added by Ord. #2001-13, Sept. 2001, and replaced by Ord. #2005-09, March 2005, Ord. #2008-13, Oct. 2008, Ord. #2012-09, July 2012, and Ord. #2015-04, April 2015 *Ch14_04-09-18*)

11-219. Town may take ownership of stormwater management facilities and drainage structures. The Jonesborough Planning Commission shall have the authority to recommend to the board of mayor and aldermen that the town

¹State law reference

Tennessee Code Annotated, § 68-221-1101.

take ownership of stormwater management facilities and drainage structures provided that the commission feels the public interest is best served by the town providing on-going responsibility for maintenance and up-keep. The board of mayor and aldermen will consider the recommendations of the planning commission on a case-by-case basis. In such cases, approval of the transfer of ownership shall only occur after the board of mayor and aldermen has received an inspection report from the enforcement officers, with the possible technical assistance of the Washington County Extension Agent and/or soil conservationist or others, that certifies to the extent possible said devices have been properly constructed and landscaped, are operating effectively, and appropriate safety and protective measures have been implemented or constructed. The designing engineer shall also certify that the stormwater management/drainage facility meets the standards outlined in best management practices. Transfer of ownership to the town shall occur at or near the completion of the subdivision or development and the developer must provide fee simple title to the property on which the stormwater management or drainage structure is located and/or any necessary easements allowing the Town of Jonesborough to get access to the facilities for routine maintenance and care. The Jonesborough Planning Commission shall declare its intent to recommend to the board of mayor and aldermen that the town accepts responsibility for stormwater management facilities and drainage structures when approving the stormwater plan, and when the plan is approved, the developer shall be responsible for maintenance and upkeep until any board action is finalized. The board of mayor and aldermen will make a final determination whether to accept the stormwater management/drainage facility within one (1) year from the date the stormwater management facility or drainage structure has been completed. (as added by Ord. #2001-13, Sept. 2001, and replaced by Ord. #2005-09, March 2005, Ord. #2008-13, Oct. 2008, Ord. #2012-09, July 2012, and Ord. #2015-04, April 2015 **Ch14_04-09-18**)

11-220. Technical assistance. The town staff, as determined by the town administrator, are available for consultation and advice concerning stormwater management and erosion and sediment problems to all persons planning to develop land within the town or under the subdivision jurisdiction of the Jonesborough Planning Commission. (as added by Ord. #2001-13, Sept. 2001 and replaced by Ord. #2005-09, March 2005, Ord. #2008-13, Oct. 2008, Ord. #2012-09, July 2012, and Ord. #2015-04, April 2015 **Ch14_04-09-18**)

11-221. Building inspector and/or public works director responsible for providing safeguards in projects less than one acre or utilizing less than three lots. Projects undertaken within the city limits of Jonesborough that are not subject to review and approval of the Jonesborough Planning Commission shall fall under the responsibility of the enforcement officers to see that the measures required in this chapter to protect the health and safety of the people and to

protect the quality of surface water are carried out as needed. The enforcement officers shall require reasonable drainage and erosion and sediment control measures as part of the grading permit process outlined in § 11-222. Under no conditions shall the developer/contractor of a property allow silt or sediment to enter drainage ways or adjoining properties, or allow stormwater flows to adversely impact adjoining properties. Denuded areas, cuts, and slopes in areas outside the building site shall be properly covered within the same schedule as directed in § 11-208(14) of this chapter. (as added by Ord. #2001-13, Sept. 2001, and replaced by Ord. #2005-09, March 2005, Ord. #2008-13, Oct. 2008, Ord. #2012-09, July 2012, and Ord. #2015-04, April 2015 **Ch14_04-09-18**)

11-222. Grading permit also required for any project on less than one acre involving grading, filling, or excavating. A grading permit is also required for any development or construction activity on property one (1) acre or less except for: the normal functioning and operation of private agriculture and forest lands; any state or federal agency not under the regulatory authority of the Town of Jonesborough for stormwater management, sediment and erosion control; and minor land disturbing activities such as home gardens, individual home landscaping, repairs and maintenance. However, said development and construction activities do not require a formal stormwater plan unless specifically requested by the planning commission. The building inspector shall require that all grading, vegetation, drainage, stormwater, erosion and sediment control measures necessary shall be implemented, shall conform to any and all best management practices, and shall meet the objectives established in this chapter. Developers must also present to the building inspector a description of the measures that will be taken to address the requirements established in §§ 11-207(14) and (15) of this chapter - avoiding mud, sediment, rock and debris on public ways and streets. These measures must be addressed prior to the building inspector issuing a grading permit. Measures preventing excess run-off and erosion must be in place prior to the commencement of grading and/or excavation. (as added by Ord. #2001-13, Sept. 2001, amended by Ord. #2001-17, Dec. 2001, and replaced by Ord. #2005-09, March 2005, Ord. #2008-13, Oct. 2008, Ord. #2012-09, July 2012, Ord. #2015-04, April 2015 **Ch14_04-09-18**)

11-223. Existing developed properties with drainage, erosion and sediment concerns. Properties of any size within the city limits of the Town of Jonesborough that have been developed or in which land disturbing activities have previously been undertaken, are subject to the following requirements:

(1) Denuded areas still existing as of the second and final reading of this chapter must be vegetated or covered under the standards and guidelines specified in the best management practices adopted by the board of mayor and aldermen, and on a schedule acceptable to the enforcement officers.

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

(3) Drainage ways shall be properly covered in vegetation or secured with stones, etc. to prevent erosion.

(4) Junk, rubbish, etc. shall be cleared of drainage ways to prevent possible contaminate and pollution.

(5) Stormwater run-off in commercial areas, office or medical facilities, shall be controlled to the extent reasonable to prevent pollution of local waters. Such control measures may include, but not be limited to, the following:

(a) Oil skimmer/grit collector structure or other water quality device. These structures are designed to skim off floatables out of parking lots and other impervious surfaces, and allow solids of debris and sediment to settle before being discharged in a local waterway.

(b) Stormwater management facilities.

(c) Planting and/or sowing of vegetation and other nonstructural measures.

(d) Rip-rapping, mulching, and other similar erosion control measures associated with local drainage ways. (as added by Ord. #2001-13, Sept. 2001, and replaced by Ord. #2005-09, March 2005, Ord. #2008-13, Oct. 2008, Ord. #2012-09, July 2012, Ord. #2015-04, April 2015 *Ch14_04-09-18*)

11-224. Improvements needed at existing locations/developments determined by the building inspector and/or director of public works. Improvements needed to provide drainage and sediment control in existing and completed developments shall be determined by either the enforcement officers. The enforcement officers shall evaluate existing developments, parking areas, site work, and drainage ways to determine if additional measures to protect health and safety and water quality are needed. Assistance in undertaking the evaluations and making recommendations may be provided by the soil conservationist and/or the county extension agent. Recommendations shall be:

(1) Provided in writing to the property/business owner.

(2) Detailed as to specific actions required and why these actions are necessary.

(3) Made with a reasonable period of time for implementation. (as added by Ord. #2001-13, Sept. 2001, and replaced by Ord. #2005-09, March 2005, Ord. #2008-13, Oct. 2008, Ord. #2012-09, July 2012, and Ord. #2015-04, April 2015 *Ch14_04-09-18*)

11-225. Improvements required in existing developments normally at owner's expense. Drainage and sediment control measures required in existing developed properties shall normally be undertaken at the property or business owner's expense. Unless, determined otherwise by the board of mayor and aldermen, drainage and sediment control measures implemented shall be properly maintained by the property or business owner. The board of mayor and aldermen, however, at its discretion in circumstances in which board members

feel the town's participation is essential to protecting the health and safety of residents and the water quality of Jonesborough's drainage ways, may approve cost-sharing or total financial responsibility for needed drainage and sediment control measures. (as added by Ord. #2001-13, Sept. 2001, and replaced by Ord. #2005-09, March 2005, Ord. #2008-13, Oct. 2008, Ord. #2012-09, July 2012, and Ord. #2015-04, April 2015 *Ch14_04-09-18*)

11-226. Town may take responsibility for existing stormwater management facilities and drainage structures. The Jonesborough Planning Commission may recommend that the board of mayor and aldermen take responsibility for existing stormwater management facilities and drainage structures if the commission determines that the general public is better served when said facilities are under the long-term maintenance responsibility of the town. The board of mayor and aldermen will consider these recommendations on a case-by-case basis. Facilities considered shall be accepted as outlined in § 11-219 of this chapter. The Jonesborough Planning Commission may also recommend to the board of mayor and aldermen that the town participate in making certain improvements to existing facilities in addition to accepting responsibility for their long-term maintenance and care if the commission feels said improvements are in the best interest of the general public. (as added by Ord. #2001-13, Sept. 2001, and replaced by Ord. #2005-09, March 2005, Ord. #2008-13, Oct. 2008, Ord. #2012-09, July 2012, and Ord. #2015-04, April 2015 *Ch14_04-09-18*)

11-227. Improvements required with existing developments subject to appeal. Improvements required by the enforcement officers as outlined in §§ 11-224 and 11-225 of this chapter are subject to appeal by the property/business owners to the Jonesborough Planning Commission as specified in § 11-231. (as added by Ord. #2001-13, Sept. 2001, and replaced by Ord. #2005-09, March 2005, Ord. #2008-13, Oct. 2008, Ord. #2012-09, July 2012, and Ord. #2015-04, April 2015 *Ch14_04-09-18*)

11-228. Monitoring, reports, and inspections. The public works director and/or the building inspector, with the possible assistance others, shall make periodic inspections, during construction and development, of the land disturbing activities, the stormwater management system installations, and other activities requiring a grading permit to ensure compliance with the approved plan and Jonesborough's Best Management Practices. For construction sites draining to siltation impaired stream or exceptional waters of the state, the town shall perform monthly inspections. Inspections will evaluate whether the measures required in the stormwater plan and/or grading permit and undertaken by the developer are effective in controlling erosion. The right of entry to conduct such inspections shall be expressly reserved in the permit.

As a minimum, the owner/operator of any construction project which requires a stormwater plan is required to perform twice weekly inspections of their erosion and sediment control devices and to perform required maintenance in a timely manner. If the construction project requires a construction stormwater permit through the State of Tennessee, the owner/operator shall perform inspections, site assessments, maintenance of devices, and documentation in accordance with the State of Tennessee's current construction general permit.

For drainage areas of ten (10) acres or more to a single outfall (five (5) acres or more if draining to siltation or stream-side habitat alteration impaired or exceptional waters of the state), a site assessment by the design professional who prepared the plans shall be performed within one (1) month of grading or clearing operations starting to verify the installation, functionality and performance of all erosion and sediment control measures on the plans and in the SWPPP. Any issues shall be addressed immediately and the plans and SWPPP updated, if applicable.

If the public works director or the building inspector determines that the permit holder has failed to comply with plan approval, the following procedures shall apply:

(1) A notice from the enforcement officer shall be served on the permit holder either by registered or certified mail, delivered by hand to the permit holder or an agent or employee of the permittee supervising the activities, or by posting the notice at the work site in a visible location, that the permit holder is in non-compliance.

(2) The notice of non-compliance shall specify the measures needed to comply and shall specify the time within which such corrective measures shall be completed. The enforcement officer shall require a reasonable period of time for the permittee to implement measures bringing the project into compliance, however, if it is determined by the enforcement officer that health and safety factors or the damage resulting from being non-compliant is too severe, immediate action may be required.

(3) If the permit holder fails to comply within the time specified, the permittee may be subject to the revocation of the permit. In addition, the permittee shall be deemed to be in violation of this ordinance and upon conviction shall be subject to the penalties provided in this chapter.

(4) In conjunction with the issuance of a notice of non-compliance, or subsequent to the permittee not completing the corrective measures directed in the time period required, the building inspector, or his designee, may issue an order requiring all or part of the land disturbing activities on the site be stopped. The stop work order may be issued with or as part of the notice of non-compliance, or may be delivered separately in the same manner as directed in § 11-228(1). (as added by Ord. #2001-13, Sept. 2001, and replaced by Ord. #2005-09, March 2005, Ord. #2008-13, Oct. 2008, Ord. #2012-09, July 2012, and Ord. #2015-04, April 2015 *Ch14_04-09-18*)

11-229. Certificate of occupancy not issued until approvals. The building inspector will not issue a certificate of occupancy necessary to occupy any commercial or residential establishment until all aspects of the stormwater plan including stormwater management facilities have been completed, control devices constructed have been approved and accepted, and, if within a subdivision or commercial development, all paving, landscaping of public ways, and utilities, including street lighting if decorative lights are used, are approved and accepted. (as added by Ord. #2001-13, Sept. 2001, and replaced by Ord. #2005-09, March 2005, Ord. #2008-13, Oct. 2008, Ord. #2012-09, July 2012, and Ord. #2015-04, April 2015 *Ch14_04-09-18*)

11-230. Plan construction acceptance and bond release. Stormwater plan activities must be inspected and accepted by the enforcement officer. If within a commercial or subdivision development, streets, sidewalks, curbs and alleys, landscaping, street lighting, water, sewer, and any installation of electric, telephone, cable, and gas utilities must be approved and accepted by the appropriate official. An approval and acceptance form shall be completed by all monitoring and regulatory authorities before the building inspector releases the associated performance bond. The building inspector will sign a release on the approval and acceptance form as soon as all of the project criteria have been satisfied and approved. (as added by Ord. #2001-13, Sept. 2001, and replaced by Ord. #2005-09, March 2005, Ord. #2008-13, Oct. 2008, Ord. #2012-09, July 2012, and Ord. #2015-04, April 2015 *Ch14_04-09-18*)

11-231. Appeal of administrative action. Actions taken by the enforcement officer as authorized in §§ 11-215, 11-221, 11-226, 11-228, 11-229, and 11-230 are subject to review by the Jonesborough planning commission provided an appeal is filed in writing with the chairman of the planning commission within thirty (30) days from the date any written or verbal decision has been made which the developer feels adversely affects his/her rights, duties or privileges to engage in the land disturbing activity and/or associated development proposed. Drainage and sediment mitigation actions required by the building inspector and enforcement officer with existing properties or developments are also subject to appeal to the Jonesborough Planning Commission provided that appeals are made in writing, within thirty (30) days of receiving formal notification, to the commission chairman citing the specific reason(s) the activity or activities required present a hardship and cannot be implemented. (as added by Ord. #2001-13, Sept. 2001, and replaced by Ord. #2005-09, March 2005, Ord. #2008-13, Oct. 2008, Ord. #2012-09, July 2012, and Ord. #2015-04, April 2015 *Ch14_04-09-18*)

11-232. Town clean-up resulting from violations at owner/developer's expense. Town staff is authorized at any time during construction and development to take remedial actions to prevent, clean-up, repair or otherwise

correct situations in which water, sediment rock, vegetation, etc. ends up on public streets and/or right-of-ways resulting from violations of this chapter; where necessary drainage erosion and sediment control measures have not been properly implemented. In such cases, the cost of labor, equipment, and materials used will be charged to the developer/owner in addition to a service charge of one hundred dollars (\$100.00) per hour. The town will invoice the developer/owner directly, and payment shall be received within fourteen (14) days. Failure to pay for remedial actions taken by the town under this section may result in the town attorney filing a lien against the property involved in the action, and may negate any intention by the town to accept responsibility for any drainage and sediment control facilities. The decision of the town to take remedial actions to protect the health and safety of the public in no way supplants or negates the authority of the appropriate town staff to issue citations for violations of this chapter. (as added by Ord. #2001-13, Sept. 2001, and replaced by Ord. #2005-09, March 2005, Ord. #2008-13, Oct. 2008, Ord. #2012-09, July 2012, and Ord. #2015-04, April 2015 **Ch14_04-09-18**)

11-233. Illicit discharge and illegal dumping. (1) The owner/operator if the site or project must design, install, implement, and maintain effective pollution prevention measures to minimize the discharge of pollutants. At a minimum, such measures must be designed, installed, implemented and maintained to:

(a) Minimize the discharge of pollutants from equipment and vehicle washing, wheel wash water, and other wash waters. Wash waters must be treated in a sediment basin or alternative control that provides equivalent or better treatment prior to discharge;

(b) Minimize the exposure of building materials, building products, construction wastes, trash, landscape materials, fertilizers, pesticides, herbicides, detergents, sanitary waste and other materials present on the site to precipitation and to stormwater; and

(c) Minimize the discharge of pollutants from spills and leaks and implement chemical spill and leak prevention and response procedures.

(2) The following discharges are prohibited from construction sites:

(a) Wastewater from washout of concrete, unless managed by an appropriate control.

(b) Wastewater from washout and cleanout of stucco, paint, form release oils, curing compounds and other construction materials

(c) Fuels, oils, or other pollutants used in vehicle and equipment operation and maintenance.

(d) Soaps or solvents used in vehicle and equipment washing. (as added by Ord. #2001-13, Sept. 2001, and replaced by Ord. #2005-09, March 2005, Ord. #2008-13, Oct. 2008, Ord. #2012-09, July 2012, and Ord. #2015-04, April 2015 **Ch14_04-09-18**)

11-234. Penalties; enforcement. Any developer or 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 any authorized enforcement officer or the Jonesborough Planning Commission, shall be guilty of a violation of this municipal ordinance, and each day of such violation or failure to comply shall be deemed a separate offense and punishable accordingly. Upon conviction, the developer or person shall be subject to fines of up to five thousand dollars (\$5,000.00) per day for each day of violation¹. Unless otherwise specified within any section of this chapter, the building inspector and the public works director are the designated enforcement officers of this ordinance. Citations for violations may be issued by any enforcement officer, the public safety director or any Jonesborough Police Officer. (as added by Ord. #2001-13, Sept. 2001, and replaced by Ord. #2005-09, March 2005, Ord. #2008-13, Oct. 2008, Ord. #2012-09, July 2012, and Ord. #2015-04, April 2015 **Ch14_04-09-18**)

11-235. Severability. If any provision of this chapter is held to be unconstitutional or invalid, such unconstitutionality or invalidity shall not affect any remaining provisions. (as added by Ord. #2008-13, Oct. 2008, and replaced by Ord. #2012-09, July 2012, and Ord. #2015-04, April 2015 **Ch14_04-09-18**)

¹State law reference
Tennessee Code Annotated, § 68-221-1101.

CHAPTER 3

FLOOD PLAIN MANAGEMENT

SECTION

11-301. Town's commitment.

11-302. Recorder's duties.

11-303. Recorder to supply certain information.

11-301. Town's commitment. The town shall enact as necessary and maintain in force in those areas having flood, mudslide (i.e. mudflow), or flood-related erosion hazards, adequate land use and control measures with effective enforcement provisions consistent with the criteria set forth in section 1910 of the National Flood Insurance Program regulations. (Ord. of Aug. 8, 1978)

11-302. Recorder's duties. The town recorder shall have the responsibility, authority, and means to:

(1) Assist the administrator, at his request, in his delineation of the limits of the area having special flood, mudslide (i.e. mudflow), or flood-related erosion hazards.

(2) Provide such information as the administrator may request concerning present uses and occupancy of the flood plain, mudslide (i.e. mudflow), or flood-related erosion areas.

(3) Cooperate with federal, state, and local agencies and private firms which undertake to study, survey, map, and identify flood plain, mudslide (i.e. mudflow), or flood-related erosion areas, and cooperate with neighboring communities with respect to management of adjoining flood plain, mudslide (i.e. mudflow), and/or flood-related erosion areas in order to prevent aggravation of existing hazards.

(4) Submit on the anniversary date of the community's initial eligibility an annual report to the administrator on the progress made during the past year within the community in the development and implementation of flood plain management measures.

(5) Upon occurrence, notify the administrator in writing whenever the boundaries of the community have been modified by annexation or the community has otherwise assumed or no longer has the authority to adopt and enforce flood plain management regulations for a particular area. In order that all flood hazard boundary maps and flood insurance rate maps accurately represent the community's boundaries, he shall include within such notification a copy of a map of the community suitable for reproduction, clearly delineating the new corporate limits or new area for which the community has assumed or relinquished flood plain management regulatory authority. (Ord. of Aug. 8, 1978)

11-303. Recorder to supply certain information. The town recorder shall maintain for public inspection and furnish upon request, for the determination of applicable flood insurance risk premium rates within all areas having special flood hazards identified on a flood hazard boundary map or flood insurance rate map, any certificate of flood-proofing and information on the elevation (in relation to mean sea level) of the level of the lowest habitable floor (including basement if habitable) of all new or substantially improved structures, and include whether or not such structures contain a basement, and, if the structure has been floodproofed, the elevation (in relation to mean sea level) to which the structure was floodproofed. (Ord. of Aug. 8, 1978)

CHAPTER 4

FLOODPLAIN ZONING ORDINANCE

SECTION

- 11-401. Statutory authorization, findings of fact, purpose and objectives.
- 11-402. Definitions.
- 11-403. General provisions.
- 11-404. Administration.
- 11-405. Provisions for flood hazard reduction.
- 11-406. Variance procedures.
- 11-407. Legal status provisions.

11-401. Statutory authorization, findings of fact, purpose and objectives.

(1) Statutory authorization. The Legislature of the State of Tennessee has in Tennessee Code Annotated, §§ 13-7-201-13-7-210; delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the Jonesborough, Tennessee Mayor and Board of Aldermen, does ordain as follows:

(2) Findings of fact.

(a) The Jonesborough Mayor and its legislative body wishes to maintain eligibility in the National Flood Insurance Program and in order to do so must meet the requirements of 60.3 of the Federal Insurance Administration Regulations found at 44 CFR Ch. 1 (10-1-04 Edition).

(b) Areas of Jonesborough are subject to periodic inundation which could result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.

(c) These flood losses are caused by the cumulative effect of obstructions in floodplains, causing increases in flood heights and velocities; by uses in flood hazard areas which are vulnerable to floods; or construction which is inadequately elevated, flood-proofed, or otherwise unprotected from flood damages.

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

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

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

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

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

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

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

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

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

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

(d) To minimize prolonged business interruptions;

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

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

(g) To ensure that potential home buyers are notified that property is in a floodable area; and

(h) To maintain eligibility for participation in the National flood insurance program. (Ord. of Oct. 21, 1987, as replaced by Ord. #2006-04, May 2006)

11-402. Definitions. Unless specifically defined below, words or phrases used in this ordinance shall be interpreted as to give them the meaning they have in common usage and to give this ordinance its most reasonable application given its stated purpose and objectives.

(1) "Accessory structure" shall represent a subordinate structure to the principal structure and, for the purpose of this section, shall conform to the following:

(a) Accessory structures shall not be used for human habitation.

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

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

(d) Accessory structures shall be firmly anchored to prevent flotation which may result in damage to other structures.

(e) Service facilities such as electrical and heating equipment shall be elevated or floodproofed.

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

(3) "Addition (to an existing building)" means any walled and roofed expansion to the perimeter of a building in which the addition is connected by a common load-bearing wall other than a firewall. Any walled and roofed addition, which is connected by a firewall or is separated by an independent perimeter load-bearing wall, shall be considered new construction.

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

(5) "Area of shallow flooding" means a designated A0 or AH Zone on a community's Flood Insurance Rate Map (FIRM) with one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate; and where velocity flow may be evident. (Such flooding is characterized by ponding or sheet flow.)

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

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

(8) "Base flood" means the flood having a one percent chance of being equalled or exceeded in any given year.

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

(10) "Breakaway wall" means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

(11) "Building" means any structure built for support, shelter, or enclosure for any occupancy or storage (see Structure).

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

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

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

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

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

(17) "Existing construction" means any structure for which the "start of construction" commenced before the effective date of the first floodplain management code or ordinance adopted by the community as a basis for that community's participation in the National Flood Insurance Program (NFIP).

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

(19) "Existing structures" see Existing construction.

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

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

(a) The overflow of inland or tidal waters;

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

(22) "Flood elevation determination" means a determination by the administrator of the water surface elevations of the base flood, that is, the flood level that has a one percent or greater chance of occurrence in any given year.

(23) "Flood elevation study" means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface

elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) or flood-related erosion hazards.

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

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

(26) "Flood insurance study" is the official report provided by the Federal Emergency Management Agency, evaluating flood hazards and containing flood profiles and water surface elevation of the base flood.

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

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

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

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

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

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

(33) "Flood-related erosion area management" means the operation of an overall program of corrective and preventive measures for reducing flood-related erosion damage, including but not limited to emergency preparedness

plans, flood-related erosion control works and flood plain management regulations.

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

(35) "Floor" means the top surface of an enclosed area in a building (including basement), i.e., top of slab in concrete slab construction or top of wood flooring in wood frame construction. The term does not include the floor of a garage used solely for parking vehicles.

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

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

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

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

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

(b) Certified or preliminarily determined by the secretary of the interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the secretary to qualify as a registered historic district;

(c) Individually listed on the Tennessee inventory of historic places and determined as eligible by states with historic preservation programs which have been approved by the secretary of the interior; or

(d) Individually listed on a local inventory of historic places and determined as eligible by communities with historic preservation programs that have been certified either:

(i) By an approved state program as determined by the secretary of the interior. or

(ii) Directly by the secretary of the interior.

(40) "Levee" means a man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering

practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding.

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

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

(43) "Manufactured home" means a structure, transportable in one or more sections, which is built on a permanent chassis and designed for use with or without a permanent foundation when attached to the required utilities. The term manufactured home does not include a recreational vehicle, unless such transportable structures are placed on a site for one hundred eighty (180) consecutive days or longer.

(44) "Manufactured home park or subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

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

(46) "Mean sea level" means the average height of the sea for all stages of the tide. It is used as a reference for establishing various elevations within the floodplain. For the purposes of this ordinance, the term is synonymous with National Geodetic Vertical Datum (NGVD) or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

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

(48) "New construction" means any structure for which the "start of construction" commenced after the effective date of this ordinance or the effective date of the first floodplain management ordinance and includes any subsequent improvements to such structure.

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

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

(51) "100-year flood" see Base flood.

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

(53) "Recreational vehicle" means a vehicle which is:

(a) Built on a single chassis;

(b) Four hundred (400) square feet or less when measured at the largest horizontal projection;

(c) Designed to be self-propelled or permanently towable by a light duty truck; and

(d) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

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

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

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

(57) "Start of construction" includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within one hundred eighty (180) days of the permit date. The actual start means either the first placement of permanent construction of a structure (including a manufactured home) on a site, such as the pouring of slabs or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; and includes the placement of a manufactured home on a foundation. (Permanent construction does not include initial land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds, not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

(58) "State coordinating agency" The Tennessee Department of Economic and Community Development's Local Planning Assistance Of Fire as

designated by the Governor of the State of Tennessee at the request of the administrator to assist in the implementation of the National Flood Insurance Program for the state.

(59) "Structure" for purposes of this section, means a walled and roofed building that is principally above ground, a manufactured home, a gas or liquid storage tank, or other man-made facilities or infrastructures.

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

(61) "Substantial improvement" means any repairs, reconstructions, rehabilitations, additions, alterations or other improvements to a structure, taking place during a five (5) year period, in which the cumulative cost equals or exceeds fifty percent (50) of the market value of the structure before the "start of construction" of the improvement. The market value of the structure should be (1) the appraised value of the structure prior to the start of the initial repair or improvement, or (2) in the case of damage, the value of the structure prior to the damage occurring. This term includes structures which have incurred "substantial damage," regardless of the actual repair work performed.

For the purpose of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the building. The term does not, however, include either: (1) any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been pre-identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions and not solely triggered by an improvement or repair project; or (2) any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."

(62) "Substantially improved existing manufactured home parks or subdivisions" is where the repair, reconstruction, rehabilitation or improvement of the streets, utilities and pads equals or exceeds fifty percent (50) of the value of the streets, utilities and pads before the repair, reconstruction or improvement commenced.

(63) "Variance" is a grant of relief from the requirements of this ordinance which permits construction in a manner otherwise prohibited by this ordinance where specific enforcement would result in unnecessary hardship.

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

(65) "Water surface elevation" means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, (or other datum, where

specified) of floods of various magnitudes and frequencies in the floodplains of riverine areas. (Ord. of Oct. 21, 1987, as replaced by Ord. #2006-04, May 2006)

11-403. General provisions. (1) Application. This ordinance shall apply to all areas within the incorporated area of Jonesborough, Tennessee.

(2) Basis for establishing the areas of special flood hazard. The areas of special flood Hazard identified on the Jonesborough, Tennessee, Federal Emergency Management Agency, Flood Insurance Study (FIS) and Flood Insurance Rate Map (FIRM), Community Panel Numbers 47179C-0145, 47179C-0154, 47179C-0161, 47179C-0162, and 47179C-0163, dated September 29, 2006 along with all supporting technical data, are adopted by reference and declared to be a part of this ordinance.

(3) Requirement for development permit. A development permit shall be required in conformity with this ordinance prior to the commencement of any development activities.

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

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

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

- (a) considered as minimum requirements;
- (b) liberally construed in favor of the governing body, and
- (c) deemed neither to limit nor repeal any other powers granted

under Tennessee statutes.

(7) Warning and disclaimer of liability. The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of the Jonesborough of Washington County, Tennessee or by any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

(8) Penalties for violation. Violation of the provisions of this ordinance or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance shall constitute a misdemeanor punishable as other misdemeanors as provided by law. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the Jonesborough of Washington

County, Tennessee from taking such other lawful actions to prevent or remedy any violation. (Ord. of Oct. 21, 1987, as replaced by Ord. #2006-04, May 2006)

11-404. Administration. (1) Designation of ordinance administrator. The town administrator or his/her designee(s) is hereby appointed as the administrator to implement the provisions of this ordinance.

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

(a) Application stage:

(i) Elevation in relation to mean sea level of the proposed lowest floor, including basement, of all buildings where BFEs are available, or to the highest adjacent grade when applicable under this ordinance.

(ii) Elevation in relation to mean sea level to which any nonresidential building will be flood-proofed where BFEs are available, or to the highest adjacent grade when applicable under this ordinance.

(iii) Design certificate from a registered professional engineer or architect that the proposed non-residential flood-proofed building will meet the flood-proofing criteria in § 11-404(2).

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

(b) Construction stage. Within unnumbered A zones, where flood elevation data are not available, the administrator shall record the elevation of the lowest floor on the development permit. The elevation of the lowest floor shall be determined as the measurement of the lowest floor of the building relative to the highest adjacent grade.

For all new construction and substantial improvements, the permit holder shall provide to the administrator an as-built certification of the regulatory floor elevation or floodproofing level upon the completion of the lowest floor or floodproofing. Within unnumbered A zones, where flood elevation data is not available, the elevation of the lowest floor shall be determined as the measurement of the lowest floor of the building relative to the highest adjacent grade.

Any lowest floor certification made relative to mean sea level shall be prepared by or under the direct supervision of, a registered land surveyor and certified by same. When floodproofing is utilized for a non-residential building said certification shall be prepared by or under

the direct supervision of, a professional engineer or architect and certified by same.

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

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

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

(b) Advice to permittee that additional federal or state permits may be required, and if specific federal or state permit requirements are known, require that copies of such permits be provided and maintained on file with the development permit. This shall include Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U. S. C. 1334.

(c) Notification to adjacent communities and the Tennessee Department of Economic and Community Development, Local Planning Assistance Office, prior to any alteration or relocation of a watercourse, and submission of evidence of such notification to the Federal Emergency Management Agency.

(d) For any altered or relocated watercourse, submit engineering data/analysis within six (6) months to the Federal Emergency Management Agency to ensure accuracy of community flood maps through the Letter of Map Revision process. Assure that the flood carrying capacity within an altered or relocated portion of any watercourse is maintained.

(e) Record the elevation, in relation to mean sea level or the highest adjacent grade, where applicable of the lowest floor including basement of all new or substantially improved buildings, in accordance with § 11-404(2)

(f) Record the actual elevation; in relation to mean sea level or the highest adjacent grade, where applicable to which the new or substantially improved buildings have been flood-proofed, in accordance with § 11-404(2)

(g) When flood proofing is utilized for a structure, the administrator shall obtain certification of design criteria from a registered professional engineer or architect, in accordance with § 11-404(2)

(h) Where interpretation is needed as to the exact location of boundaries of the areas of special flood hazard (for example, where there

appears to be a conflict between a mapped boundary and actual field conditions) the administrator shall make the necessary interpretation. Any person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this ordinance.

(i) When base flood elevation data or floodway data have not been provided by the Federal Emergency Management Agency then the administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state, or other sources, including data developed as a result of these regulations, as criteria for requiring that new construction, substantial improvements, or other development in Zone A on the community FIRM meet the requirements of this ordinance.

Within unnumbered A zones, where base flood elevations have not been established and where alternative data is not available, the administrator shall require the lowest floor of a building to be elevated or floodproofed to a level of at least three (3) feet above the highest adjacent grade (lowest floor and highest adjacent grade being defined in § 11-402 of this ordinance). All applicable data including elevations or flood proofing certifications shall be recorded as set forth in § 11-404(2)

(j) All records pertaining to the provisions of this ordinance shall be maintained in the office of the administrator and shall be open for public inspection. Permits issued under the provisions of this ordinance shall be maintained in a separate file or marked for expedited retrieval within combined files. (Ord. of Oct. 21, 1987, as replaced by Ord. #2006-04, May 2006, and amended by Ord. #2014-05, April 2014)

11-405. Provisions for flood hazard reduction. (1) General standards.

In all flood prone areas the following provisions are required:

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

(b) Manufactured homes shall be elevated and anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable state requirements for resisting wind forces;

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

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

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

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

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

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

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

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

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

(2) Specific standards. These provisions shall apply to all areas of special flood hazard as provided herein:

(a) Residential construction. Where base flood elevation data is available, new construction or substantial improvement of any residential building (or manufactured home) shall have the lowest floor, including basement, elevated no lower than one (1) foot above the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls and to ensure unimpeded movement of floodwater shall be provided in accordance with the standards of § 11-405(2).

Within unnumbered A zones, where base flood elevations have not been established and where alternative data is not available, the administrator shall require the lowest floor of a building to be elevated or floodproofed to a level of at least three (3) feet above the highest adjacent grade (lowest floor and highest adjacent grade being defined in § 11-402 of this ordinance). All applicable data including elevations or flood proofing certifications shall be recorded as set forth in § 11-404(2).

(b) Non-residential construction. New construction or substantial improvement of any commercial, industrial, or non-residential building, when BFE data is available, shall have the lowest floor, including basement, elevated or floodproofed no lower than one (1) foot above the level of the base flood elevation.

Within unnumbered A zones, where base flood elevations have not been established and where alternative data is not available, the administrator shall require the lowest floor of a building to be elevated

or floodproofed to a level of at least three (3) feet above the highest adjacent grade (lowest floor and highest adjacent grade being defined in § 11-402 of this ordinance). All applicable data including elevations or flood proofing certifications shall be recorded as set forth in § 11-404(2).

Buildings located in all A-zones may be flood-proofed, in lieu of being elevated, provided that all areas of the building below the required elevation are watertight, with walls substantially impermeable to the passage of water, and are built with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. A registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions above, and shall provide such certification to the administrator as set forth in § 11-404(2).

(c) Elevated building. All new construction or substantial improvements to existing buildings that include any fully enclosed areas formed by foundation and other exterior walls below the base flood elevation, or required height above the highest adjacent grade, shall be designed to preclude finished living space and designed to allow for the entry and exit of flood waters to automatically equalize hydrostatic flood forces on exterior walls.

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

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

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

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

(ii) Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the elevated living area (stairway or elevator); and

(iii) The interior portion of such enclosed area shall not be partitioned or finished into separate rooms in such a way as to impede the movement of floodwaters and all such petitions shall comply with the provisions of § 11-405(2) of this ordinance.

(d) Standards for manufactured homes and recreational vehicles.

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

(A) Individual lots or parcels,

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

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

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

When base flood elevations are available the lowest floor of the manufactured home is elevated on a permanent foundation no lower than one (1) foot above the level of the base flood elevation; or,

Absent base flood elevations the manufactured home chassis is elevated and supported by reinforced piers (or other-foundation elements) at least three (3) feet in height above the highest adjacent grade.

(iii) Any manufactured home, which has incurred "substantial damage" as the result of a flood or that has substantially improved, must meet the standards of § 11-405(2)(d)(iv) of this ordinance.

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

(v) All recreational vehicles placed on identified flood hazard sites must either:

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

(B) Be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is licensed, on its wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached structures or additions.

(C) The recreational vehicle must meet all the requirements for new construction, including the anchoring and elevation requirements of this section above if on the site for longer than one hundred eighty (180) consecutive days.

(e) Standards for subdivisions. Subdivisions and other proposed new developments, including manufactured home parks, shall be reviewed to determine whether such proposals will be reasonably safe from flooding. If a subdivision proposal or other proposed new development is in a flood-prone area, any such proposals shall be reviewed to ensure that:

(i) All subdivision proposals shall be consistent with the need to minimize flood damage.

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

(iii) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards.

(iv) Base flood elevation data shall be provided for subdivision proposals and other proposed developments (including manufactured home parks and subdivisions) that are greater than fifty (50) lots and/or five (5) acres in area.

(3) Standards for areas of special flood hazard with established base flood elevations and with floodways designated. Located within the areas of special flood hazard established in § 11-403(2), are areas designated as floodways. A floodway may be an extremely hazardous area due to the velocity of floodwaters, debris or erosion potential. In addition, the area must remain free of encroachment in order to allow for the discharge of the base flood without increased flood heights and velocities. Therefore, the following provisions shall apply:

(a) Encroachments are prohibited, including earthen fill material, new construction, substantial improvements or other developments within the regulatory floodway. Development may be permitted however, provided it is demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practices that the cumulative effect of the proposed encroachments or new development, when combined with all other existing and anticipated development, shall not result in any increase the water surface elevation of the base flood level, velocities or floodway widths during the occurrence of a base flood discharge at any point within the community. A registered professional engineer must provide supporting technical data and certification thereof.

(b) New construction or substantial improvements of buildings shall comply with all applicable flood hazard reduction provisions of § 11-405.

(4) Standards for areas of special flood hazard zones AE with established base flood elevations but without floodways designated. Located within the areas of special flood hazard established in § 11-403(2), where streams exist with base flood data provided but where no floodways have been designated, (Zones AE) the following provisions apply:

(a) No encroachments, including fill material, new structures or substantial improvements shall be located within areas of special flood hazard, unless certification by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base

flood more than one (1) foot at any point within the community. The engineering certification should be supported by technical data that conforms to standard hydraulic engineering principles.

(b) New construction or substantial improvements of buildings shall be elevated or flood-proofed to elevations established in accordance with § 11-405(2).

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

(a) When base flood elevation data or floodway data have not been provided in accordance with § 11-403, then the administrator shall obtain, review and reasonably utilize any scientific or historic base flood elevation and floodway data available from a federal, state or other source, in order to administer the provisions of § 11-405 only if data is not available from these sources, then the following provisions (b and c) shall apply:

(b) No encroachments, including structures or fill material, shall be located within an area equal to the width of the stream or twenty (20) feet, whichever is greater, measured from the top of the stream bank, unless certification by registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any point within the community. The engineering certification should be supported by technical data that conforms to standard hydraulic engineering principles.

(c) In special flood hazard areas without base flood elevation data, new construction or substantial improvements of existing shall have the lowest floor of the lowest enclosed area (including basement) elevated no less than three (3) feet above the highest adjacent grade at the building site. Openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with the standards of § 11-405(2)(c), elevated buildings.

(6) Standards for areas of shallow flooding (AO and AH Zones). Located within the areas of special flood hazard established in § 11-403(2), are areas designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one to three feet (1'-3') where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate; therefore, the following provisions apply:

(a) All new construction and substantial improvements of residential and non-residential buildings shall have the lowest floor, including basement, elevated to at least one (1) foot above the flood depth number specified on the Flood Insurance Rate Map (FIRM), in feet, above

the highest adjacent grade. If no flood depth number is specified, the lowest floor, including basement, shall be elevated, at least three (3) feet above the highest adjacent grade. Openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with standards of § 11-405(2), and elevated buildings.

(b) All new construction and substantial improvements of nonresidential buildings may be flood-proofed in lieu of elevation. The structure together with attendant utility and sanitary facilities must be flood proofed and designed watertight to be completely flood-proofed to at least one (1) foot above the specified FIRM flood level, with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. If no depth number is specified, the lowest floor, including basement, shall be flood proofed to at least three (3) feet above the highest adjacent grade. A registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this ordinance and shall provide such certification to the administrator as set forth above and as required in § 11-404(2)

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

(d) The administrator shall certify the elevation or the highest adjacent grade, where applicable, and the record shall become a permanent part of the permit file.

(7) Standards for areas protected by flood protection system (A-99 Zones). Located within the areas of special flood hazard established in § 11-403 are areas of the one hundred (100) year floodplain protected by a flood protection system but where base flood elevations and flood hazard factors have not been determined. Within these areas (A-99 Zones) all provisions of §§ 11-404 and 11-405(1) shall apply.

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

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

(b) When new elevation data is available, new construction or substantial improvements of buildings shall be elevated or flood proofed to elevations established in accordance with § 11-404. (Ord. of Oct. 21, 1987, as replaced by Ord. #2006-04, May 2006)

11-406. Variance procedures. The provisions of this section shall apply exclusively to areas of special flood hazard within Jonesborough, Tennessee.

(1) Board of zoning appeals. (a) The Jonesborough Board of Zoning Appeals shall hear and decide appeals and requests for variances from the requirements of this ordinance.

(b) Variances may be issued for the repair or rehabilitation of historic structures (see definition) upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum to preserve the historic character and design of the structure.

(c) In passing upon such applications, the board of zoning appeals shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this ordinance, and:

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

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

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

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

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

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

(vii) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

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

(ix) The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site, and;

(x) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

(d) Upon consideration of the factors listed above, and the purposes of this ordinance, the board of floodplain review may attach

such conditions to the granting of variances as it deems necessary to effectuate the purposes of this ordinance.

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

(2) Conditions for variances. (a) Variances shall be issued upon a determination that the variance is the minimum relief necessary, considering the flood hazard; and in the instance of a historical building, a determination that the variance is the minimum relief necessary so as not to destroy the historic character and design of the building.

(b) Variances shall only be issued upon: a showing of good and sufficient cause, a determination that failure to grant the variance would result in exceptional hardship; or a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

(c) Any applicant to whom a variance is granted shall be given written notice that the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance, and that such construction below the base flood level increases risks to life and property.

(d) The administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency upon request. (Ord. of Oct. 21, 1987, as replaced by Ord. #2006-04, May 2006)

11-407. Legal status provisions. (1) Conflict with other ordinances. In case of conflict between this ordinance or any part thereof, and the whole or part of any existing or future ordinance of Jonesborough, Tennessee, the most restrictive shall in all cases apply.

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

(3) Effective date. This ordinance shall become effective immediately after its passage, in accordance with the charter of Jonesborough, Tennessee, and the public welfare demanding it. (Ord. of Oct. 21, 1987, as replaced by Ord. #2006-04, May 2006)

CHAPTER 5

GENERAL PROVISIONS RELATING TO ZONING

SECTION

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- 11-528. Board of zoning appeals.
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- 11-530. Area yard and height requirements.

11-531. Amendment.

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11-501. Short title. This chapter shall be known as the "zoning ordinance of the Town of Jonesborough, Tennessee," and the map herein referred to, which is identified by the title "zoning map of Jonesborough, Tennessee,"¹ and all explanatory matter thereon are hereby adopted and made a part of this chapter. (Ord. of Jan. 8, 1970, as replaced by Ord. #94-10, Sept. 1994, and Ord. #99-03, May 1999)

11-502. Purpose. The purpose of promoting the public health, safety, morals, convenience, order, prosperity, or general welfare of Jonesborough, and to lessen congestion in the streets, to secure safety from fire, panic and other dangers, to provide adequate light and air, to prevent the overcrowding of land, to avoid undue concentration of population, to facilitate the adequate provisions of transportation, water, sewerage, schools, parks, and other public requirements; to promote desirable living conditions and the sustained stability of neighborhoods, protecting property against blight and depreciation, securing economy in governmental expenditure, conserving the value of building and encouraging the most appropriate use of lands, buildings, and other structures throughout the municipality, all in accordance with a comprehensive plan, the Board of Mayor and Aldermen of Jonesborough, Tennessee, does hereby ordain and enact into law the following sections. (Ord. of Jan. 8, 1970, as replaced by Ord. #94-10, Sept. 1994, and Ord. #99-03, May 1999)

¹This zoning map has been amended by ordinances dated as follows: April 30, 1971; Feb. 27, 1973; Dec. 10, 1974; Jan. 14, 1975; Jan. 31, 1975; Feb. 8, 1977; July 10, 1977; March 27, 1979; Oct. 9, 1979; two ords. dated Feb. 12, 1980; March 11, 1980; April 8, 1980; Dec. 9, 1980; Oct. 19, 1982; May 31, 1983; Jan. 10, 1984; Jan. 13, 1986; Feb. 27, 1986; Sept 8, 1986; Jan. 12, 1987; June 5, 1987; Jan. 17, 1989; Dec. 11, 1989; Nov. 12, 1990; Ords. #92-01 (Jan. 13, 1992); 92-06 and 92-07 (April 29, 1992); 94-04 (Jan. 1994); 94-09 (Aug. 1994); 95-02 (March 1995); 95-03 (May 1995); 95-05 (Aug. 1995); 95-10, 95-11, 95-12, and 95-13 (Nov. 1995); 95-14 and 95-15 (Dec. 1995); 96-01 (March 1996); 96-02 (April 1996); 96-03 (May 1996); 96-11 (Sept. 1996); 96-18 (Nov. 1996); 96-21 (Dec. 1996); 97-03 (March 1997); 97-15 (July 1997); 97-17 (Oct. 1997); 97-24 (Nov. 1997); 99-01 (Jan. 1999); 99-04 (May 1999); 99-07 (June 1999); 99-09, 99-10, and 99-11 (Aug. 1999); 99-13 (Sept. 1999); 2000-02 (Jan. 2000); 2000-05 (Feb. 2000); 2000-10 (Aug. 2000); 2000-11 (Sept. 2000); 2000-19 (Dec. 2000); 2001-01 and 2001-02 (Jan. 2001); 2001-11 (Sept. 2001); 2002-01 (Jan. 2002); 2002-06 (March 2002); 2002-09 (May 2002); 2002-12 and 2002-13 (June 2002); 2003-02 (Feb. 2003); 2003-15, 2003-16, and 2003-17 (Sept. 2003); 2004-01 (Jan. 2004); 2005-07 (March 2005); 2005-10 (June 2005); 2005-17 (Nov. 2005); 2005-18 (Nov. 2005); 2006-8 (Oct. 2006); 2006-11 (Nov. 2006); 2007-01 (March 2007); 2008-01 (Jan. 2008); 2008-11 (Oct. 2008); 2008-12 (Oct. 2008); 2008-16 (Dec. 2008); 2008-17 (Dec. 2008); 2009-01 (March 2009); 2009-03 (April 2009); 2009-04 (April 2009); 2009-11 (Sept. 2009); 2009-12 (Nov. 2009); 2010-06 (June 2010), 2010-10 (Aug. 2010); 2010-13 (Dec. 2010); 2011-07 (March 2011); 2011-08 (April 2011); 2011-18 (Nov. 2011); 2012-05 (April 2012); 2012-08 (July 2012); 2012-11 (Sept. 2012); 2013-01 (Feb. 2013); 2013-05 (June 2013); 2013-08 (Oct. 2013); and 2014-03 (March 2014).

These ordinances are of record in the recorder's office.

11-503. Definitions. Except as specifically defined herein, all words used in this chapter have their customary dictionary definition. For the purpose of this chapter, certain words or terms used herein shall be defined as follows: words used in the present tense include the future tense. Words used in the singular number include the plural, and words used in the plural include the singular. The word "person" includes a firm, copartnership, company, organization, trust, association, corporation, as well as individual. The word "lot" includes the word "plot, or parcel". The word "building" includes the word "structure".

The word "shall" is always mandatory. The word "used" or "occupied" as applied to any land or building shall be construed to include the word "intended", arranged or designed to be used or occupied.

(1) Access. The right to cross between public and private property allowing pedestrian and vehicles to enter and leave property.

(2) Alley. A public right-of-way which affords only a secondary means of access to property that has been accepted or opened by Jonesborough.

(3) Accessory uses, structures and outdoor storage. Customary accessory uses, structures, and outdoor storage incidental and subordinate to the principal land use or building which are located on the same lot.

(4) Automobile, sales, parts, service. Any establishment involved with the sale or service of any vehicular unit, including but not limited to trucks, motorcycles, cars, vans, recreational vehicles, etc. or their parts.

(5) Buffer strip. Plant material or other suitable material that will provide an obscuring screen not less than six feet (6') in height when planted, or other material as may be approved by the planning commission. Buffer strips shall be a minimum of ten feet (10') in width and shall be landscaped with trees, shrubs, grass, and in a manner as specified by the planning commission.

(6) Building. A structure built for the support, shelter, or enclosure of persons, animals, chattels, or property of any kind.

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

(b) Accessory building or use: A use or structure incidental and subordinate to the main use of the property and located on the same lot as the main use.

(c) Height of building: The vertical distance from the grade to the highest point of the coping of a flat roof, to the deck line of a mansard roof, or to the center height between the highest and lowest points on other types of roofs.

(7) Business sign. A sign which directs attention to a business or profession conducted on the premises. A "For Sale" sign or a "To Let" sign for the property on which it is displayed shall be deemed a business sign.

(8) Club, private. An organization catering exclusively to members and their guests, or premises and buildings for recreational or athletic purposes which are not conducted primarily for gain, providing that any vending stands, merchandising or commercial activities are conducted only as required generally for the membership of such club.

(9) Condominium. A multi-unit structure offering individual ownership of said units.

(10) Cottage inn. A building containing up to ten living units which are generally considered for short term overnight accommodations for tourists and other visitors with each unit containing a bath facility and they may also contain cooking facilities.

(11) Day nurseries, private. Any place, home or institution which receives six or more young children, conducted for cultivating the normal aptitude for exercise, play, observation, imitation and construction.

(12) Dish antenna. Antennas designed to receive television broadcasts relayed by microwave signals from earth orbiting communications satellites. These antennas shall be considered accessory use.

(13) Dwelling unit. One (1) or more rooms in a building designed for occupancy by one (1) family and having not more than one (1) principal cooking facility.

(14) Family. An individual or two (2) or more persons related by blood, marriage, legal adoption, or legal guardianship, living together as one (1) housekeeping unit using one (1) kitchen, or not more than three (3) unrelated persons living together as one (1) housekeeping unit using one (1) kitchen.

(14A) Food stores selling wine. A business that derives at least twenty percent (20%) of its sales from the retail sale of food and food ingredients, has floor space of at least one thousand two hundred (1,200) square feet, that food sales be those taxed at the lower five percent (5%) state rate rather than the higher tax for prepared foods, and that has been licensed by the Tennessee Alcoholic Beverage Commission to sell wine retail.

(15) Garage sale. A garage sale shall include sales held by individuals for the purpose of disposing of personal items no longer needed or wanted, and shall include any such sale whether conducted from within a garage, carport, porch, or from an open yard. Five (5) or more garage sales in a calendar year shall be considered a flea market and/or retail business.

(16) Lot. A parcel or tract of land.

(a) Lot area: The total horizontal area within the lot lines of a lot exclusive of streets, and easements of access to other property.

(b) Lot corner: A lot abutting on two or more streets other than an alley, at their intersection.

(c) Lot line: The property line bounding a lot.

(d) Lot line, front: The lot line separating the lot from the street other than an alley, and in the case of a corner lot, the shortest lot line along a street other than an alley.

(e) Lot line, rear: The lot line which is opposite and most distant from the front lot line. In the case of an irregular triangular, or other shaped lot, a line ten feet (10') in length within the lot parallel to and at a maximum distance from the front lot line.

(f) Lot line, side: Any lot line not a front or rear lot line.

(g) Lot width: The average horizontal distance between the side lot lines, ordinarily measured parallel to the front lot line.

(h) Lot of record: The boundaries of a lot filed as a legal record.

(16A) Grocery stores. A business with fifty percent (50%) of its sales being food products and food ingredients and not selling wine or alcoholic beverages above five percent (5%) alcohol content.

(17) Medical clinic. Medical offices, walk-in clinics, and treatment centers providing medical services for out-patients only; however, methadone treatment clinics or facilities and substance abuse treatment facilities are not medical clinics.

(18) Mobile home. A trailer house designed for long term occupancy and containing a flush toilet, a tub or shower bath, and kitchen facilities with a water supply, electrical supply, and sewage disposal ready to be connected to outside systems.

(19) Mobile home park. Any plot of ground upon which two (2) or more mobile homes are located or are intended to be located, but does not include sites where unoccupied mobile homes are on display for sale. The minimum mobile home park size shall be two (2) acres.

(20) Modular home. A home with all the characteristics, appearances, and design of a permanent home such as no chassis, a permanent foundation, and meet all other requirements of the Southern Building Code will be considered as other residential structures and not mobile homes.

(21) Nonconforming use or structure. A lawful existing structure or use at the time this chapter or any amendment thereto becomes effective, which does not conform to the requirements of the zone in which it is located.

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

(23) Outdoor advertising. An attached, freestanding or structural poster panel or painted or lighted sign for the purpose of conveying some information, knowledge or idea to the public.

(24) Owner. An owner of property or the authorized agent of an owner.

(25) Person. Every natural person, firm, partnership, association, social or fraternal organization, corporation, trust, estate, receiver, syndicate, branch of government, or any group or combination acting as a unit.

(26) Planned unit development. A planned residential, commercial or industrial development, professionally designed as a unit, and approved by the Jonesborough Regional Planning Commission, and located in those areas zoned for its use.

(27) Recreational vehicle. A vehicular type unit primarily designed as temporary living quarters for recreational, camping, or travel use, which either has its own motive power or is mounted on or drawn by another vehicle, the basic entities are: trailer, camping trailer, truck camper, and motor home.

(28) Recreation vehicle park. Any plot of land upon which two or more travel trailers are located and used as temporary living or sleeping quarters. The occupants of such parks may not remain in the same trailer park more than thirty (30) days.

(29) Rooming or boarding house. A building containing a single dwelling unit and not more than three (3) guest rooms where lodging is provided with or without meals for compensation.

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

(31) Story. That portion of a building included between the upper surface of any floor and the upper surface of the floor next above; or any portion of a building used for human occupancy between the topmost floor and the roof.

(32) Street. A public right-of-way which provides primary access to property that has been accepted or opened by Jonesborough.

(a) Collector street: A street providing for traffic movement within the town as shown on the zoning map of the Town of Jonesborough.

(b) Arterial street: A street that provides for traffic movement between areas and across portions of the city and secondarily for direct access to abutting land, as shown on the zoning map of the Town of Jonesborough.

(c) Center line of the street: That line surveyed and monumented by the governing body shall be the center line of the street; or if such center line has not been surveyed, it shall be that line running midway between the outside curbs or ditches of such street.

(33) Structure. Something constructed or built and having a fixed base on, or fixed connection to, the ground or another structure.

(a) Structural alteration: Any change to the supporting members of a structure including foundations, bearing walls or partitions, columns, beams, girders, or any structural change in the roof or in the exterior walls.

(34) Townscape. The townscape shall include city or other government property including buildings, open spaces, signs, traffic control devices, and public ways and easements.

(35) Use. The purpose for which land or a structure is designed, arranged, or intended, or for which it is occupied or maintained.

(36) Wrecking or storage yards. A premises used for the storage or sale of five (5) or more inoperative used automobile or truck parts, or for the storage, dismantling, or abandonment of junk, obsolete automobiles, trailers, trucks, machinery, or parts thereof.

(37) Yard. An open space on a lot which is unobstructed from the ground upward except as otherwise provided in this chapter.

(a) Yard, front: A yard between side lot lines and measured horizontally at right angles to the front lot line from the nearest point of a building. Any yard meeting this definition and abutting on a street other than an alley shall be considered a front yard.

(b) Yard, rear: A yard between side lot lines and measured horizontally at right angles to the rear lot line from the rear lot line to the nearest point of a building. (Ord. of Jan. 8, 1970, as amended by Ord. of Jan. 13, 1986, replaced by Ord. #94-10, Sept. 1994, and Ord. #99-03, May 1999, and amended by Ord. #2010-05, April 2010, and Ord. #2016-03, Feb. 2016 *Ch12_04-09-18*)

11-504. Establishment of districts. For the purpose of this chapter, a number of districts have hereby been created to assist in properly regulating land use within the Town of Jonesborough. In addition, certain activities are limited to specific zones.

(1) The Town of Jonesborough, Tennessee is hereby divided into the following districts:

- (a) Residence - R-1 district - low density residential
- (b) Residence - R-1A district - low density residential
- (c) Residence - R-1B district - low density residential
- (d) Residence - R-2 district - medium density residential
- (e) Residence - R-3 district - high density residential
- (f) Residence - R-4 district - transitional residential
- (g) Residential - PRD district - planned residential development
- (h) Historic - H-1 district - historic district
- (i) Historic - H2 district - historic overlay district
- (j) Business - B-1 district - neighborhood business
- (k) Business - B-2 district - central business
- (l) Business - B-3 district - arterial business
- (m) Business - B-4 district - intermediate business
- (n) Business - B-5 district - heritage business
- (o) Business - B-6 district - urban commercial corridor
- (p) Industrial - M-1 district - manufacturing and warehouse
- (q) Industrial - M-2 district - industrial
- (r) RLS (retail liquor store) overlay zone
- (s) DC (distilling company) overlay zone

The boundaries of these districts are hereby established as shown on the map entitled "zoning map of Jonesborough, Tennessee,"¹ which accompanies this ordinance and which is on file in the office of the town recorder. Unless otherwise specifically indicated on the map, the boundaries of districts are lot lines or center lines of streets or alley or such lines extended, the corporate limits lines of a line midway between the main track of a railroad or the center lines of streams or other water bodies. (Ord. of Jan. 8, 1970, as amended by Ord. of Oct. 8, 1974, Ord. of Jan 13, 1986, replaced by Ord. #94-10, Sept. 1994, amended by Ord. #96-09, Oct. 1996, replaced by Ord. #97-05, May 1997, Ord. #99-03, May 1999, and Ord. #2001-16, Dec. 2001, amended by Ord. #2002-08,

¹This map has been changed by rezoning ordinances listed in a footnote to § 11-501.

May 2002, and Ord. #2003-04, Feb. 2003, replaced by Ord. #2003-05, Feb. 2003, and amended by Ord. #2010-11, Nov. 2010, and Ord. #2010-12, Dec. 2010)

11-505. Application of regulations. Except as hereinafter provided:

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

(2) Street frontage. No building permit shall be issued for or no dwelling shall be erected on a lot which does not abut at least one (1) street for at least forty feet (40') except their condominiums may be excluded from this provision if they are reviewed under the PUD regulations.

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

(4) One (1) principal building on a lot. Only one (1) principal building and its customary accessory buildings may hereafter be erected on any lot.

(5) Reduction of lot size. No lot shall be reduced in area so that yard, lot areas per family, lot width, building area or other provisions of this chapter shall not be maintained.

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

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

(8) Annexations. All territory which may hereafter be annexed to the Town of Jonesborough, Tennessee shall be considered to be in the R-1 (residential) district until otherwise classified.

(9) Conformity to subdivision regulations. No building permit shall be issued for or no building shall be erected on any lot within the municipality, unless the street giving access to the lot upon which said building is proposed to be placed shall have been accepted or opened as a public street prior to that time or unless such street corresponds in its location and lines with a street shown on a subdivision plat approved by the Jonesborough Regional planning commission and such approval entered in writing on the plat by the secretary of the commission. (Ord. of Jan. 8, 1970, as replaced by Ord. #94-10, Sept. 1994, and Ord. #99-03, May 1999)

11-506. Continuance of nonconforming uses. Any lawful use of any building or land existing at the time of the enactment of this chapter or

whenever a district is changed by an amendment thereafter may be continued although such use does not conform with the provisions of this chapter with the following limitations:

(1) Any industrial, commercial, or business establishment containing a nonconforming use shall be allowed to continue in operation provided no change in the use of the land is undertaken. Said establishments shall be permitted to expand activities and facilities or reconstruct facilities necessary for said activities provided there is a reasonable amount of space for such expansion on property owned by said establishments to avoid nuisances to adjoining landowners. However, expansion of said establishments through the acquisition of additional land is prohibited.

(2) No building or land containing a nonconforming use except for industrial, commercial or business shall hereafter be extended unless such conditions shall conform with the provisions of this chapter for the district in which it is located; provided, however, that a nonconforming use may be extended throughout those parts of a building which were manifestly arranged or designed for such use prior to the time of enactment of this chapter. These buildings which have been damaged by fire or other causes, may be reconstructed and used as before unless the building inspector determines that the building is damaged to the extent of more than seventy-five percent (75%) of its appraised value for tax proposes in which case any repair or reconstruction shall be in conformity with the provisions of this chapter.

(3) When a nonconforming use of any building or land has ceased it shall not be reestablished or changed to any use not in conformity with the provisions of this chapter. (Ord. of Jan. 8, 1970, as replaced by Ord. #94-10, Sept. 1994, amended by Ord. #97-06, June 1997, and replaced by Ord. #99-03, May 1999)

11-507. Off-street automobile parking. Off-street automobile parking space shall be provided on every lot, except in the B-2 (central business) district, on which any of the following uses are hereafter established. The number of automobile parking spaces provided shall be at least as great as the number specified below for various uses. Each space shall have at least one hundred ninety (190) square feet in area and shall have vehicular access to a public street. Turning space shall be provided so that no vehicle will be required to back into the street. The planning commission, at its discretion, may reduce the number of parking spaces required for an individual business when the reduction still meets the need of the business, the number of spaces remaining appears to adequately serve the business use intended, and the reduction in spaces helps reduce stormwater run-off and potentially increases opportunities for additional landscaping and green space areas.

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

- (2) Churches: One (1) space for each four (4) seats.
- (3) Funeral parlors: One (1) space for each four (4) seats in the chapel.
- (4) Gasoline filling stations: Four (4) spaces for each by or similar facility plus one (1) space for each attendant.
- (5) Nursing homes: One (1) space for each four (4) beds plus one (1) space for each four (4) staff or visiting doctors plus one (1) space for each two (2) employees, including nurses, computed on the basis of the greatest number of persons on duty at one period during the day or night.
- (6) Industry: One (1) space for each three (3) employees computed on the basis of the greatest number of persons employed at any period during day or night.
- (7) Lodges and clubs: One (1) space for each two hundred (200) square feet of floor space or one (1) space for each four (4) members whichever is greater.
- (8) Offices:
 - Medical - one (1) space per two hundred (200) square feet of floor space.
 - Dental - one (1) space per three hundred (300) square feet of floor space.
 - Other professional - one (1) space per four hundred (400) square feet of floor space.
 - General offices - one (1) space per five hundred (500) square feet of floor space.
- (9) Places of public assembly: One (1) space for each six (6) seats in the principal assembly room.
- (10) Residential: Two (2) spaces for each dwelling unit.
- (11) Restaurants and night clubs: One (1) space for each one hundred (100) square feet of floor area devoted to patron use, plus one (1) space for each four (4) employees.
- (12) Retail business: One (1) space for each two hundred (200) square feet of gross floor space.
- (13) Rooming and boarding houses: One (1) space for each bedroom.
- (14) Schools: One (1) space for each teacher. One (1) space for each four (4) pupils, except in junior high and elementary schools one (1) space for each one hundred (100) pupils.
- (15) Tourist courts and motels: One (1) space for each accommodation.
- (16) Wholesale business: One (1) space for each three thousand (3,000) square feet of floor space plus one (1) space for each employee.
- (17) Location on other property: If the required off-street automobile parking spaces cannot reasonably be provided on the same lot on which the principal use is conducted, such spaces may be provided on other off-street property provided such space lies within four hundred feet (400') of the main entrance of such principal use. Such automobile parking space shall be

associated with the principal use and shall not thereafter be reduced or encroached upon in any manner.

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

(a) The parking space adjoins a commercial or industrial district;

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

(c) Is separated from abutting properties in the residential district by a planted buffer strip. (Ord. of Jan. 8, 1970, as replaced by Ord. #94-10, Sept. 1994, and Ord. #99-03, May 1999, and amended by Ord. #2012-02, April 2012)

11-508. Off-street loading and unloading space. On every lot on which a business, trade, or industry use is hereafter established, space with access to a public street or alley:

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

(2) Wholesale and industrial: One (1) space of at least twelve by fifteen feet (12 X 15') for each ten thousand (10,000) square feet of floor area or part thereof.

(3) Bus and truck terminals: Sufficient space to accommodate the maximum number of buses or trucks that will be stored and loading and unloading at the terminal at any one time. (Ord. of Jan. 8, 1970, as replaced by Ord. #94-10, Sept. 1994, and Ord. #99-03, May 1999)

11-509. Vision clearance. In all districts except the B-2 central business district, no fence, wall, shrubbery, or other obstruction to vision between the height of three feet (3') and fifteen feet (15') shall be permitted within twenty feet (20') of the intersection of the right-of-way lines of streets or of streets and railroads. (Ord. of Jan. 8, 1970, as replaced by Ord. #94-10, Sept. 1994, and Ord. #99-03, May 1999)

11-510. Ingress and egress. A plan for adequate and safe ingress and egress for all land uses shall be required. (as added by Ord. #94-10, Sept. 1994, and replaced by Ord. #99-03, May 1999)

11-511. Designated flood enforcement area.¹ No building or structure shall be constructed, altered, or repaired, no mobile homes placed, and no land

¹See also chapters 3 and 4 of this title.

shall be filled or excavated in the designated flood enforcement area until a permit has been obtained. Zone A (100 year flood area) as shown on the flood hazard boundary map issued by the Federal Insurance Administration dated October 22, 1976, and any revisions to this map shall be the designated flood enforcement area. All permit applications must be reviewed to ensure that all the requirements of the flood hazard area ordinance and the floodplain management ordinance are met before the permit application can be approved. (as added by Ord. #94-10, Sept. 1994, and replaced by Ord. #99-03, May 1999)

11-512. Planned unit development. Purpose: The purpose of the planned unit development (sometimes hereinafter referred to as PUD) is to provide the opportunities to create more desirable environments through the application of flexible and diversified land development standards under a comprehensive plan and program professionally prepared. The planned unit development is intended to be used to encourage the application of new techniques and technology to community development which will result in superior living or development arrangements with lasting values. It is further intended to achieve economies in land development, maintenance, street systems, and utility networks while providing building groupings for privacy, usable attractive open spaces, safe circulations, and the general well-being of the inhabitants.

(1) Location: A PUD may be located within any residential, commercial or industrial district provided that the density and use requirements of the district in which such a PUD is to be located are adhered to and provided that the PUD plan has been reviewed and recommended for approval by the Jonesborough Regional Planning Commission.

(2) Permitted uses in PUD'S: Any use permitted in that district in which the PUD is to be located.

(3) No free-standing building shall be closer than twenty feet (20') to any other free-standing building and no closer than twenty-five feet (25') to the exterior property line.

(4) Relationship to the subdivision regulations: The arrangement of public and common ways for pedestrian and vehicular circulation in relation to other existing or planned streets in the area and to the major thoroughfare plan, Jonesborough, Tennessee, together with provisions for street improvements shall generally comply with standards set forth in the subdivision regulations. However, the uniqueness of each proposal for a planned unit development may require that specifications for the width and surfacing of streets, public ways, public utility right-of-way, curbs and other standards may be subject to modification from the specifications established in the subdivision regulations.

Upon application by the landowner and good cause shown, the planning commission may permit changes or alterations of such standards which are consistent with the spirit and intent of this section. Modifications may be incorporated only with the approval of the planning commission as a part of its review of the development and granted as a variance in the preliminary

approval of the subdivision plat which is concurrent with the final approval by the planning commission of the development plan.

(5) Site improvements:

(a) All dedicated public streets shall be constructed so as to conform with the Jonesborough Subdivision Regulations.

(b) There shall be constructed sidewalks, or an equivalent paved internal pedestrian circulation system. The minimum width of such sidewalks shall be four feet (4').

(c) Storm drainage structures shall be constructed in accordance with plans and specifications approved by the planning commission.

(d) Any planned unit development to be constructed within Jonesborough shall be served by a sanitary sewer.

(e) For the prevention of noise, improvement of visual character and a generally more pleasing environment, adequate landscaping and screening shall be required by the planning commission and shown on the planned unit development plan.

(f) Each PUD shall be limited to one major business sign and any number of small accessory business signs. All small accessory signs shall be a face sign attached to a building and shall not project above the building.

(6) Open space requirements:

(a) Residential: On site usable recreation and open space shall be provided. Such areas shall be set aside for open space or recreation purposes only. It is intended to serve the residents of the PUD, and should, therefore be easily accessible to them. If the PUD is to be of individually owned units, then this space shall be maintained in common ownership, established in the appropriate legal manner.

(b) Commercial and industrial: Commercial and industrial PUD's shall meet all open space requirements established in this chapter.

(c) Said open space shall be established in the appropriate legal manner and maintained in one of the following methods:

(i) By the developer or management authority of the PUD.

(ii) By homeowner's association established by deed restrictions.

(iii) By the public if dedication of such open space is approved by the planning commission.

(7) Staging:

(a) The applicant may elect to develop the site in successive stages in a manner indicated in the planned unit development plan; however, each such stage shall be substantially complete within itself.

(b) The planning commission may require that development be done in stages if public facilities are not adequate to service the entire development initially.

(8) Changes and modifications:

(a) Major changes: Major changes in the planned unit development after it has been adopted shall be considered the same as a new petition and shall be made in accordance with the procedures specified in Section 67.10.¹

(b) Minor changes: Minor changes in the planned unit development plan may be approved by the planning commission.

(9) Application procedure for planned unit development: To obtain a special conditions permit to develop a planned unit development, the developer shall submit a preliminary planned unit development plan to the Jonesborough Regional Planning Commission for its review and approval. The preliminary PUD plan shall be drawn at a minimum scale of one inch equals one hundred feet (1" = 100') and shall:

(a) Define the location, size, accessibility, and existing zoning of the proposed site;

(b) Indicate the surrounding type of development and land use;

(c) Set forth the type of development proposed. The density of the proposed development, and the location of all structures, parking areas, and open space;

(d) Show a plan for streets, thoroughfares, public utilities, school, and other public or community uses;

(e) In addition to the above, the planning commission may require such other additional information as may be determined necessary to adequately review the proposed development.

(f) No building permits shall be issued until after approval of both the final PUD plan and a preliminary subdivision plat for any portion of the property contained within the area encompassed by the final PUD plan which is to be subdivided. The building inspector shall revoke any permit issued in reliance upon said plan as finally approved at such time as it becomes obvious that such plan is not being complied with.

(g) The final PUD plan shall conform to the preliminary PUD plan and shall include the following items, if applicable: such items, and in such format, as may be required according to procedures adopted and published by the Jonesborough Regional Planning Commission.

(h) Any special conditions permit shall expire twelve (12) months from and after its issuance if the development as planned has not

¹Reference to this section appears here as it did in Ord. #99-03 from which these provisions were taken. It is unclear exactly to what document this is a reference.

been adhered to or is not being adhered to; provided however, that for good cause shown said special conditions permit may be extended for additional periods not to exceed one (1) year. (as added by Ord. #94-10, Sept. 1994, and replaced by Ord. #99-03, May 1999)

11-512A. Planned residential development. The regulations established in this section for a planned residential district are intended to provide optional methods of land development which encourage imaginative solutions to environmental design problems. A planned development permits design innovation, encourages a maximum choice of types of environment, and optional methods of land development, which encourage imaginative solutions to environmental design problems. The goal is a development plan in which buildings, land use, transpiration facilities, utility systems and open spaces are integrated through overall design. The planned development permits the placement of buildings on land without adherence to conventional lot approach common to traditional zoning. By planning the total parcel rather than the single lot, flexibility is provided in the building site, thereby permitting a mixture of housing and building types and uses as well as the grouping of units to create more usable open space for the preservation of significant natural features.

(1) This section hereby establishes a planned residential district (PRD). This district shall be shown on the zoning map of Jonesborough, Tennessee and shall be established as follows:

(a) A request for a planned residential district shall not become effective unless it is first submitted to the Jonesborough Regional Planning Commission for approval or disapproval.

(b) Following approval or disapproval by the planning commission and a public hearing as provided by law, the Jonesborough Board of Mayor and Aldermen may, by a favorable vote of a majority of the entire membership of said board, create a planned residential district as herein provided.

(c) From and after the approval of any zone for a planned development district, it shall be unlawful to commence the filling or leveling of any land or the excavation for, or the construction of any building including accessory buildings, until such time as the owner or developer of the proposed development has submitted and received approval of a comprehensive development plan by the Jonesborough Regional Planning Commission.

(2) Permitted uses. The purpose of the planned residential districts is to permit optional methods of residential development. This zone would permit development to other than the traditional single lot development yet maintain the character of the neighborhood. The PRD classification may be utilized to promote flexibility in the design of a planned residential development

while maintaining the current residential integrity of the surrounding development.

(a) The following uses are permitted in the planned residential development district: Single family attached and detached dwellings, two (2) family dwellings, multi-family dwellings and their customary accessory structures. Mobile homes are not an allowed use in this zone.

(b) The minimum initial development site for a planned residential district shall be at least five (5) acres. Additional tracts less than five (5) acres may be added to an existing PRD zone under the following conditions:

(i) The property considered for PRD zoning is immediately adjacent to an existing PRD zone.

(ii) A site plan is developed for the smaller tract that shows how the parcel is connected to and coordinated with the plan for the exiting PRD development.

(iii) The conceptual site plan for the property requesting PRD zoning is approved by the planning commission.

(iv) The conceptual PRD site plan approved by the planning commission may not be changed without receiving additional planning commission approval.

(3) PRD standards. The following standards apply, and must be included in site plans submitted to the Jonesborough Planning Commission for approval:

(a) The minimum development site for a planned residential district shall be five (5) acres. Planned residential districts may be developed in phases, however, the initial phase must be a minimum of five (5) acres or as allowed under § 11-512A(2)(b) of the Jonesborough Zoning Ordinance. After the initial phase, the planning commission may accept phases less than five (5) acres provided that the open/common space amenities and infrastructure improvements are in reasonable proportion to the residential construction.

(b) All planned residential districts shall be served by sanitary sewer.

(c) Public street pavement widths shall be a minimum of twenty-two feet (22') wide for two-way traffic or as required in the Jonesborough subdivision regulation, whichever is less, and must meet all development standards of the Jonesborough subdivision regulations. Private street widths shall be a minimum of twenty feet (20') wide for two-way traffic and twelve feet (12') wide for one-way traffic. Alleys shall be a minimum twelve feet (12') wide for one-way traffic and minimum sixteen feet (16') wide for two-way traffic.

(d) Sidewalks shall be required on both sides of all streets except in common open space areas, and to the extent possible shall meet all ADA requirements. Sidewalks may be constructed on one (1) side of

the street when trails are also associated with the development. A pedestrian access plan must be submitted to the planning commission as part of the site plan. The planning commission, at its discretion, may waive the requirement for sidewalks if the pedestrian access plan shows adequate alternative pedestrian access to residences and facilities within the development.

(e) There shall be no more than four (4) principal buildings per acre.

(f) There will be a maximum of four (4) single family dwelling units per acre. When multi-family units or two (2) family (duplex) units are used alone or in conjunction with single family dwelling units, the maximum density shall be eight (8) dwelling units per acre. If the development is a mixture of unit types including single family units, the single family units shall be less than four (4) per acre so there are no more than four (4) residential buildings per acre.

For example, on a one (1) acre parcel of land there are two (2) single family dwellings, four (4) multi-family dwellings within a single building, and one (1) two (2) family (duplex) building totaling eight (8) dwelling units which meets the maximum PRD density of eight (8) dwelling units per acre, and there are four (4) buildings which meets the maximum of four (4) buildings per acre requirement.

(g) There shall be a minimum of six inch (6") ductile iron water lines, or acceptable alternative to the Jonesborough Water Department, serving the interior of the development.

(h) Necessary fire hydrants shall be provided within the development.

(i) A minimum of twenty percent (20%) of the entire development tract shall be common or open space, with the common or open space being defined as the area outside of private streets, rights-of-way for public streets, parking lots or driveways (unless associated with a common space structure), buildings (unless associated with a common space structure), and any individual lots. Alleys, if used, within the perimeter green space may be counted towards common space. Common or open space must be a defined area separate from individual lots and owned by a homeowners association, the Town of Jonesborough, or if in a rental based development be a designated area accessible to all renters within the development.

(j) Specific means by which the preservation and maintenance of the common or open space or other common property is achieved shall be required as part of the development plan, and should be included in the subdivision plat notes.

(k) There shall be a twenty-five foot (25') green space buffer along the perimeter of the original tract, and no structures including houses, sheds, decks, patios, pools, etc. may be built in this perimeter

buffer unless the structure(s) are owned by a homeowners association, the Town of Jonesborough, or if in a rental based development these structures must be in designated common space that is accessible to all renters. In the event the allowed common or open space structures are developed within a portion of the perimeter buffer, there still must be at least a ten foot (10') green space area remaining along the exterior property line. Where proposed single family lots can immediately adjoin the exterior property line of the original tract, the perimeter twenty-five foot (25') green space may be included as part of the rear of the single family lots provided it is approved by the planning commission and a twenty-five foot (25') restricted area is created and protected by easement, deed restriction, covenant or other such method acceptable to the town attorney, that results in a green space area with the homeowner being prohibited from constructing or placing any buildings or structures in the restricted area.

(l) The twenty-five foot (25') perimeter green space buffer must meet the requirements in the landscape ordinance for a class one buffer, or an alternative landscape plan may be submitted to the tree and townscape board that provides specific plantings to address screening and landscape beautification around the perimeter of the development, as well as any interior common or open spaces. Information provided in a landscape plan submitted must include variety, caliper and height of trees planted, existing trees in good condition, pot/ball size of shrubs, grasses and perennials, height and spread at maturity of trees and shrubs, planting location, as well as any hardscape structures.

(m) Developers are encouraged to preserve existing trees and vegetation when reasonable in buffer areas and open and common space areas. Removal of existing trees within required buffers or in open and common space areas is only allowed with planning commission approval.

(n) Other than the twenty-five foot (25') setback along the exterior property line of the development, setbacks for individual lots shall be determined by the developer, and must be listed clearly on the site plan. The planning commission reserves the right to approve or deny the setbacks submitted, however, any individual lot setback approved must meet any minimum standards established in the building code adopted by the Town of Jonesborough.

(o) There shall be parking provided on the site equal to two (2) spaces per dwelling unit. Garages are considered parking spaces based on the number of cars the garage is designed for.

(p) Alleys are allowed in perimeter green space but they must be at least ten feet (10') from the exterior property lines of the original tract. Alleys may be designated one-way. Alleys outside of the perimeter green space must be at least twelve feet (12') wide if one-way and sixteen feet (16') wide if two-way, or as allowed by the subdivision regulations.

(q) Any required plantings within the green, open space or common areas, any sidewalk, walkway or trail, or hardscape structures resulting from site plan, subdivision, and/or landscape approval, must be installed or constructed, or properly secured with a bond, letter of credit, or cash deposit, before final approval of the subdivision plat or issuance of a certificate of occupancy.

(r) Notes on the subdivision plat must explain ownership, maintenance responsibilities, and restrictions of common or open space, the perimeter green space and any vegetated buffer. (as added by Ord. #2001-16, Dec. 2001, and amended by Ord. #2012-03, April 2012, and 2012-15, Nov. 2012)

11-513. R-1 (low density) residential district. It is the intent of this district to establish low density residential areas along with open areas that appear likely to develop in a similar manner. The requirements for the district are designed to protect essential residential, historic and aesthetic characteristics of the district and to promote and encourage an environment for family life; and to prohibit all business activities. In order to achieve the intent of the R-1 (low density) residential districts, as shown on the zoning map of the Town of Jonesborough, Tennessee, the following uses are permitted:

- (1) Single family residences, except mobile homes.
- (2) Two (2) family residences.
- (3) Multi-family residences provided that a site plan is submitted to the building inspector for review and approval.
- (4) Customary general farming.
- (5) Incidental home occupations provided that a home occupation permit application is approved by the Jonesborough Regional Planning Commission.

(a) The planning commission shall use the following criteria in determining the appropriateness of an incidental home occupation permit request:

(i) The home occupation shall be clearly incidental to the principal residential use.

(ii) The home occupation shall be carried on by residents living full-time in the dwelling.

(iii) One (1) additional person may be employed who is not a resident in the dwelling and working in the dwelling at any given time.

(iv) The home occupation shall not utilize more than one-third (1/3) the area of the principal building or a maximum of five hundred (500) square feet. The calculation is based on livable space, and the home occupation area includes any storage space for any related materials or products. The determination of livable

space must be submitted by the property owner, and confirmed by the building inspector.

(v) The planning commission may approve an incidental home occupation that is carried out in an outbuilding located on the same lot as the primary residence/building, with the following conditions:

(A) The space utilized for the home occupation in the outbuilding is based on the calculation for eligible livable space allowed in the primary building, and the area proposed in the outbuilding is instead of space used in the primary building.

(B) Attached garages workshops, storage areas, etc. are not included in the calculation of livable space, and any proposed uses of these spaces for a customary home occupation will be considered the same as an outbuilding in subsection (v)(A) above.

(C) The occupation requested can be undertaken efficiently in the outbuilding, and does not create access or safety concerns.

(D) The building is suitable for the occupation and meets any code or safety requirements that might be applicable.

(vi) The submittal for approval of an incidental customary occupation must be made by the property owner living in the primary structure, or if a rental by the tenant living in the primary structure with a letter from the property owner approving the submittal of the occupation being considered.

(vii) There may be no external evidence displayed or created outside the building, including products and materials, related to the incidental home occupation other than one (1) unanimated, non-illuminated, flat freestanding or window sign of no more than 2.25 square feet (1.5 ft. x 1.5ft.)

(viii) The hours of operation are limited to between 8:00 A.M. to 8:00 P.M.

(ix) Educational instructional activities as incidental home occupations may not involve more than ten (10) people at one time. Baby-sitting or daycare like activity must involve four (4) children or less to be considered an incidental home occupation.

(x) There shall be no retail transactions on the premises, unless provided a special exception by the planning commission for items produced in the dwelling. If there are product sales, the applicant must detail how sales will be made, and why said sales are not retail. The planning commission shall ultimately determine whether sales are considered retail.

(xi) No equipment or process used in the incidental home occupation shall create noise, vibration, glare, smoke, fumes or odors detectable beyond the property lines of the lot to any additional extent than what is normal for the residential character of the neighborhood.

(xii) The following are examples of acceptable and unacceptable incidental home occupations, and the listing is intentionally incomplete and used as examples only.

Examples of acceptable occupations: lawyer, insurance, accountant, architect, engineer, counselor, clergy, financial planners, and other similar professional services; Tupperware, Amway, Mary Kay products and other such home marketed products, provided a group at any given time is not larger than ten (10) people, barber or beauty shop with only one (1) chair, pet grooming, artist studios, small repair services for jewelry, appliances, computers, etc.

Occupations not meeting incidental home occupations criteria include: most retail sales, day cares (more than four (4) children), dance studios serving more than four (4) students, kennels, motor vehicle repair unless in separate outbuilding with only two (2) vehicles present, gun sales, florist shop, restaurants.

(b) A site plan shall be submitted to the planning commission showing ingress and egress and associated parking.

(c) Only one (1) commercial vehicle may be used for the incidental home occupation, including storage and transport of materials, and if the vehicle has exterior advertising associated with the home occupation, such vehicle must be stored in a garage or building or other mode of concealment when it is located at the dwelling.

(d) The holder of an incidental home occupation permit must continuously comply with all provisions of the permit requirements.

(e) An incidental home occupation permit is not transferrable. The permit terminates if the permit holder ceases to occupy the dwelling.

(f) An incidental home occupation permit may be revoked by the planning commission when it is determined that the conditions of the issuance have not been met.

(i) The permit holder shall be notified in writing that the conditions of the permit issuance are not being met, and the specific infraction(s) noted.

(ii) The permit holder shall be given a minimum of ten (10) calendar days from the date of the written correspondence to bring the conditions noted into compliance or to obtain written approval from the building inspector of a plan to get in compliance within a minimum and reasonable time period.

(iii) Correspondence shall include the date the planning commission shall consider a possible revocation of the incidental home occupation permit.

(g) The board of zoning appeals shall not issue a variance from the established criteria of the issuance of an incidental home occupation permit.

(6) Public owned buildings and uses, schools offering general education, and churches provided that:

(a) The location of these uses shall first be reviewed by the Jonesborough Planning Commission and a site plan approved;

(b) The buildings are placed not less than fifty feet (50') from the side and rear property lines;

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

(xiii) Parking associated with home occupation must be accommodated on the property in which the occupation is taking place. A commercial vehicle must conform to requirements outlined in § 11-513(5)(c) of this chapter and may not be parked on the public street. Any vehicle associated with an employee may not be parked on the public street, unless there are parking spaces, public or private, that do not restrict the flow of traffic through the subdivision. If the applicant intends to park his or her vehicle on the public street as a result of the home occupation business activity, the applicant must:

(A) Provide justification for such street parking.

(B) Provide an explanation as to why such parking cannot be located on the property in which the home occupation will be undertaken.

(C) Show evidence of how any on-street parking resulting from the home occupation will not present a traffic safety concern to other residents within the subdivision.

(xiv) The applicant must provide documentation of subdivision restrictions, if any, that might impact the appropriateness of the home occupation in the subdivision in which the residence involved is located. The applicant must declare "yes" or "no" if there are subdivision regulations that do apply. If yes, documentation of those restrictions must be provided in the application submittal. If subdivision restrictions impacting the appropriateness of a home occupation being permitted are submitted, the planning commission shall determine if the information provided should impact the commission's determination, and the commission may defer action until any internal issue within the subdivision on the home occupation request is resolved.

(xv) Before the planning commission takes action on an incidental home occupation permit application, the following notification requirements should be met:

(A) Adjoining properties are sent notice of the planning commission meeting date and time along with a description of the request for an incidental home occupation permit. When reasonable in a heavily populated subdivision, notification is encouraged to any additional households in close proximity to the home occupation applicant.

(B) If there is a subdivision homeowner's association, notification of the meeting date and time, and information summarizing the home occupation request and the residence involved will be sent to the mailing address of the homeowner's association in advance of the planning commission meeting in which the application will be discussed.

(C) If the subdivision has a designated person who facilitates communication within the subdivision, notification of the meeting date and time in which the home occupation application will be discussed and information summarizing the home occupation request shall be sent to the designated communications facilitator in advance of the planning commission meeting date.

(7) Accessory uses. Structures, and outdoor storage: Accessory uses, structures, and outdoor storage shall be located in rear yards not closer than ten feet (10') to any property line.

Carports can be exempted from the rear yard requirement and be approved by the building inspector under the following conditions:

(a) A schematic is submitted to the building inspector showing the carport location and distances from the front and side property lines as well as the residence, and photos, sketches, or marketing materials are provided showing the appearance and design of the carport.

(b) A site plan shall be submitted to the planning commission showing ingress and egress and specific locations for all off-street parking associated with vehicles involved with the home occupation, and also for personal vehicle parking for occupants of the residence.

(c) The building inspector approves the location, construction stability and design/appearance of the carport and its compatibility with the residence based on standards and guidelines established by the planning commission; however, the owner submitting a request to install a carport may take the request to the planning commission.

(8) Cottage inns as a special exception limited adaptive use of historic structures listed on the National Register of Historic Places or structures within the H-1 or H-2 historical districts subject to planning commission approval.

- (9) Accessory building apartments are an allowed use provided that:
- (a) The setback distances of the accessory building from property lines meets the setback requirements for a primary building.
 - (b) There is appropriate ingress and egress to the accessory building apartment as determined by the planning commission under subsection (h) below.
 - (c) The apartment does not eliminate the garage, workshop or other accessory use of the structure.
 - (d) The floor space of the apartment is no more than the remaining floor space of the accessory use.
 - (e) The apartment living space is on the second floor. However in existing accessory buildings the second floor residential use is not required provided that the residential use is not more than fifty percent (50%) of the existing building.
 - (f) There is adequate parking for both the primary structure and accessory apartment.
 - (g) The apartment and its access meets all requirements set out in the International Building Code or such building code adopted by the Town of Jonesborough.
 - (h) A site plan be presented to the planning commission for review and approval showing the following:
 - (i) Relationship of accessory building to primary building on lot and all property lines.
 - (ii) Identification of accessory use.
 - (iii) Relationship of apartment to accessory use in building.
 - (iv) Square footage of floor space of apartment and accessory use.
 - (v) Pertinent information from building code showing minimum requirements that might apply, including minimum square footage requirements for rooms by use, stair widths and elevation, etc.
 - (vi) Parking areas for primary and accessory apartment building, as well as ingress and egress.
 - (vii) Method of utility service.
 - (viii) Names of adjoining property owners.

The site plan should be submitted ten (10) days in advance of the planning commission meeting so adjacent property owners may be notified before the meeting.

- (i) Accessory apartments within the historic district must meet historic zoning commission standards and guidelines. Setback requirements within the historical district, if established elsewhere in the code, shall apply.

(10) Portable storage containers are subject to the following provisions and restrictions:

(a) Portable Storage Containers, also called PODS, conex boxes, SAMS or shipping containers, are defined as any transportable unit or container normally used for temporary storage outdoors which is typically delivered and removed by truck.

(b) Portable storage containers to be placed on non-public property in all zones require a permit.

(c) Except in a manufacturing zone, there should be no more than one (1) portable storage container per parcel without a variance from the Jonesborough Regional Planning Commission/Board of Zoning Appeals, or without advance planning commission approval as a component of development site plan approval.

(d) Placement of portable storage containers must meet setback requirements of the zone in which they are located.

(e) A portable storage container permitted for temporary use in association with construction or moving activity must meet the following requirements:

(i) The location of the portable storage container on the site is either approved or designated by the Jonesborough Building Inspector, and to the extent possible containers will be located to the rear of the primary building.

(ii) A portable storage container in temporary status is permitted to locate on the site approved no more than nine (9) months without planning commission approval to extend, and the building inspector has the authority before the nine (9) month term to issue a written notice to the owner to remove the portable storage container within ten (10) calendar days from the date of the notice if the building inspector determines the project to be essentially complete or the portable storage container is essentially empty.

(iii) Any extension beyond the initial nine (9) month period of use must be approved by the planning commission, and the planning commission has the authority to require partial or total screening of the container as a condition of the extension. The Planning commission may require a rendering of the type of screening to be used, if required, as part of the extension consideration. If an extension is granted, the planning commission shall determine the specific length of the extension.

(f) Except in an R-1, R-2 or PRD Zone, portable storage containers may be considered for long-term use as an outbuilding under the following circumstances:

(i) The portable storage container meets outbuilding requirements, and the container must be screened or covered.

(ii) A schematic is submitted to the planning commission for approval showing the portable storage container location, size, relationship and distance from primary building, a rendering indicating the method of screening or covering of the container, and setback distances from property lines.

(iii) If the portable storage container location requested is on the side or in front of the primary structure on the lot, the information required in subsection (f)(ii) above must be submitted to the planning commission for approval along with a written justification of why the portable storage container cannot be located on a site in the rear of the primary structure.

(iv) Any signage permanently applied to the container must be removed or covered.

(g) The building inspector has the authority to allow temporary placement of a portable storage container on a property in an emergency situation like a loss due to fire, flood, or other such catastrophic event. Such emergency temporary use shall be reviewed by the planning commission, if necessary, at its next meeting, and the temporary use term is only until a more formal request can be reviewed by the planning commission.

(h) Portable storage containers used by residents, property/business owners or contractors may not be placed on public streets or right-of-ways without the permission of the Town of Jonesborough.

(i) Portable storage containers may not be used to store illegal or hazardous materials.

(j) Portable storage containers approved in temporary status must be removed immediately or within ten (10) calendar days upon completion of the project; at the end of nine months; or as directed by the Building Inspector if prior to the nine (9) month temporary permit term.

(k) Portable storage containers may only be considered for temporary use within the historic zones, unless receiving a special exception from the historic zoning commission.

(l) More than one (1) portable storage unit may be allowed in a manufacturing M-1 or M-2 zone, however, a permit is required to ensure safe placement of the containers. Portable storage containers used long-term in a manufacturing zone do not require planning commission approval. (as added by Ord. #94-10, Sept. 1994, amended by Ord. #98-01 (Jan. 1998), replaced by Ord. #99-03, May 1999, and amended by Ord. #2003-21, Dec. 2003, Ord. #2009-08, June 2009, Ord. #2012-16, Dec. 2012, Ord. #2014-08, Aug. 2014, 2016-04, March 2016 *Ch12_04-09-18*, and Ord. #2018-04, April 2018 *Ch12_04-09-18*)

11-514. R-1A (low density) residential district. Same intent and standards of the R-1 district except that smaller lot sizes are allowed for single family residences on sanitary sewers and the side yard is reduced.

Same land uses, standards and setbacks as the R-1 district except that single family residences on sanitary sewers have a minimum lot size of twelve thousand (12,000) square feet, and the minimum side yard is ten feet (10'). (as added by Ord. #99-03, May 1999)

11-514A. R-1B (low density) residential district. Same intent and standards of the R-1 district except that bed and breakfasts, cottage inns, rooming and boarding houses are an allowed use, as well as facilities related to weddings, meetings, celebrations, and facilities that assist in the promotion and success of farmers markets producing goods for resale. The following uses are allowable:

(1) Bed and breakfasts, cottage inns, boarding and rooming houses.
(2) Facilities related to weddings, meetings, celebrations and other similar activities.

(3) Facilities used in the production of goods for resale at farmers markets, shops, etc, provided that the products developed are sold off-premise, or that those sold on-premise are only sold as a minor or incidental component of a bed and breakfast or other allowable use in the R-1 B zone.

(4) Mobile homes are not allowed in an R-1 B zone.

The zone will otherwise have the same standards and setbacks as in an R-1 zone. Uses in an R-1 B zone not in R-1 must be approved by the planning commission through the submission of a site plan addressing safe ingress and egress, parking, site layout with structures, lighting, and potential impact on adjoining properties. The planning commission has the authority to require buffering or additional buffering if already required in such circumstances that additional steps are necessary to protect the general welfare of adjoining properties. Bed and breakfast and food related activities must obtain any health department or other agency approvals that may be required. (as added by Ord. #2010-11, Nov. 2010)

11-515. R-2 (medium density) residential district. It is the intent of this district to provide area for single family and multi-family dwellings; to encourage development and continued use of land for residential purposes; to prohibit land use for business use and/or industrial activities and other land uses which would interfere with the residential, historic and aesthetic characteristics of the district. In order to achieve the intent of the R-2 (medium density) residential district, as shown on the zoning map of the Town of Jonesborough, Tennessee, the following uses are permitted:

(1) Any use permitted in the R-1 residential district.

(2) Mobile home dwellings: Mobile home dwellings may be placed on a lot, except within the historic zoning district, subject to the following conditions:

(a) The mobile home has the metal plate certifying that it meets minimum standards of the Department of Housing and Urban Development. Uncertified mobile homes, recreational vehicles, and campers may not be placed on a lot for long or short term occupancy.

(b) The mobile home is anchored in accordance with state law.

(c) That the space between the bottom of the mobile home and the ground be enclosed with a permanent material.

(d) A mobile home may temporarily be placed on a lot with a site built or a modular dwelling unit if the lot could be subdivided and meet the requirements of the subdivision regulations. The lot would have to be subdivided if the mobile home was to be permanently located on the lot. Recorded deeds may be used to subdivide the property if the land is to be sold to another person or a recorded plat may be used if the original owner is going to retain ownership of the property. All plats must be approved by the planning commission.

(3) Day care centers provided that a site plan is submitted to the planning commission for review and approval, and a letter of approval by the Tennessee Department of Human Service is filed with the building inspector.

(4) Boarding and rooming houses.

(a) Special exceptions: Within the historic district the following non-residential uses may be permitted by a special conditions permit which shall not be issued until all conditions set forth in this section and Section 74¹ of this ordinance have been met:

(b) Limited adaptive uses of historic structures, contained in a listing compiled by the Jonesborough Civic Trust and approved by the Jonesborough Planning Commission and the Historic Zoning Commission, for offices of doctors, lawyers, architects, civic or patriotic organizations, educational centers, and cottage inns.

(c) Heritage occupations in conjunction with a principal residential use provided that the proposed occupation is listed on the heritage occupations list compiled by the Jonesborough Planning Commission and the Historic Zoning Commission.

(d) Prior to the consideration of a special exception request by the Jonesborough Board of Zoning Appeals, a project plan shall be required and shall contain the following:

A general site plan drawn at a minimum scale of one inch equals one hundred feet (1" = 100') and the plan shall:

¹Reference to this section appears here as it did in Ord. #99-03 from which these provisions were taken. However, it is unclear to what section this refers since there is no section 74 in Ord. #99-03.

- (i) Define the location, size, accessibility, special conditions, and existing zoning of the proposed project site;
- (ii) The types of surrounding land uses.
- (iii) The type of proposed development and the location of all existing and proposed buildings, parking areas, open spaces, natural areas and screening techniques; and
- (iv) Any other such additional information as may be required to adequately review the request.

(e) A written report shall be required. This report shall contain a narrative noting that the property owners in the general vicinity of the proposed use or project have been notified. The report shall note all comments of these property owners. (as added by Ord. #94-10, Sept. 1994, and replaced by Ord. #99-03, May 1999)

11-516. R-3 (high density) residential district. It is the intent of this district to provide areas for high density residential development plus open areas where similar development is likely to occur. The requirements for the district are designed to protect essential residential, historic, and aesthetic characteristics. Limited non-residential uses are permitted provided they meet applicable standards and do not encourage general business activities. In order to achieve the intent of the R-3 (high density) residential district, as shown on the zoning map of the Town of Jonesborough, Tennessee, the following uses are permitted:

- (1) Any use permitted in the R-2 (medium residential) district.
- (2) Mobile home parks provided that they conform to requirements of the mobile home park ordinance of the Town of Jonesborough, Tennessee.
- (3) Medical offices; funeral homes; civic and fraternal organizations and clubs not operated for a profit; nursing homes; public recreational uses; and offices for doctors, lawyers, dentists, real estate agencies, insurance agencies, and other similar uses provided that they are located on major streets designated on the zoning map of the Town of Jonesborough, Tennessee, and provided that:

(a) A site plan, which shall include: the proposed location of structures, off-street parking, ingress and egress points, proposed utilities, and landscaping shall be submitted to the Jonesborough Planning Commission for approval.

(b) The building shall be placed not less than fifty feet (50') from all property lines.

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

(d) Existing buildings may be utilized provided that the requirements of this chapter are met as closely as possible and that no parking shall be allowed in front yards. (as added by Ord. #94-10, Sept. 1994, and replaced by Ord. #99-03, May 1999)

11-516A. R-4 (transition) residential district. It is the intent of this district to allow residential property in areas along or adjacent to arterial routes with adjacent or nearby commercial properties to be used for non-residential purposes provided that they meet applicable standards, and the residential nature and character of any structure housing said non-residential activity is not changed. The requirements for the district are designed to preserve the neighborhood integrity of the surrounding area and to protect the essential residential, historic, and aesthetic characteristics. In order to achieve the intent of the R-4 (transition) residential district, as shown on the zoning map of the Town of Jonesborough, Tennessee, the following uses are permitted:

(1) Any use permitted in the R-3 (high density) residential district with the exception of mobile homes and mobile home parks which are expressly prohibited.

(2) Small retail shops such as gift shops, clothing, pharmacies, home décor shops, bakeries, florists, bookstores, antiques, hardware, shoe sales and repair shops, crafts and other similar retail establishments, provided that truck deliveries shall be limited to normal business hours.

(3) Barber and beauty shops.

(4) Branch banks.

(5) Video, audio, music, television and other electronic equipment sales and rental, provided that noise shall be minimized as follows: loud speakers, public address systems, electric amplifiers and other similar electronic equipment shall not be used or demonstrated where it can be heard outside of the building in which it is located, and further provided that truck deliveries shall be limited to normal business hours.

(6) Personal, business and professional service.

(7) Art galleries and frame shops.

(8) Bed and breakfast inns.

(9) Libraries and museums.

(10) Small clinics including: medical, dental, chiropractic, optical, osteopathic, veterinary and other similar operations, but not including methadone clinics.

(11) Small office buildings including governmental, private and professional offices including insurance, financial and legal offices.

(12) Uses permitted by approval as special exception. The following uses are permitted when approved by the board of zoning appeals as special exceptions:

(a) Day-care centers and schools provided that playground areas are in the rear of the facility, screened, have minimal side and rear setbacks of thirty feet (30'), and do not operate past 7:00 P.M.

(b) Plant nurseries provided that the area including store, yard and parking lot shall not exceed two (2) acres; ground cover is used to control dust, erosion and sedimentation; and truck deliveries are confined to normal business hours.

(c) Small cafés or eating establishments with seating seventy-five (75) seats or less and no drive-in windows.

(d) Nursing homes and assisted living units provided buildings are placed not less than fifty feet (50') from side and rear property lines.

(e) Funeral homes provided buildings are placed not less than fifty feet (50') from side and rear property lines.

(f) Lodges and clubs provided buildings are placed not less than thirty feet (30') from side and rear property lines.

(g) The planning commission shall use the following criteria for considering special exemptions:

(i) Driveway ingress and egress and safety of motorists exiting and entering arterial road.

(ii) Location of parking.

(iii) Percentage of impervious parking area(s) within total site.

(iv) Frontage landscaping.

(v) The training, expertise, professional reputation, operational history of the applicant, etc. establishing some assurance that the operation will not be a nuisance to adjoining property owners if a special exemption is granted.

(13) The following uses are expressly prohibited within an R-4 zone:

(a) Gasoline service stations.

(b) Automobile, truck, motorcycle or vehicular sales, rental or repair.

(c) Farm, construction, lawn and other similar equipment sales, rental or repair.

(d) Tower structures.

(e) Car washes.

(f) Motels and hotels.

(g) Arcade and similar amusement centers.

(h) Package or other stores selling retail beer.

(i) Outdoor storage, salvage or junk yards.

(j) Shopping centers with more than three (3) business units per building and/or a building with more than a maximum of five thousand (5,000) square feet.

(k) Grocery stores larger than five thousand (5,000) square feet.

(14) Properties in an R-4 district to be used for non-residential purposes must also be located on major streets designated on the zoning map of the Town of Jonesborough, Tennessee and provided that:

(a) A site plan, which shall include the existing location of structures, off-street parking, ingress and egress points, proposed utilities, stormwater mediation, and landscaping shall be submitted to the Jonesborough Planning Commission for approval.

(b) Any new building constructed shall be designed to be compatible to the adjoining residential properties, must meet the adopted R-4 building standards and guidelines, and the design must be approved by the planning commission prior to the issuance of a building permit.

(c) Any new primary structure shall be placed not less than twenty feet (20') from all property lines, or as required in the Jonesborough Zoning Ordinance - whichever is greater; however, the planning commission may require more set back footage for new buildings depending on the characteristics of the adjoining properties.

(d) There is a planted buffer strip on all property lines, a minimum of ten feet (10') wide when using an existing building; and a minimum of twenty feet (20') wide with new construction or as required in the landscape ordinance in § 11-610 Buffering, whatever is greater.

(e) Existing buildings may be utilized provided that the requirements of this chapter are met.

(f) Any parking areas are also screened with a ten foot (10') buffer, to the extent possible, from the adjoining properties and from the access street.

(g) The number of parking spaces must be approved by the Jonesborough Planning Commission based on the property size and use.

(h) To the extent possible, existing trees and vegetation are to be preserved.

(i) There shall be no more than one (1) freestanding sign per principal building which must be a monument sign with a sign face of no more than thirty (30) square feet per face and all signs shall not project above buildings nor have flashing or moving illumination. Although signs must be monument signs, the total sign and support structure height and distance of the sign face from the ground will be determined by the planning commission based on the following criteria:

(i) Topography of the property.

(ii) Location of plant material including trees.

(iii) Location of entrance.

(iv) Distance sign is located from front property line and from arterial road surface.

A sign schematic showing dimensions, as well as a location map showing distance from pavement, associated landscaping, and other features, as well as the principal building(s) must be submitted to the planning commission for approval.

The board of zoning appeals upon consideration of the above criteria may authorize a variance of up to twenty-five percent (25%) of the sign face square footage.

(j) Minimum yard requirements of existing buildings from property lines and maximum heights of structures shall be the same as in an R-3 zone.

(k) Frontage landscape areas shall meet the minimum requirements of § 11-614 of the Jonesborough Landscape Ordinance, however, wherever possible the planning commission shall require frontage landscape buffers of twenty feet (20').

(l) Unless a greater percentage results from the requirements of the Jonesborough Landscape Ordinance, non-residential developments in an R-4 zone will have a minimum of thirty percent (30%) open green-space within the property boundaries.

(m) Buildings will have a maximum size of five thousand (5,000) square feet and will have a maximum of three (3) non-residential spaces per building.

(n) There may only be one (1) principal building per acre of property, and in properties of more than one (1) acre, buildings must be a minimum of forty feet (40') apart as if they had to meet the setback requirements in § 11-516(14)(c).

(o) Lighting must be directed towards the grounds or buildings in such a manner that it does not illuminate areas outside of the property boundaries, nor produce glare that may affect the sight of passing motorists or be a nuisance to adjoining properties.

(p) Sidewalks may be required as determined by the planning commission, as well as possible access to the town's walkway system if it is constructed in reasonable proximity.

(q) To the extent possible, the planning commission will encourage use of frontage and service roads to reduce congestion and increase safety on the associated arterial road. (as added by Ord. #2002-08, May 2002, and replaced by Ord. #2003-09, June 2003)

11-516B. R-4A (special transition) residential district. (1) It is the intent of this district to allow residential property in areas along major arterial routes, gateways into Jonesborough and especially at the intersection of what are or could be the intersections of major arterial routes, with adjacent nearby commercial properties or what the planning commission may determine to be logical locations for some future commercial activity, to be used for non-residential purposes provided that they meet applicable standards, the residential nature and character of any existing structure housing said nonresidential activity is not changed and that new construction meets the standards and guidelines established for the R-4A zone. The requirements for the district are designed to protect the essential residential, historic, and aesthetic characteristics of the area. In order to achieve the intent of the R-4A (special transition) residential district, as may be shown on the zoning map of the Town of Jonesborough, Tennessee, the following uses are permitted:

(a) Any use permitted in an R-4 (transition) residential district, also with the exception of mobile homes and mobile home parks and warehouse structures which are expressly prohibited.

(b) Restaurants or eating establishments with more than seventy-five (75) seats that may have pick-up windows but not external menu boards and outside intercom type ordering.

(c) Markets that also sell gasoline or fuels but with no repair or service component provided that:

(i) Detailed lighting plans are submitted with the initial site plan that shows a minimal approach to site lighting while maintaining reasonable safety standards.

(ii) Free-standing monument signs are no more than ten feet (10') in height and with a single side sign face totaling no more than seventy (70) square feet and any electronic messaging indicating gas prices only and a minimum of time between message changes of six (6) seconds with no transition time between changes. The board of zoning appeals upon consideration of the criteria established in § 11-516A(14)(i) of the R-4 zone ordinance may authorize a variance of up to twenty-five percent (25%) of the sign face square footage and height restrictions.

(iii) Building mounted signage meets the current sign ordinance standards for commercial properties.

(d) Markets, package or other stores selling retail beer provided there is no external signage advertising beer (beverages with five percent (5%) alcohol or less) or individual varieties of beer. Note: Internal signage advertising beer or beer varieties, even signs inside glass windows facing the exterior, are permitted.

(e) Shopping centers with more than three (3) business units per building and/or a building with more than a maximum of five thousand (5,000) square feet provided that:

(i) A master plan of the entire property is submitted to the planning commission for approval showing all building locations and building sizes to be constructed initially, if in phases, and all building locations and sizes intended with a complete build-out of the site. Any changes in the initial master plan for the property must be approved by the planning commission.

(ii) An architectural drawing of the design of the buildings showing external details and also indicating design efforts to reduce the effect of massing on the appearance of any building over five thousand (5,000) square feet, is submitted to the planning commission for approval.

(iii) The architectural drawing of each building to be constructed in the project or initial phase that is submitted meets the standards and guidelines for building in an R-4 zone, other than building size.

(iv) No individual business considered a "big box retailer," or over fifteen thousand (15,000) square feet is permitted.

(f) Unless specified otherwise above, all other uses listed in § 11-516A(13) of the R-4 zone ordinance are also prohibited in an R-4A zone.

(2) The standards and guidelines governing the design of new development and improvements to existing developments shall be the same standards and guidelines adopted for the R-4 zone. In addition, the following conditions also apply to development in an R-4A zone:

(a) Properties in an R-4A district to be used for non-residential purposes must meet the criteria established in § 11-516A(14) of the R-4 zone ordinance, with the exceptions otherwise established in this chapter including the following exceptions on setback requirements.

(i) R-4A developments that involve a master site plan including multiple buildings may request variances on set back requirements provided that a buffering plan is indicated in the site plan and the current use of adjoining properties is identified and future use projected showing how the R-4A development will not negatively impact adjoining property owners.

(ii) The setbacks variances requested can be justified based on topography, highway or street considerations, and/or the attention given to providing functional open space and beautification.

(b) Developments within a R-4A zone that involve multiple buildings and the submittal of a master site plan, may request a separate free-standing development sign on the following conditions:

(i) The single side of the sign face is not more than one hundred (100) square feet.

(ii) The sign is a monument sign not more than twelve feet (12') in height.

(iii) The sign advertises the general name of the complex or development and not individual businesses.

(c) Developments within a R-4A zone that involve multiple buildings and the submittal of a master site plan must include within the site plan a pedestrian access plan showing the following:

(i) How pedestrians from adjoining properties can safely access the development.

(ii) How pedestrians can safely access all buildings and parking areas within the development.

(iii) The location of all sidewalks and walkways.

(iv) To what extent pedestrians can be separated from vehicular traffic within the development.

(v) Any possible connection to the town's walkway system (Lost State Scenic Walkway) where applicable.

(d) Developments within the R-4A zone that involve multiple buildings and the submittal of a master site plan must include within the

site plan a detailed point or points of vehicular access to the property showing steps taken to maximize safe ingress and egress to the arterial route(s) and any connecting side streets.

(e) Developments within the R-4A zone that involve multiple buildings and the submittal of a master site plan, must also submit the following:

(i) Locations on the site plan in which landscaping will be planted or constructed.

(ii) A landscape/beautification plan showing the location of plant material, including trees, and efforts to blend the development into the natural environment.

(iii) Beautification of points of ingress and egress.

(f) The street lighting must be underground and the type of street light fixture submitted with the site plan. (as added by Ord. #2012-01, Feb. 2012)

11-517. H-1 (historical) district. It is the intent of this district to preserve historical buildings and sites in the Town of Jonesborough. The requirements of the district are designed to protect and preserve historic and/or architectural value; provide protection from uses that would lessen the significance of the surrounding uses; create an aesthetic atmosphere; stabilize property values; enhance civic beauty; strengthen the economy, and promote education and patriotic heritage of the present and future citizens of the community. In order to achieve the intent of the H-1 (historical) district, as shown on the zoning map of Jonesborough, Tennessee the following uses are permitted:

(1) Any use permitted or allowable as a special exception in the underlying zoning district provided that no building permit for construction, alteration, repair, moving, or demolition of any structure or any changes or improvements in the townscape within the district shall be issued by the building inspector until it is submitted to and receives approval in writing by the historic zoning commission. The historic zoning commission may, however, prepare a listing of prior approvals permitted in the historical district.

(2) No mobile homes are permitted.

(3) Dish antennas are permitted only as prescribed in § 11-1502.

(4) No transient business or temporary business permit may be located in the H-1 historical district except as issued through a special events permit. (as added by Ord. #94-10, Sept. 1994, replaced by Ord. #99-03, May 1999, and amended by Ord. #2012-04, April 2012)

11-517A. H-2 overlay district. It is the intent of this district to extend and enhance the historic and visual characteristics of Jonesborough's historic core into adjacent areas while permitting both residential and commercial development. The requirements of the district are intended to safeguard the

historic core, preserve visual qualities, stabilize property values, enhance civic beauty, strengthen the economy and encourage compatible residential and commercial development. In order to achieve the intent of the H-2 overlay district which when used will be shown on the zoning map of Jonesborough, Tennessee the following uses are permitted:

(1) Any use permitted in the underlying zoning district provided that no building permit for construction, alteration, repair, moving, or demolition of any structure or changes or improvements in the townscape within the district shall be issued by the building inspector until it is submitted to, and received approval in writing by the historic zoning commission. The historic zoning commission shall review all such applications according to standards and guidelines applicable to the H-2 overlay district.

(2) No mobile homes are permitted.

(3) Dish antennas are permitted only as prescribed in § 11-1502.

(4) No transient business or temporary business permit may be located in the H-2 historical district except as issued through a special events permit. (as added by Ord. #2001-16, Dec. 2001, and amended by Ord. #2012-04, April 2012)

11-517B. TF-1 (treatment facility) overlay district. It is the intent of this district to provide suitable locations for methadone clinics and substance abuse facilities within the Town of Jonesborough.

(1) These facilities are defined as follows:

(a) "Methadone treatment clinic or facility." A building or a portion of a building, other than a clinic containing offices, facilities designated space with the predominate, substantial, or significant purpose of providing outpatient treatment or counseling of patients and the distribution of methadone, or any other substance used to treat substance abuse, for out patient, non-residential purposes only. A methadone treatment clinic or facility is not a medical office clinic or substance abuse treatment facility.

(b) "Substance abuse treatment facility." A building or portion of a building, other than a clinic containing offices, facilities or designated space with the predominant, substantial, or significant purpose of providing outpatient treatment, counseling or similar services to individuals who are dependent on legal or illegal drugs, opiates, alcohol or other similar substances. Staffing by physicians who have received a waiver or have been certified or should have received a waiver or be certified by the Substance Abuse Treatment Act of 2000 and subsequent amendments or enactments shall create a presumption that the building or portion of a building should be designated a substance abuse treatment facility. A substance abuse treatment facility is not a clinic or a medical office.

(2) Methadone treatment clinic and/or substance abuse treatment facilities can be located in a TF-1 (treatment facility) overlay zone, provided:

(a) The methadone treatment clinic or substance abuse treatment facility must obtain the appropriate license and verification if needed by the State of Tennessee.

(b) A map showing the site, existing land use, distances from schools and churches within five hundred feet (500') must be provided, setbacks meeting existing zone, buffering, etc. must be provided to the planning commission.

(c) The methadone treatment clinic or substance abuse treatment facility is not located within five hundred feet (500') of a church or school. (as added by Ord. #2010-05, April 2010)

11-517C. RLS (retail liquor store) overlay district. It is the intent of this district to allow retail liquor stores, as defined in title 2, chapter 1, § 2-108(1)(a) of the Jonesborough Municipal Code, to be located in areas that provide the best opportunity for the stores to be successful with the least negative impact on the Jonesborough community. (as added by Ord. #2010-12, Dec. 2010, and replaced by Ord. 2016-02, Feb. 2016 **Ch 12_04-09-18**)

11-517D. Distilling company overlay district. It is the intent of this district to provide suitable locations for the possible operation of a distilling company meeting all state and federal requirements that legally manufactures and sells intoxicating liquors within the corporate limits of the Town of Jonesborough.¹

(1) These facilities are defined as follows: A facility that manufactures intoxicating liquors including alcohol, spirits, liquors, wines and every liquid or solid, patented or not, containing alcohol, spirits, liquor or wine, and capable of being consumed by human beings, but nothing in this section shall be construed or defined as including or relating to the manufacture of any beverage with alcohol content of five percent (5%) or less.

(2) In order to achieve the intent of the distilling company overlay district, the requirements of this overlay district are established to locate any manufacturer of intoxicating liquors in an appropriate location that is deemed suitable for such purpose; enhancing the local economy, increasing the potential of the town, while ensuring the safety and general welfare of visitors and residents.

¹State law reference

Tennessee Code Annotated, § 57-2-102.

The privilege tax payment of one thousand dollars (\$1,000.00) is established by ordinance 2014-02, March 2014 in order to be licensed with the town to engage in the manufacturing of intoxicating liquors.

(3) The DC overlay district when approved will be shown on the zoning map of Jonesborough.

(4) The underlying properties of the overlay zone will normally be a business or manufacturing zone.

(5) The DC overlay may be within the historic district, especially when the operation is developed to accommodate tourists, and there is a retail component that can enhance the economic well-being of Jonesborough's historic downtown area.

(6) Distilling company facilities can be located in the DC overlay zone provided:

(a) The manufacturing facility meets all state and federal requirements for the legal manufacture and sale of intoxicating liquors.

(b) The manufacturing building is five hundred feet (500') from an active church or school, as measured directly from building to building, unless in a B-2 central business district where this distance requirement building to building is one hundred fifty feet (150').

(c) A site plan and map is submitted to the Jonesborough Regional Planning Commission for approval providing the following information:

(i) The availability of parking.

(ii) Adequate pedestrian access.

(iii) Schematic of building showing location on property, setbacks, street access, exterior lighting, any changes impacting drainage and stormwater management and utilities.

(iv) Odor control plan.

(v) General overview of business plan including any area for retail liquor sales.

(vi) If in the historic district, approval is required from the historic zoning commission on any exterior building improvements and signage.

(d) The Jonesborough Regional Planning Commission reviews and approves the site plan and the use of the property for a distilling company manufacturing intoxicating liquors.

(e) A landscape plan must be submitted to the tree and townscape board and be approved before a regular certificate of occupancy is issued. (as added by Ord. #2014-02, March 2014)

11-518. B-1 (neighborhood) business district. It is the intent of this district to establish business areas to serve surrounding residential districts. The district regulations are intended to discourage strip business development and encourage grouping of uses in which parking and traffic congestion is reduced to a minimum. In order to maintain and enhance the unique historic and aesthetic characteristics of the community and achieve the intent of the B-1 (neighborhood business) district, site plans shall be required for all new

construction. These plans shall include: the proposed location of all structures, off-street parking provisions, location of all ingress and egress points, location and size of proposed utilities, landscaping features, and any other plans deemed pertinent. Prior to the issuance of the building permit, the site plans shall be reviewed and approved by the planning commission to determine if they are in keeping with the comprehensive planning program of the Town of Jonesborough, Tennessee.

(1) Any used permitted in the R-3 (residential) district except mobile homes and mobile home parks.

(2) Shopping centers, grocery stores, drug stores, hardware stores, shoe repair shops, barber and beauty shops, laundromats and laundry pick-up stations, and similar use. Restaurants are not permitted in a B-1 zone except along an arterial route and on the condition a site plan that includes parking and access is submitted to and approved by the planning commission.

(3) Business signs provided that all signs, except one detached sign, shall be erected flat against the front or side of a building or within eighteen inches (18") thereof. All signs shall not project above buildings nor have flashing intermittent or moving illumination, except that electronic signs may be permissible in a B-1 zone along arterial streets when conditions for such signs, as stipulated in the sign ordinance, have been met.

(4) Gasoline service stations provided that all structures, including underground storage tanks, shall be placed not less than twenty feet (20') from all property lines. Points of access and egress shall be not less than fifteen feet (15') from intersection of street lines.

(5) Accessory uses, structures, and outdoor storage accessory uses, structures and outdoor storage shall not be located closer than ten feet (10') to any property line. Accessory uses shall include temporary business activity associated with the property like tent sales, clearance sales, special promotions, etc. that are not of longer duration than two (2) weeks. Temporary business activity of longer duration than two (2) weeks must be approved by the planning commission. Temporary business activity outside on the same property may only be undertaken once each quarter or a maximum of four (4) times a year. Accessory uses in front and side yards may be required, at the discretion of the building inspector, to be screened from public view.

(6) Transient and temporary business activity provided that:

(a) Guidelines for a transient business license are followed.

(b) Guidelines for a temporary business permit, as established in § 5-102 of the municipal code, are followed, and the following information is submitted to town staff for review and the Jonesborough Regional Planning Commission for approval as part of the temporary business permit process:

(i) Location of temporary premises showing property lines, boundary of temporary premises, and listing of owner.

(ii) Location of existing street(s), and points of ingress and egress.

(iii) Location on the temporary premises of any vehicles or any structures, existing or to be installed, on the temporary premises, to be used in merchant activity.

(iv) Schematics and/or photos of vehicles, structures to be used.

(v) Area for parking on temporary premises may not be public right-of-way, including surface condition of parking area before and after any improvements.

(vi) Location of public right-of-way in relationship to temporary premises.

(vii) Setbacks, showing property lines and that any structure location meets the setback requirements established for the zone of the property in which the temporary business is located.

(viii) Location of any utilities, if present.

(ix) Location of any lighting, existing or to be installed.

(x) Schematic of signage to be used.

(xi) Buffering, if buffering would be required in the landscape ordinance. However, the planning commission will review any buffering plan and at its discretion may authorize a variety of effective temporary measures to provide appropriate screening.

(xii) Landscaping plan, and maintenance plan for grounds. The landscape plan shall include how through underpinning or screening the undercarriage of any mobile structure is addressed. The location of any potted or permanent plant material must be shown. The planning commission reserves the right to deny any application for a temporary business permit in which the commission feels will negatively impact surrounding properties and the historical character of Jonesborough.

(c) Signage for a transient or temporary business is restricted to sixty-four (64) square feet which can be on one free-standing sign with a limit of thirty-two (32) square feet per side, or on a structure or combination thereof with no individual sign being larger than thirty-two (32) square feet. (as added by Ord. #94-10, Sept. 1994, replaced by Ord. #99-03, May 1999, and amended by Ord. #2003-03, Feb. 2003, Ord. #2011-12, Sept. 2011, Ord. #2012-04, April 2012, and Ord. #2012-12, Sept. 2012)

11-519. B-2 (central) business district. It is the intent of this district to establish an areas for concentrated general business development that the general public requires. The requirements are designed to protect the essential

characteristics of the district by promotion of business and public uses which serve the general public and to discourage industrial, and wholesale development which do not lend themselves to pedestrian traffic. In order to maintain and enhance the unique historic and aesthetic characteristics of the community and achieve the intent of the B-2 (central) business district, site plans shall be required for all new construction.

These plans shall include: the proposed location of all structures, off-street parking provisions, location of all ingress and egress points, location and size of proposed utilities, landscaping features, and any other plans deemed pertinent. Prior to the issuance of the building permit, the site plans shall be reviewed and approved by the planning commission to determine if they are in keeping with the comprehensive planning program of the Town of Jonesborough, Tennessee.

- (1) Single and multi-family residences.
- (2) Stores and shops conducting retail business.
- (3) Personal, business, and professional services.
- (4) Public and semi-public buildings and uses.
- (5) Lodges and clubs; hotels and motels; restaurants and similar services.
- (6) Business signs.
- (7) Temporary business activity provided that:
 - (a) A temporary business permit is issued by the planning commission.
 - (b) The information required in § 11-518(6)(b) of this chapter is submitted as part of the temporary business permit process.
 - (c) Signage for a temporary business is restricted to sixty-four (64) square feet which can be on one free-standing sign with a limit of thirty-two (32) square feet per side, or on a structure or combination thereof with no individual sign being larger than thirty-two (32) square feet.
 - (d) Temporary business permits are prohibited in the B-2 zone within the H-1 or H-2 historic zones.
- (8) Temporary business activity associated with the property like tent sales, clearance sales, special promotions, etc., that are not of longer duration than two (2) weeks. Temporary business activity of longer duration than two (2) weeks must be approved by the planning commission. Items for sale on the property that are taken inside the business each night is not considered accessory temporary business activity. Temporary business activity outside on the same property may only be undertaken once each quarter or a maximum of four (4) times a year. (as added by Ord. #94-10, Sept. 1994, replaced by Ord. #99-03, May 1999, and amended by Ord. #2012-04, April 2012)

11-520. B-3 (arterial) business district. It is the intent of this district to establish business areas that encourage groupings of compatible business

activities; reduce traffic congestion to a minimum and enhance the aesthetic atmosphere. In order to maintain and enhance the unique historic and aesthetic characteristics of the community and achieve the intent of the B-3 (arterial) business district, site plans shall be required for all new construction. These plans shall include: the proposed location of all structures, off-street parking provisions, location of all ingress and egress points, location and size of proposed utilities, landscaping features, and any other plans deemed pertinent. Prior to the issuance of the building permit, the site plans shall be reviewed and approved by the planning commission to determine if they are in keeping with the comprehensive planning program of the Town of Jonesborough, Tennessee.

- (1) Any use permitted in B-1 or B-2 business districts.
- (2) Automobile sales and service, and mobile home sales.
- (3) Funeral homes.
- (4) Places of amusement and assembly.
- (5) Other similar uses.
- (6) Food stores selling wine. (as added by Ord. #94-10, Sept. 1994, and amended by Ord. #2016-03, Feb. 2016 *Ch12_04-09-18*)

11-521. B-4 (intermediate) business district. It is the intent of this district to establish an area adjacent to the B-2 (central business) district which will support those uses. In order to maintain and enhance the unique historic and aesthetic characteristics of the community and achieve the intent of the B-4 (intermediate business) district, site plans shall be required for all new construction. These plans shall include: the proposed location of all structures, off-street parking provisions, location of all ingress and egress points, location and size of proposed utilities, landscaping features, and any other plans deemed pertinent. Prior to the issuance of the building permit, the site plans shall be reviewed and approved by the planning commission to determine if they are in keeping with the comprehensive planning program of the Town of Jonesborough, Tennessee.

- (1) Any use permitted in the B-1 or B-2 business districts except shopping centers and gasoline service stations. (as added by Ord. #94-10, Sept. 1994, and replaced by Ord. #99-03, May 1999)

11-522. B-5 (heritage business) district. It is the intent of this district to establish an area immediately adjacent to or within the historic district which supports limited business use and which supports the intent of the requirements of the historic district. In order to maintain and enhance the unique historic and aesthetic characteristics of the community and to achieve the intent of the B-5 heritage business district, site plans shall be required for all new construction. These plans shall include: the proposed location of all structures, off-street parking provisions, location of all ingress and egress points, location and size of proposed utilities, landscaping features, and any other places deemed pertinent. Prior to the issuances of a building permit, the site plans shall be

reviewed and approved by the planning commission to determine if they are in keeping with the comprehensive planning program of the Town of Jonesborough, Tennessee. Development plans for parcels within the historic district must be approved by the historic zoning commission.

(1) Any use permitted in the B-1 or B-2 business district except shopping centers; gasoline stations; automobile sales, parts or service; mobile homes; hotels and motels. (as added by Ord. #94-10, Sept. 1994, and replaced by Ord. #99-03, May 1999)

11-523. B-6 (urban commercial corridor) district. It is the intent of this district to encourage the use of property for commercial and residential purposes and to provide for special protection to areas not in the district but highly influenced by its development.

(1) Site plans shall be required for all new construction. The site plan shall be reviewed and approved by the Jonesborough Regional Planning Commission. Development of property in this district shall be subject to the following standards:

(a) The rear yard setback requirement on parcels of one (1) acre or less shall be thirty feet (30'), side setback shall be ten feet (10'), and front setbacks shall be thirty feet (30').

(b) The rear yard setback requirement on parcels of more than one (1) acre shall be forty feet (40'), side setback shall be twenty feet (20'), and front setbacks shall be thirty feet (30').

(c) There shall be a minimum of twelve foot (12') natural landscape buffer on the rear perimeter of parcels of one (1) acre or less. The twelve foot (12') natural landscape buffer shall be maintained and meet the same standards for buffers in §§ 11-610 and 11-611 in the Jonesborough landscape ordinance. The B-6 zone shall have a medium impact classification for buffer determination in § 11-610, however, when the rear and side buffer requirements in this subsection (1) are greater than the landscape ordinance, the greater requirement shall apply.

(d) There shall be a minimum of twenty foot (20') natural landscape buffer on the rear perimeter of parcels of more than one (1) acre. The twenty foot (20') natural landscape buffer shall be maintained and meet the same standards for buffers in §§ 11-610 and 11-611 in the Jonesborough landscape ordinance.

(e) There shall be a ten foot (10') side setback natural landscape buffer on parcels one (1) acre or less, and a twenty foot (20') side setback natural landscape buffer on parcels greater than one (1) acre.

(f) The Jonesborough Planning Commission may require less buffering in any or all perimeters based on existing lot size, topography, drainage, etc.

(g) There shall be no more than one (1) free standing sign on each parcel, or as may be allowed by the Jonesborough sign ordinance.

The sign shall not exceed fourteen feet (14') in height. Sign face area shall not exceed a maximum of one hundred (100) square feet or such criteria that may be established in the future through amendment of the sign ordinance. The planning commission and board of zoning appeals shall have the same discretionary authority established in the sign ordinance to issue variances for signs in business zones.

(h) Buildings shall be no higher than seventy feet (70').

(2) Uses permitted include:

(a) Any use permitted in the R-3 (high residential) district except manufactured homes and manufactured home parks.

(b) Shopping centers, grocery stores, drug stores, hardware stores, shoe repair shops, barber and beauty shops, restaurants and similar uses as determined by the Jonesborough Regional Planning Commission.

(c) Stores and shops conducting retail business.

(d) Public and semi-public buildings and uses.

(e) Hotels and motels, and similar services.

(f) Business signs.

(g) Transient and temporary business activity under the guidelines established in §§ 11-518(5) and (6) of this chapter.

(h) Food stores selling wine. (as added by Ord. #99-03, May 1999, and amended by Ord. #2009-07, June 2009, Ord. #2012-04, April 2012, and Ord. #2016-03, Feb. 2016 ***Ch12_04-09-18***)

11-524. M-1 (manufacturing warehouse) restricted manufacturing and warehouse district. This industrial district is established to provide areas in which the principal use of the land is for light manufacturing and warehousing. It is the intent that permitted uses are conducted so that any excessive noise, odor, dust, and glare of an operation be completely confined within an enclosed building. These regulations are intended to prevent friction between uses within the district and also to protect nearby residential districts, as shown on the zoning map of the Town of Jonesborough, Tennessee, the following uses are permitted:

(1) Any use permitted in a business district except restaurants.

(2) Bakers, bottling works, cabinet making, carpenter's shop, clothing manufacture, dairy, electrical welding, fruit making or packing, ice plant, laundry, machine shop, milk distribution stations, optical goods, paper boxes, and pencil manufacturers, printing, publication or engraving concern, tinsmith shop, trucking terminal, and warehouse.

(a) Other uses of the same general character as those listed above deemed appropriate by the Jonesborough Regional Planning Commission.

(b) On lots that abut a residential district the Jonesborough Regional Planning Commission may require all buildings and

improvements to be properly screened and shall be located so as to comply with the side yard requirement of the adjacent residential district.

(c) Any structure of equipment essential to the operation shall be set back so as not to visually or physically obstruct a public way. (as added by Ord. #2003-05, Feb. 2003)

11-525. M-2 (industrial) district. It is the intent of this district to establish industrial areas. The requirements of the district regulations will protect industrial characteristics, promote the industrial business, and wholesale uses and discourage residential development. In order to achieve the intent of the M-2 (industrial) district, as shown on the zoning map of the Town of Jonesborough, Tennessee, the following uses are permitted:

- (1) Any use permitted in B-1, B-2, B-3, or B-4 business districts, except residences and restaurants.
- (2) Any industry, which in the opinion of the building inspector, does not cause obnoxious noise, fire hazards, or other objectionable conditions.
- (3) Wholesale businesses, warehouses, wrecking and storage yards.
- (4) Terminals.
- (5) Adult oriented establishments subject to meeting all requirements of § 11-504 of this chapter. (as added by Ord. #94-10, Sept. 1994, replaced by Ord. #99-03, May 1999, amended by Ord. #2003-03, Feb. 2003, and amended and renumbered by Ord. #2003-05, Feb. 2003)

11-526. Exceptions and modifications. (1) Lot of record. Where the owner of a lot consisting of one or more lots of official record, at the time of the adoption of this chapter, does not own sufficient land to enable him/her to submit an application to the board of zoning appeals for a variance from the terms of this chapter. Such lot may be used as a building site, provided, however, that the yard and other requirements of the district are complied with as closely as is possible.

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

(3) Front yards. The front yard requirements of this chapter shall not apply to any lot where the average depth of existing front yards on developed lots, located within the same block and zoning district and fronting on the same street as such lot, is less than the minimum required front yard depth. In such case, the minimum front yard shall be the average of the existing front yard depths on the developed lots.

(4) Group housing projects. In case of a group housing project or two or more buildings to be constructed on a plot of ground of at least one acre not

subdivided into the customary streets and lot and which will not be so subdivided or where the existing or contemplated street and lot layout make it impracticable to apply the requirements of this chapter to the individual building units in such housing projects, a special exception to the terms of this chapter may be made by the board of zoning appeals in a manner that will be in harmony with the character of the neighborhood, will insure substantially the same character of occupancy and an intensity of land use no higher and a standard of open space no lower than that permitted by this chapter in the district in which the project is to be located. However, in no case shall the board of zoning appeals authorize a use prohibited in the district in which the project is located, or a smaller lot area per family than the minimum required in such district or a greater height, or a larger coverage than the requirements of this chapter permit in such a district.

(5) Exception on height limits. The height limitations of this chapter shall not apply to church spires, belfries, cupolas, and domes not intended for human occupancy; monuments, water towers, observation towers, transmission towers, windmills, chimneys, smokestacks, derrick conveyors, flagpoles, radio towers, masts and aerials. (as added by Ord. #94-10, Sept. 1994, replaced by Ord. #99-03, May 1999, and renumbered by Ord. #2003-05, Feb. 2003)

11-527. Enforcement. (1) Enforcing officer. The provisions of this chapter shall be administered and enforced by the Jonesborough Building Inspector. This official shall have the right to enter upon any premises necessary to carry out his duties on the enforcement of this title, and in addition shall:

(a) Issue all building permits and make and maintain records thereof.

(b) Issue all certificates of occupancy and make and maintain records thereof.

(c) Where applicable, issue and review all temporary use permits and make and maintain records thereof.

(d) Maintain and keep current zoning maps, and records of amendments thereto.

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

(3) Issuance of building permit: In applying to the building inspector for a building permit, the applicant shall submit a dimensioned sketch or scale plan indicating the shape, size, height, and location of all buildings to be erected,

altered or moved, and any building on the lot. He shall also state existing and intended use of all such buildings and supply such other information as may be required by the building inspector for determining whether the provisions of this chapter are being observed. If the proposed excavation or construction as set forth in the application are in conformity with the provisions of this chapter, the building inspector shall issue a building permit for such excavation or construction. If a building permit is refused, the building inspector shall state such refusal in writing with cause.

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

(5) Penalties. Any person violating any provision of this chapter shall be guilty of a misdemeanor, and upon conviction shall be fined not less than two dollars (\$2.00) nor more than five hundred dollars (\$500.00) for each offense. Each day such violation shall continue shall constitute a separate offense.

(6) Remedies. In case any building or structure is erected, constructed, reconstructed, repaired, converted or maintained, or any building, structure or land is used in violation of this chapter, the building inspector any other appropriate authority or any adjacent or neighboring property owner who would be damaged by such violation in addition to other remedies may institute injunction, mandamus or other appropriate action in proceeding to prevent the occupancy or use of such building. (as added by Ord. #94-10, Sept. 1994, replaced by Ord. #99-03, May 1999, and renumbered by Ord. #2003-05, Feb. 2003)

11-528. Board of zoning appeals. (1) Creation and appointment. A board of zoning appeals is hereby established in accordance with § 13-7-205, Tennessee Code Annotated, Volume 3, same being section 5, chapter 44 of Public Acts of Tennessee of 1935. The Jonesborough Planning Commission is hereby designated as the board of zoning appeals and the terms of the members of the board of zoning appeals shall be concurrent with the terms of the members of the Jonesborough Planning Commission.

(2) Procedure. Meetings of the board of zoning appeals shall be held at the call of the chairman or by a majority of the membership and at such other times as the board may determine. Such chairman, or in his absence, the acting chairman, may administer oaths and compel the attendance of witnesses. All

meetings of the board shall be open to the public. The board shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact; shall take all evidence necessary to justify or explain its action, and shall keep records of its examinations and of other official action, all of which shall be immediately filed in the office of the board and shall be a public record.

(3) Appeals: how taken. An appeal to the board of zoning appeals may be taken by any person, firm or corporation aggrieved, or by any governmental officer, department, board or bureau affected by any decision of the building inspector based in the whole or part on provisions of this chapter. Such appeal shall be taken within a reasonable time, as provided by the rules of the board, by filing with the building inspector and with the board of zoning appeals a notice of appeal, specifying the grounds thereof. The building inspector shall transmit forthwith to the board all papers constituting the record upon which the action appealed was taken. The board shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time. Upon hearing, any party may appear in person or by agent or attorney.

(4) Powers. The board of zoning appeals shall have the following powers:

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

(b) Special exceptions: To hear and decide special exceptions to this chapter as set forth in this chapter.

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

(5) Action of the board of zoning appeals. In exercising the aforementioned powers, the board of zoning appeals may, in conformity with the provisions of this chapter reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from, and to that end shall have all powers of the building inspector. The concurring vote of a majority of the board shall be necessary to reverse any order, requirement, decision or determination of any such administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under this chapter. (as added by Ord. #94-10, Sept. 1994, replaced by Ord. #99-03, May 1999, and renumbered by Ord. #2003-05, Feb. 2003)

11-529. Historical zoning commission. (1) Creation and appointment. In accordance with chapter 13-7-401, Tennessee Code Annotated, a historical zoning commission is hereby established. The board of mayor and aldermen shall create a nine member historical zoning commission which shall consist of a representative of a local patriotic or historical organization; an architect, if available, and a member of the planning commission, at the time of his/her appointment. The remaining members shall be appointed from the community in general. Historical commission members shall be appointed by the mayor of Town of Jonesborough and shall be confirmed by the board of mayor and aldermen. Appointments to membership on the historical zoning commission shall be arranged so that the term of one member shall expire each year and his successor shall be appointed in like manner in terms of five (5) years. All members shall serve without compensation.

(2) Procedure. Meetings of the historical zoning commission shall be held at the call of the chairman or by the majority of the membership. All meetings of the commission shall be open to the public. The commission shall keep minutes of its procedures showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact.

(3) Powers and duties. The historical zoning commission shall have the following powers which shall be limited to the H-1 historic district.

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

(b) Historical zoning commission shall within thirty (30) days following availability of sufficient data, direct the granting of a building permit with or without conditions or direct the refusal or a building permit providing, the grounds for refusal are stated in writing.

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

(i) Historic and/or architectural value of present structure.

(ii) Relationship of exterior architectural features of such structure to the rest of the structures of the surrounding area.

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

(iv) To any other factor, including aesthetic which is deemed pertinent.

(d) In no case shall the commission grant variances from the terms of this title.

(4) **Jurisdiction.** The historic zoning commission shall have exclusive jurisdiction relating to historic matters. Anyone who may be aggrieved by any final order or judgment of the commission may have said order of judgment reviewed by the courts by procedures of certiorari as provided for in the Tennessee Code Annotated, §§ 27-9-102 and 27-9-103. (as added by Ord. #94-10, Sept. 1994, replaced by Ord. #99-03, May 1999, and renumbered by Ord. #2003-05, Feb. 2003)

11-530. Area, yard, and height requirements.

District	Minimum Lot Size Sq. Ft.			Minimum yard Requirements From Property Lines			Maximum Height of Structures
	Area in Sq. Ft.	Per Additional Family	Lot Width in Feet	Front	Side (each side)	Rear	
R-1	15,000	7,500	80 ft.*	30 ft.	15 ft.	25 ft.	35 ft.
R-2	12,000	4,500	50 ft.*	30 ft.	8 ft. per story	20 ft.	35 ft.
R-3	6,000	2,000	50 ft.*	30 ft.	8 ft. per story	20 ft.	35 ft.
H-1	As Required In Specific District						
B-1				30 ft.	10 ft.	25 ft.	35 ft.
B-2							70 ft.
B-3				30 ft.	10 ft.	25 ft.	70 ft.
B-4				30 ft.	10 ft.	25 ft.	70 ft.
B-5				30 ft.	10 ft.	25 ft.	35 ft.
M-1				30 ft.	20 ft.	25 ft.	70 ft.

*Except forty feet (40') on cul-de-sac
(as renumbered by Ord. #2003-05, Feb. 2003)

11-531. Amendment. (1) Procedure. The board of mayor and aldermen may amend the regulations, restrictions, boundaries, or any provision of this title. Any member of the town board may introduce such amendment, or any official, board or any other person may present a petition to the board of mayor and aldermen requesting an amendment or amendments to this chapter.

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

(3) Introduction of amendment. Upon the introduction of an amendment to this chapter or upon the receipt of a petition to amend this chapter, the board of mayor and aldermen shall publish a notice of such request for an amendment, together with the notice of time set for hearing by the board of mayor and aldermen on the requested change. Said notice shall be published in some newspaper of general circulation in the Town of Jonesborough, Tennessee. Said hearing by the board of mayor and aldermen shall take place not sooner than fifteen (15) days after the date of publication of such notice. (as added by Ord. #94-10, Sept. 1994, replaced by Ord. #99-03, May 1999, and renumbered by Ord. #2003-05, Feb. 2003)

11-532. Legal status provisions. (1) Conflict with other ordinance. In case of conflict between this chapter or any part thereof, and the whole or part of any existing or future ordinance of the Town of Jonesborough, the most restrictive shall in all cases apply.

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

(3) Effective date. This chapter shall take effect and be in force fifteen (15) days from and after its passage, the public welfare demanding it. (as added by Ord. #94-10, Sept. 1994, replaced by Ord. #99-03, May 1999, and renumbered by Ord. #2003-05, Feb. 2003)

CHAPTER 6

LANDSCAPING REQUIREMENTS

SECTION

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11-601. Short title. This chapter shall be known as the Landscape Ordinance of the Town of Jonesborough, Tennessee. (Ord. of Jan. 8, 1970, § 71, as amended by Ord. of April 8, 1980, § 1, and Ord. of Jan. 13, 1986, art. III, and replaced by Ord. #2001-15, Dec. 2001, and Ord. #2009-09, Sept. 2009)

11-602. Purpose. The purpose of this chapter, authorized by chapter 44 of 1935 Public Acts of Tennessee, as amended, is to promote and regulate the planting, protection, and maintenance of trees, shrubs, and other landscaping materials in order to ensure land use compatibility and lessen the impact on the community of high intensity users while at the same time encouraging economic development. The chapter attempts to enhance the town's environment and visual character for its citizens' use and enjoyment, while safeguarding property

values by promoting high quality development. Finally, the chapter attempts to preserve and/or stabilize the area's ecological balance, and mitigate the effects of air, water and noise pollution. (Ord. of Jan. 8, 1970, § 72, as replaced by Ord. #2001-15, Dec. 2001, and Ord. #2009-09, Sept. 2009)

11-603. Definitions and interpretations. (1) "Berm." A mound of soil or man-made raise area used to obstruct views, decrease noise, and/or otherwise act as a buffer between incompatible land uses.

(2) "Buffer." An area within a property or site, generally adjacent to and parallel with the property line, either consisting of natural existing vegetation or created by the use of trees, shrubs, fences, wall, and/or berms, designed to limit continuously the view of and sound from the site to adjacent sites of properties.

(3) "Caliper." The diameter of a tree trunk measured in inches, six inches (6") above ground level for trees up to four inches (4") in diameter and twelve inches (12") above ground level for trees over four inches (4") in diameter. Caliper is a common means of measuring trunk diameter on young trees.

(4) "Certificate of occupancy." A document issued by the building inspector which permits the occupancy or use of a building and which certifies that the structure for use has been constructed, arranged, and will be used in compliance with all applicable codes.

(5) "Curb." A stone, concrete, or other improved boundary usually marking the edge of the roadway or paved areas.

(6) "DBH (Diameter Breast Height)." The diameter of a tree measured four and one-half feet (4 1/2') above ground level. DBH is common means of measuring the diameter of large trees.

(7) "Deciduous." Plants that drop their foliage annually before becoming dormant.

(8) "Developer." The legal or beneficial owner or owners of a lot or of any land included in a proposed development. Also, the holder of an option or contract to purchase, or any other person having enforceable proprietary interest in such land.

(9) "Development." Any man made change to improved or unimproved real estate, including, but not limited to buildings or other structures, dredging, drilling operation, excavation, filling, grading, paving, or the removal of healthy trees over six inches (6") DBH.

(10) "Drip line." A vertical line extending from the outer edge of the canopy of a tree to the ground.

(11) "Evergreen." A plant with foliage that remains green year-round.

(12) "Frontage landscaped area." A landscaped area located at the perimeter of the lot along all abutting public streets.

(13) "Hedge." A landscape barrier consisting of a continuous, dense planting of shrubs.

(14) "Impervious surface." A surface that has been compacted or covered with a layer of material so that it is highly resistant to infiltration by water.

(15) "Incompatibility of land uses." An issue arising from the proximity or direct association of contradictory, incongruous, or discordant land uses or activities, including the impacts of noise vibration, smoke, odors, toxic matter, radiation, and similar environmental conditions.

(16) "Interior planting island." An island located within the interior of a parking lot.

(17) "Island." A raised area, usually curbed, placed to protect landscaping and separate traffic flow.

(18) "Landscape specialist." For purposes of this chapter, a landscape specialist shall include anyone with a professional training and experience in the principles of landscaping.

(19) "Lot." A designated parcel, tract, or area of land established by a plat or otherwise as permitted by law and to be used, developed, or build upon as a unit.

(20) "Maintenance guarantee." Any security which may be required and accepted by the Jonesborough Regional Planning Commission to ensure that necessary improvements will function as required for a specific period of time.

(21) "Mulch." A layer of wood chips, dry leaves, straw hay, plastic, or other materials placed on the surface of the soil around plants to retain moisture, prevent weeds from growing, hold the soil in place, or aid plant growth.

(22) "Nursery." Land or green houses to raise flowers, shrubs, and plants for sale.

(23) "Off-street parking." A parking space provided in a parking lot, parking structure, or private driveway.

(24) "Ornamental tree." A deciduous tree planted primarily for its ornamental value or for screening purposes; tends to be smaller at maturity than a shade tree.

(25) "Overhang." The portion of a vehicle extending beyond the wheel stops or curb.

(26) "Performance guarantee." Any security that may be accepted by the Jonesborough Regional Planning Commission as guarantee that the improvements required as part of an application for development are satisfactorily completed.

(27) "Protective screening." A structure of plantings, consisting of fencing, berms, and/or evergreen trees or shrubs providing a continuous view obstruction within a site or property.

(28) "Setback." The distance between the building and any lot line.

(29) "Shade tree." A tree, usually deciduous, planted primarily for overhead canopy.

(30) "Shrub." A self-supporting woody perennial plant of low to medium height characterized by multiple stems and branches continuous from the base usually not more than ten feet (10') in height at maturity.

(31) "Sight distance triangle." A portion of land formed by the intersection of two (2) street right-of-way lines and points along each right-of-way thirty feet (30') from the intersection. Within this triangle nothing shall be erected, placed, planted, or allowed to grow in such a manner as to limit or obstruct the sight distance of motorists entering or leaving the intersection. In general, this would mean that a clear view shall be provided between the heights of three feet (3') and fifteen feet (15') within the sight distance triangle.

(32) "Specimen tree." A particularly impressive or unusual example of a species due to its size, shade, age, or any other trait that epitomizes the character of the species.

(33) "Street, public." A public right-of-way set aside for public travel which:

(a) Has been accepted for maintenance by the Town of Jonesborough;

(b) Has been dedicated to and accepted by the Town of Jonesborough for public travel by the recording of a street plat or a plat of subdivision which has been approved by the planning commission.

(34) "Topsoil." The original layer of soil material to a depth of six inches (6") which is usually darker and richer than the subsoil.

(35) "Vision clearance." A condition which is achieved when nothing is erected, placed, planted, or allowed to grow in such a manner as to limit or obstruct the sight distance of motorists entering or leaving an intersection. (Ord. of Jan. 8, 1970, § 73, as amended by Ord. of Jan. 13, 1986, and replaced by Ord. #2001-15, Dec. 2001, and Ord. #2009-09, Sept. 2009)

11-604. Site plan information required. Because the landscape plan is often not submitted for approval until after the other required aspects of a site plan have been approved by the planning commission, the following information is required in the initial site plan submitted:

(1) Location and dimensions of buffer areas;

(2) General size, species, number and location of existing tree and shrub species in required buffer and setback areas;

(3) Approximate location, size and species of any tree recommended for preservation by the urban forester or qualified staff, if the information has been made available. Information provided by the urban forester may be attached to the site plan if not included on the plan;

(4) Location and description of any tree protection devices that need to be installed prior to the beginning of grading or excavation;

(5) Location and dimensions of frontage landscape areas;

(6) Location and dimensions of required parking lot planting areas;

(7) Summary listing of landscape requirements based on landscape ordinance. (Ord. of Jan. 8, 1970, as amended by Ord. of Jan. 13, 1986, replaced by Ord. #2001-15, Dec. 2001, and amended by Ord. #2002-04, March 2002, and replaced by Ord. #2009-09, Sept. 2009)

11-605. The landscaping plan. A generalized landscape plan shall be submitted whenever a site plan is required by the Jonesborough Planning Commission or through the Jonesborough Zoning Ordinances. Plans shall be submitted at least ten (10) business days prior to the regular meeting date of the commission so they can first be reviewed by the Jonesborough Tree and Townscape Board. The tree and townscape board will submit comments, recommendations, or concerns to the planning commission to be included in its review. At minimum, the landscape plan shall indicate:

(1) The size, location, number, and type of species involved in proposed frontage landscaped areas, landscape islands within parking lots, and screening, and buffers.

The Jonesborough Urban Forester or qualified staff, shall, when possible, undertake a field review of the site plan area and mark specimen trees that should be preserved when possible because of one of the following:

(a) The tree represents a quality specimen of its species and would require numerous years to duplicate;

(b) The tree represents a hard-to-find native species;

(c) The location of the tree provides a natural buffer from adjoining properties or facilities.

Contractors or developers are expected to explore ways to preserve these designated trees and provide reasonable justification for removing said trees in the site grading process. The information from the urban forester or qualified staff should be included on the landscape plan or attached to the plan along with any justification for removing trees.

(2) The distance of plantings to be used for landscaping from intersections (include and highlight location of all sign distance triangles), utility lines and other potential points of conflict. Each developer shall be responsible for coordinating the location of plantings with the existing and/or proposed location of above and below ground utilities, including street lights.

(3) The number of parking spaces and/or the square footage of area designated for parking.

(4) The distance of the farthest individual parking space from a required parking lot tree.

(5) The zoning associated with both the proposed development and surrounding properties.

(6) The types of activities conducted on adjacent properties.

(7) The general location of existing specimen trees, if any.

(8) Where existing plantings are to be retained and how these plantings will be protected during the construction process. Drawings shall delineate the drip line of trees desired for preservation.

(9) Location and description of other landscape improvements, such as earth berms, walls, fences, and screens.

(10) Any other information as may be required to assess compliance with this chapter. (Ord. of Jan. 8, 1970, § 75, as replaced by Ord. #2001-15, Dec. 2001, and Ord. #2009-09, Sept. 2009)

11-606. Protection of existing plantings. Where existing plantings are to be preserved, as noted in the landscape plan, the following protection measures or the performance base equivalents shall apply:

(1) Species intended for preservation on the landscape plan shall be clearly marked with protective fencing or some other approved barrier that is placed at the designated distance on the approved site plan or a distance approved by the urban forester or qualified staff prior to the initiation of excavation. Species designed for preservation should be protected prior to the beginning of grading or the establishment of building pads or paved areas.

(2) No soil should be placed around trees that are intolerant of fill and are to be saved. Dogwoods, birches, oaks, and sugar maples and most conifers are, for example, intolerant to fill because their roots are often near the surface.

(3) Stockpiling of soil resulting from grading shall be located only in open areas. No material or temporary soil deposits shall be placed within four feet (4') of shrubs or ten feet (10') of trees designated for preservation.

(4) No soil shall be disturbed in a ten foot (10') radius or, if greater, within the drip line of the tree(s) to be preserved.

(5) Barriers used to protect existing plantings shall be self-supporting (i.e., not supported by the plants they are protecting), a minimum of three feet (3') high, and constructed of durable material that will last until construction is completed.

(6) Should machinery, during the construction process, be required to cross through a protected zone, at least four (4") inches of chip mulch shall be placed on the ground to displace the weight of machines and prevent loss of pores in the soil that allow passage of air and water to roots.

(7) After construction, curbing placed around existing trees shall be at least three and one-half feet (3 1/2') from the base of the tree, as measured six inches (6") above the ground, or no closer than the halfway point between the drip line and the trunk of the tree, whichever distances is greater. (Ord. of Jan. 8, 1970, § 76, as replaced by Ord. #2001-15, Dec. 2001, and Ord. #2009-09, Sept. 2009)

11-607. Standards for accepting existing plantings. Existing plantings will only be accepted as fulfilling the landscaping requirements of this chapter where they meet the following requirements:

(1) They are healthy and listed as an acceptable species in the list of acceptable species maintained by the Jonesborough Building Inspector.

(2) They do not and are not likely to interfere with utilities, vision clearance standards, or obscure street lights.

(3) They meet the size, location, and other applicable requirements of this chapter. (Ord. of Jan. 8, 1970, § 77, as replaced by Ord. #2001-15, Dec. 2001, and Ord. #2009-09, Sept. 2009)

11-608. Incentives for preserving specimen trees and existing plantings. To encourage for the preservation of a specimen tree or significant wooded area, setback requirements along side and rear property lines may, upon review and approval by the board of zoning appeals, be reduced by as much as twenty-five percent (25%). Also, the number and size of required parking spaces may, if approved by the planning commission, be modified to encourage the preservation of existing plantings. (Ord. of Jan. 8, 1970, § 78, as amended by Ord. of Oct. 8, 1974, § 3, and replaced by Ord. #2001-15, Dec. 2001, and Ord. #2009-09, Sept. 2009)

11-609. General landscape design standards. (1) General size specifications. At the time of planting, all required trees shall have a minimum trunk diameter of at least two inches (2"), as measured at six inches (6") above the ground, and shall be nursery grown. All required trees shall have a minimum height of six feet (6') when planted. All required shrubs used for buffering shall have a minimum height of two feet (2') when planted and shall be capable of reaching a minimum height of three feet (3') within three (3) years of planting. All shrubbery shall be nursery grown.

(2) Tree types. Tree type may vary depending on overall effect desired. However, where ten (10) or more new trees are required, a mixture of more than one (1) species shall be provided to create a natural look and guard against the possibility of disease obliterating all required trees. As a rule, trees should be indigenous, relatively fast growing, not particularly susceptible to insects and disease, long-living, and require little care. A list of acceptable tree species is maintained by the urban forester or other staff and trees not found on the list may be credited as a required tree provided that the tree and townscape board is provided with justification for the species from a developer or the urban forester or qualified staff and the board approves the species submitted.

(3) General spacing standards. Proper spacing distances depend on the tree type, its growing habits, and whether freestanding specimens or an interlaced canopy is desired. As a general rule, unless a canopied effect is desired (e.g. for buffering), a good guide is to space trees so as to exceed the farthest extent of branch development at maturity. Required shade trees shall generally have a minimum horizontal separation from other required trees of eight feet (8'). In all cases, required trees, whether new or existing, shall be spaced so that they will not interfere with utilities, obstruct vision clearance, or obscure streetlights. (Ord. of Jan. 8, 1970, art. 8, as replaced by Ord. #2001-15, Dec. 2001, and Ord. #2009-09, Sept. 2009)

11-610. Prohibited plantings. (1) Utility considerations. As noted in other sections of this chapter, consideration shall always be given to the placement and type of plantings, particularly trees, involved in a landscape design so that such plantings will not interfere with utilities. Specifically, it shall be unlawful for any person to plant the following:

(a) Within any recorded sewer or water easement, any species prone to clogging water or sewer lines with roots, including, but not limited to: Poplar, Box Elder, Silver Maple, American Elm, Catalpa, Siberian Elm, Cotton Wood, Black Walnut, and Weeping Willow.

(b) Within any recorded easement for overhead electric or telephone lines, any species known to reach a mature height greater than twenty feet (20').

(2) Vision clearance considerations. All species shall be located so that they provide for vision clearance. Vision clearance shall be evaluated on both the existing physical characteristics of a species and its anticipated physical dimensions at maturity. (as added by Ord. of Jan. 13, 1986, and replaced by Ord. #2001-15, Dec. 2001, and Ord. #2009-09, Sept. 2009)

11-611. Buffering. (1) Intent. Buffer yard requirements are designed to provide physical separation and visual screening between adjacent land uses that are not fully compatible, such as duplexes and service stations. Buffering is also necessary to create privacy, soften glare, filter noise, and modify climatic conditions.

(2) Applicability. Buffer yards are required where development of a new higher impact use, resulting from either a new use of a vacant lot through a change in ownership or tenancy, abuts an existing lower impact use. Impact use classifications are discussed in the subsequent § 11-612 entitled "Classification of Buffer Areas." In cases where the use classification is uncertain, the planning commission shall make a decision based on the specific situation, character of the use, and the surrounding and/or proposed plan of development. For example, the use of public-owned buildings, which is permitted in all zoning districts, will have very different impacts on abutting properties, depending on the nature of the use. As a result, buffering for these kinds of uses shall be evaluated on the basis of the most similar private sector use and the uses prevalent in the surrounding neighborhood. The Jonesborough Regional Planning Commission and the Jonesborough Board of Mayor and Aldermen may increase buffer yard requirements where it has approval authority.

(3) Appeals. Whenever Class 3 buffers are required, if, at the time of site plan review, it is determined that the required buffer cannot reasonably be expected to provide visual screening within five (5) years of installation, the Jonesborough Regional Planning Commission in conjunction with the building inspector may require a different type of buffer than those specified below. If

applicant disagrees with the findings, he/she may appeal those findings to the board of mayor and aldermen.

(4) Impact classification.

- (N) No Impact: (1.) Any use, unless otherwise listed below, which is permitted in R-1 or R-1A zoning district; (2.) Cemeteries; (3.) Golf Courses; (4.) Parks and similar uses.
- (L) Low Impact: (1.) Any use, unless otherwise listed below, which is permitted in R-2, R-3, R-4, B-1 zoning districts; (2.) Community and neighborhood recreational facilities and similar uses.
- (M) Medium Impact: (1.) Any use, unless otherwise listed below, which is permitted in the B-3 and B-4 zoning districts; (2.) Gasoline service stations; (3.) Convenience stores; (4.) Parking garages; (5.) Auto repair garages and similar uses; and (6.) Mini-warehouses.
- (H) High Impact: (1.) Any use only permitted in the M-1 or M-2 zoning districts; and (2.) Any proposed development which would create more than 500 parking spaces.

Proposed Use Classification

Adjoining Use Classification	No Impact (N)	Low Impact (L)	Medium Impact (M)	High Impact (H)
No Impact	None	1	2	3
Low Impact	None	None	1	2
Medium Impact	None	None	None	1
High Impact	None	None	None	None

Example: A new apartment complex (a Low Impact use) located in an R-3 zoning district will abut an existing single family residential (a No Impact use) area. The developers of the apartment complex (the High Impact use) will be responsible for creating and arranging for the maintenance of a Class 1 buffer. However, if this apartment complex were to abut any equal or lower impact use, the developers of the complex would not be responsible for creating any new buffer area.

(5) Planting schedule. Plantings approved in the landscape plan in buffer or setback areas along residential or commercial lots adjoining properties not in the development area must be planted prior to the issuance of a certificate of occupancy for the structure constructed. In developments involving multiple structures or phased construction, the required buffering must be planted within or adjoining individual lots before the structure constructed is occupied.

The building inspector has the authority to issue a temporary certificate of occupancy on a lot by lot basis if buffer planting could truly not have been undertaken because of weather or some other legitimate restriction or roadblock. In such case, the developer or owner must sign an agreement stating the date the buffer planting will be completed. Failure to meet the agreement deadline will constitute a violation of the chapter with each day being considered a separate violation. (as added by Ord. #2001-15, Dec. 2001, and replaced by Ord. #2009-09, Sept. 2009)

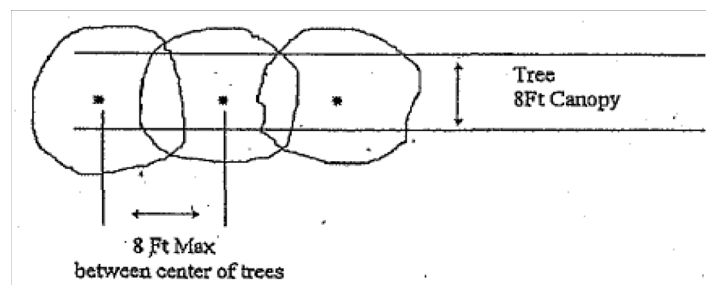
11-612. Classification of buffer areas.

CLASS 1:

A Class 1 buffer area is designed for those abutting uses, which are only mildly incompatible. For example, an apartment complex abutting a duplex. As a result, the buffer requirements associated with the Class 1 buffer are minimal. One of the following three options would be created as an acceptable minimum buffer.

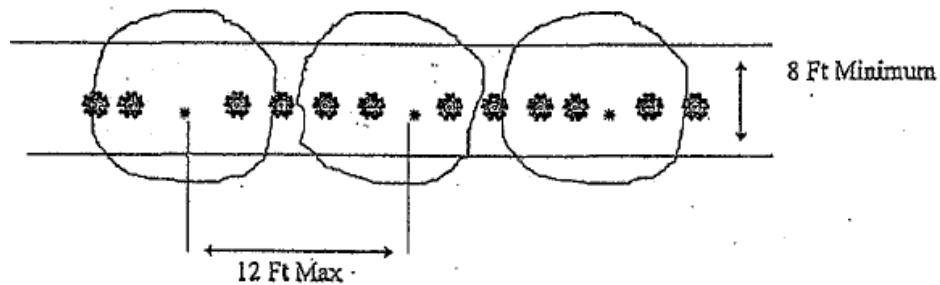
Option A1

One (1) row of evergreen trees spaced no greater than eight feet (8') on center. Species which may require different spacing standards may be approved, provided adequate documentation is submitted to justify a variation.



Option B1

One (1) row of evergreen trees with a minimum width spaced no greater than twelve feet (12') on center and a minimum of four (4) shrubs provided per tree.



Option C1

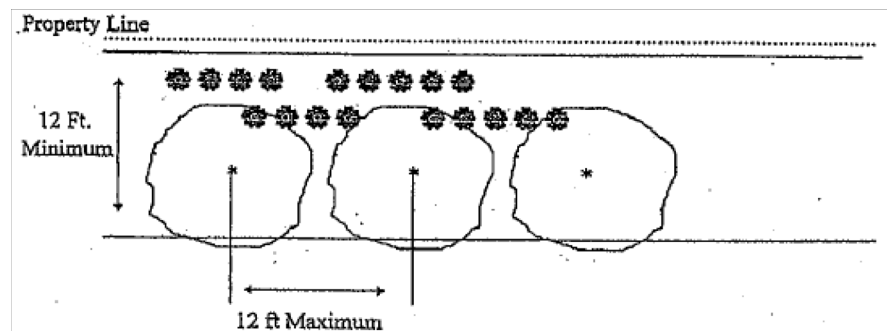
A solid barrier brick or masonry wall or wooden fence or equivalent at least six feet (6') in height. Where a landscaped berm is used and would be periodically mowed, for maintenance purposes, no slope shall exceed twenty-five percent (25%). Berms planted with ground cover and shrubs may be steeper; however, no slope shall exceed fifty percent (50%).

CLASS 2:

Class 2 buffer areas are designed to provide greater shielding than is provided in the Class 1. Class 2 buffers are for incompatible uses, which, because of noise, lighting, smell, etc. require larger buffers. For example, a proposed commercial use abutting an existing single-family neighborhood would require a Class 2 buffer. The Class 2 buffering requirements could be met by completing, at a minimum, one of the following options:

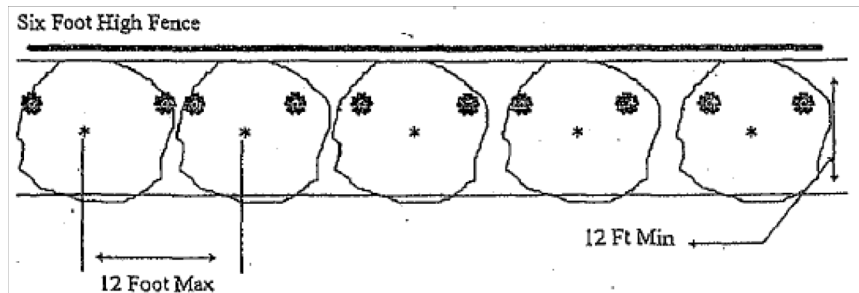
Option A2

A minimum buffer strip width of twelve feet (12') with a row of trees no greater than twelve feet (12') on center and with no less than six (6) shrubs per tree.

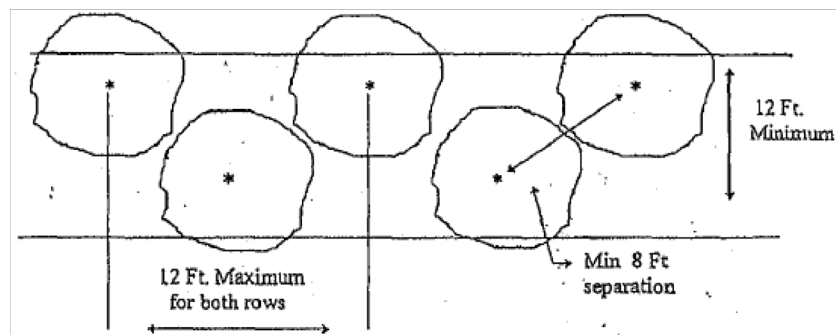


Option B2

A minimum buffer strip width of twelve feet (12'), a minimum six foot (6') high fence, specifically approved by the planning commission, with a row of trees not greater than twelve feet (12') on center and with no less than two (2) shrubs per tree.

Option C2

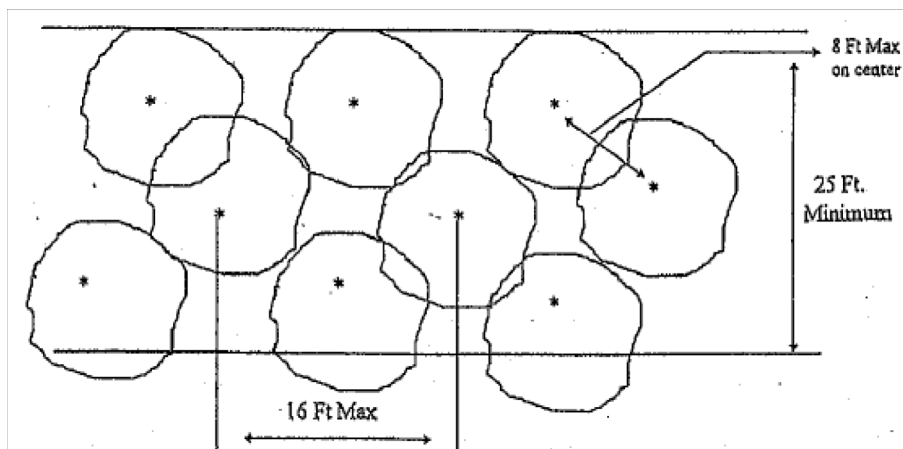
A minimum buffer strip of twelve feet (12') with a double row of buffer trees, with a minimum row separation of eight feet (8') planted a maximum of twelve feet (12') on center.

**CLASS 3:**

The Class 3 buffer is designed for abutting uses which are completely incompatible. For example, a development which will have a high level of noise, light, traffic (industry, large development) abutting a low density residential neighborhood would be required to construct a Class 3 buffer along the abutting property lines. At minimum, Class 3 buffer requirements could be met by adhering to one of the following options:

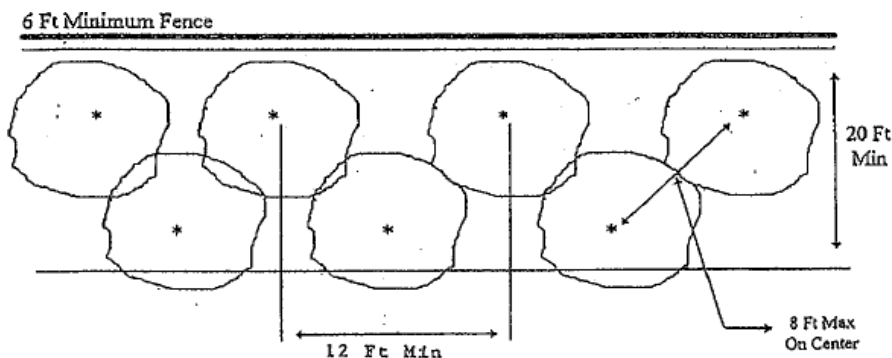
Option A3

A buffer strip with a minimum width of twenty-five feet (25') and with no less than three (3) rows of buffer trees with a minimum row separation of eight feet (8') and spaced no more than sixteen feet (16') on center.



Option B3

A minimum six foot (6') high fence, specifically approved by the planning commission, with two (2) rows of tree with row separation or no more than eight feet (8') and space no less than twelve feet (12') on center. The buffer strip shall be a minimum of twenty feet (20').



(as added by Ord. #2001-15, Dec. 2001, and replaced by Ord. #2009-09, Sept. 2009)

11-613. Protective screening. (1) Applicability. Excluding the development of individual single-family or two-family detached dwelling units, protective screening shall be provided in all zones.

(2) Screening requirements. A protective screen in the form of a masonry wall, wood fence, or opaque landscaping to prevent public view from any street right-of-way (excluding alleys) or adjoining property shall be provided for the following:

- (a) Dumpsters.

(b) All mechanical equipment which is larger than five feet (5') by five (5) by four feet (4') high shall be screened. Mechanical units smaller than this shall not require screening if they are located to the side or rear of the building and are not visible from a collector, arterial, or freeway. (as added by Ord. #2001-15, Dec. 2001, and replaced by Ord. #2009-09, Sept. 2009)

11-614. Parking lot landscaping. (1) Intent. The purpose of landscaping within and around parking areas is to:

(a) Enhance a development's property value and business opportunities by making it more inviting to customers or visitors.

(b) Provide shade for comfort when walking and after returning to the parked vehicle, as well as to reduce heat build up produced by asphalt surfaces on hot days and to buffer winter winds.

(c) Muffle noise in and around the development and the parking area.

(d) Filter the air by absorbing exhaust gases and giving off pure oxygen.

(e) Protect water quality by modifying the rate of erosion, storm water runoff into natural and manmade drainage areas.

(f) Break up the mass of pavement associated with parking lots which will provide sense of human scale, slow traffic through the lot, and provide safe pedestrian routes from the building to the automobile.

(g) Minimize the hazard of nighttime headlight glare for drivers and pedestrians.

(2) Applicability. Parking lot landscaping shall be required for all uses which involve the creation of more than twenty (20) off street parking spaces, either as a new use or by expansion. Where parking spaces are not paved and striped, parking lot landscaping shall be provided, as required by this section, for uses which designate more than four thousand (4,000) square feet of the site for parking purposes. Interior landscaping shall not be required for parking garages or other enclosed parking structures. Such use, however, shall be buffered, as required.

(3) Planting requirements. Where parking lot landscaping is required, one (1) shade tree or two (2) ornamental trees and at least two (2) shrubs per required tree shall be planted for every ten (10) parking spaces or, in the case of existing parking lots which are enlarged, every additional ten (10) spaces. Unmarked lots shall have one (1) shade tree or two (2) ornamental trees and at least two (2) shrubs per required tree for every two thousand (2,000) square feet of area designated or used on a daily basis for parking.

(4) Standards for trees used specifically in parking lot landscaping. Any trees used for parking lot landscaping shall meet all of the following minimum requirements:

(a) Shall have a clear trunk of at least six foot (6') above finished grade to provide for maximum vision clearance.

(b) Shall be able to thrive in existing soil and should be tolerant of excessive heat, de-icing, salt, and the oils and other chemicals often found in additional volume in parking lot environments.

(c) Shall be species with strong wood which is not prone to breakage in wind or ice storms.

(d) Shall be fruitless or otherwise free of parts that fall and could damage vehicles, clog drains, or make pavement slippery.

(e) Shall not interfere with either above or below ground utilities.

(f) Shall have pavement cut outs of sufficient size for tree survival and growth (approved by a professional landscaper) when landscaping is placed in a previously developed and paved portion of a site.

(5) Spacing requirements. Trees required for parking lot landscaping may be clustered. However, in no case shall any individual parking space be greater than seventy-five feet (75') from the trunk of a required parking lot tree and no more than one hundred twenty-five feet (125') from two (2) or more required parking lot trees. Distances shall be measured in a straight line from the DBH to the nearest portion of the individual parking space. Parking lot landscaping shall not extend more than fifteen feet (15') beyond any area designated or commonly used for parking. Furthermore, in no case, shall parking lot landscaping be counted toward fulfilling any other landscaping (e.g. buffering) requirements of this chapter.

(6) Interior planting islands – dimensions. Where interior planting islands are used to meet the requirements of this section, each island shall be no less than three feet (3') wide at its greatest point in any dimension. Each planting island shall be bordered by a minimum six inch (6") concrete raised curb or wheel-stop to prevent damage to required landscaping. Where a tree is located within a planting island, there shall be provided at least sixty (60) square feet of pervious land area for each tree within the island. Required trees shall be planted so that the base of the tree, as measured six inches (6") above the ground shall be at least three and one-half feet (3 1/2') behind the curb or traffic barrier to prevent damage to the tree by auto bumpers. Where an island is parallel to parking spaces, the island shall be at least nine feet (9') wide to allow ample radius for car doors to swing open.

(7) Interior planting islands and parking space dimensions. Where parking spaces abut planting islands, the required length of parking spaces may be reduced by up to two feet (2'). Also, general parking space dimensions may be reduced and an area designated for compact vehicles established. Within this area, parking spaces for ninety degree (90°) angle parking may be reduced to no smaller than seven and one-half feet by fifteen feet (7 1/2'x15') in order to free up space needed to meet any of the parking lot landscaping requirements of this

chapter. In all cases, any modifications to parking space dimensions shall be specifically approved by the planning commission. (as added by Ord. #2001-15, Dec. 2001, and replaced by Ord. #2009-09, Sept. 2009)

11-615. Frontage landscape areas. (1) Intent. In addition to parking lot landscaping and buffering requirements, plantings shall also be provided along the public road frontage for those applicable situations noted below in order to:

- (a) Better define parking areas.
- (b) Shield views of parked cars to passing motorists and pedestrians.
- (c) Create a pleasing, harmonious appearance along the roadway.
- (d) Promote individual property values and pleasing community atmosphere.

(2) Applicability. Any new family, multi-family, commercial or industrial development which will front along the same public street for at least fifty (50) linear feet shall be required to plant frontage landscaping along that frontage. Frontage landscaping shall also be required where an existing lot of record is used by an existing multi-family, commercial, or industrial entity and is combined with adjacent property to create at least fifty feet (50') of additional public road frontage. In which case, frontage landscaping shall be required along that additional frontage.

(3) Requirements. Landscaping along any public road frontage shall be within a strip which is at least ten feet (10') wide. This strip shall include at least one (1) shade tree or evergreen tree or two (2) ornamental trees for each fifty (50) linear feet of public street frontage. Required trees may be clustered or spaced in any manner desirable to the developer and owner, provided such spacing does not interfere with utility line locations in vision clearance. Between required trees, additional landscaping in the form of shrubs, berms, masonry walls or other landscaping or combinations of landscaping acceptable to the planning commission shall be provided. This landscaping shall be at least three feet (3') in height or, in the case of plantings, capable of reaching three feet (3') in height within three (3) years and shall be spaced so that no non-landscaped gaps, excluding driveways and sight line, exist which are greater than six (6) linear feet. Plantings other than trees shall be at least eighteen inches (18") high when planted. A gap greater than six (6) linear feet may be permitted by the planning commission where a clear safety concern is demonstrated or a more natural look would otherwise be conveyed. (as added by Ord. #2001-15, Dec. 2001, and replaced by Ord. #2009-09, Sept. 2009)

11-616. Completion bond. In order to ensure the acceptable completion of required landscaping, the building inspector may withhold a certificate of occupancy until required plantings are installed per the approved landscape plans. If a certificate of occupancy is desired and it is not an appropriate time

of year for planting, a completion bond, irrevocable letter of credit, or similar security measure shall be provided by the developer to the Town of Jonesborough. If landscaping is not planted according to the approved landscape plan, the town shall retain the right to cash the bond or security measure, after providing written notification to the developer, in order to complete the landscaping. (as added by Ord. #2001-15, Dec. 2001, and replaced by Ord. #2009-09, Sept. 2009)

11-617. Maintenance required. Landscaping plantings that are a requirement of this landscape ordinance shall be maintained on an on-going basis. Such plantings that are required or those that are preserved must be removed and replaced with plant species meeting the landscape ordinance requirements if such plantings are not living within one (1) year after the issuance of a certificate of occupancy or the release of a performance or completion bond. The Jonesborough Tree and Townscape Board may determine that a required landscape planting with tree losses needs to be addressed and may notify the code enforcement officer and/or building inspector of the need to evaluate compliance concerns and possibly issue a notice of corrective action and appropriate timetable. Persons found not to be meeting this maintenance requirement are in violation of this chapter and subject to fine. Each day of violation shall be considered a separate offense. Enforcement shall be the responsibility of the code enforcement officer or the building inspector. The planning commission reserves the right to require a maintenance/replacement bond in an amount up to one hundred ten percent (110%) of the projected cost of the landscaping in an approved landscape plan for a period up to two (2) years in those situations in which the experience with a developer has been such that there is doubt about the commitment of the developer to meet the maintenance requirements of this chapter and a bond is needed to provide the necessary protection. (as added by Ord. #2001-15, Dec. 2001, and replaced by Ord. #2009-09, Sept. 2009)

11-618. Continued maintenance requirements. Property owners shall remain responsible for maintaining in a healthy and orderly manner required plantings approved in a landscape plan. Specifically, this shall mean that:

(1) All plant growth in landscaped areas be controlled by pruning, trimming, or other suitable methods so that plant materials do not interfere with public utilities, restrict pedestrian or vehicular access, or otherwise constitute a traffic or pedestrian hazard.

(2) All planted areas shall be maintained in a relatively weed-free condition and clear of undergrowth.

(3) All trees, shrubs, ground covers, and other plant materials shall be replaced if they die or become unhealthy because of accidents, drainage problems, disease, or other causes.

Also, where man-made materials are used alongside landscaping, such materials shall be maintained in good repair, including, where applicable, periodic painting or finishing. Subsequent building permits may be withheld if, after written notification, landscaping, either required or preserved, is not properly maintained. (as added by Ord. #2001-15, Dec. 2001, and replaced by Ord. #2002-04, March 2002, Ord. #2005-13, June 2005, and Ord. #2009-09, Sept. 2009)

11-619. Application procedures – new developments. Landscape plans are required as part of the site plan review process. These plans, which shall be acted upon by the Jonesborough Regional Planning Commission, shall be submitted no later than ten (10) business days before the regular meeting date in order to be on the commission's agenda. The tree and townscape board shall review all landscape plans prior to action by the commission and submit comments, recommendations, questions and concerns a minimum of five (5) days before the regular meeting date of the commission. The planning commission will render an acceptance, denial, or conditional acceptance. When plans are approved subject to certain conditions, such conditions may be satisfied by working with the building inspector or other such enforcement officer designated by the board of mayor and aldermen, provided such conditions are classified as minor, as described in the following § 11-620 entitled "Minor Changes to Approved or Conditionally Approved Plans." (as added by Ord. #2001-15, Dec. 2001, and replaced by Ord. #2005-13, June 2005, and Ord. #2009-09, Sept. 2009)

11-620. Minor changes to approved or conditionally approved plans. Minor changes made to approved landscaped plans shall be first approved by the building inspector before any such changes may be made to these original plans. Where such proposed changes would clearly compromise the intent and purpose of this chapter, such changes shall be deemed as major and shall be presented to the Jonesborough Regional Planning Commission for a decision. (as added by Ord. #2001-15, Dec. 2001, and replaced by Ord. #2009-09, Sept. 2009)

11-621. Application procedures – expansions of and/or alterations to existing developments. When a use of a property is expanded or changed so as to require landscaping, the applicable provisions of the previous § 11-617 entitled "Maintenance Required" and § 11-618 entitled "Continued Maintenance Requirements" shall apply so that the Town of Jonesborough is provided with a security that the landscaping will be installed and maintained as required in this chapter. Where required landscaping can only be provided in existing paved areas, pavement cutout shall be of sufficient size to ensure the survival of the species. Adequate space shall be provided to permit air and water to the root system. In general, the site should be prepared by digging or rototilling an area twelve inches (12") deep and typically five times the diameter of the planting ball. This area should be back-filled with native soil. (as added by

Ord. #2001-15, Dec. 2001, and replaced by Ord. #2005-13, June 2005, and Ord. #2009-09, Sept. 2009)

11-622. Expiration of approved landscape plans. In conjunction with site development requirements, work related to an approved landscape plan shall be initiated within twenty-four (24) months after formal approval by the planning commission. Where such work is not initiated, the plans shall be resubmitted to the planning commission for approval of the proposed landscaping. (as added by Ord. #2001-15, Dec. 2001, and replaced by Ord. #2005-13, June 2005, and Ord. #2009-09, Sept. 2009)

11-623. Alternative methods of compliance. In cases where a strict interpretation of the requirements of this chapter may by reason of topographical conditions, practical difficulties, or undue hardship, the developer may appear before the planning commission to present an alternative method of compliance. In all cases, such alternative means of complying with the provisions of this chapter shall only be permitted by the planning commission if they remain true to the intent of the landscape ordinance. The Jonesborough Regional Planning Commission would evaluate the petitioner's request for alternative compliance based upon whether one or more of the following conditions clearly would apply:

- (1) The development has obvious space limitations or is on an unusually shaped parcel.
- (2) Topography, soil, vegetation, or other site conditions are such that full compliance is impossible, impractical, or unnecessary.
- (3) Due to a change of use of an existing site, the required buffer yard is larger than can be provided.
- (4) Obvious safety considerations are involved.
- (5) An alternative plan, as demonstrated by a landscape specialist, would clearly improve the environmental quality, traffic safety, and the overall aesthetics of the town to an extent much greater than would be possible by adhering to the provisions of this chapter.

In all cases, if an alternate means of compliance is permitted, such compliance, shall approximate the requirements of this chapter to the greatest extent possible. (as added by Ord. #2009-09, Sept. 2009)

11-624. Conflict. If the provisions of this chapter conflict with other ordinances or regulations, the more stringent limitation or requirement shall govern or prevail to the extent of the conflict. (as added by Ord. #2009-09, Sept. 2009)

11-625. Severability. If any section, subsection, clause, or phrase of this chapter or its application to any person or circumstance is held invalid by the decision of any court of competent jurisdiction, the remainder of this chapter, or

the application of the provision to other persons or circumstances is in effect and shall remain in full force and effect. (as added by Ord. #2009-09, Sept. 2009)

CHAPTER 7

EXCEPTIONS AND MODIFICATIONS

SECTION

- 11-701. Lot of record.
- 11-702. Adjoining and vacant lots of record.
- 11-703. Front yards.
- 11-704. Group housing projects.
- 11-705. Exception on height limits.

11-701. Lot of record. Where the owner of a lot consisting of one or more adjacent lots of official record at the time does not own sufficient land to enable him to conform to the yard or other requirements of chapters 5 through 11 of this title, an application may be submitted to the board of zoning appeals for a variance from the terms of chapters 5 through 11 of this title in accordance with variance provisions established herein. Such lot may be used as a building site, provided, however, that the yard and other requirements of the district are complied with as closely as is possible in the opinion of the board of zoning appeals. (Ord. of Jan. 8, 1970)

11-702. Adjoining and vacant lots of record. A plat of land consisting of one or more adjacent lots with continuous frontage in single ownership which individually are less than lot widths required by chapters 5 through 11 of this title, such groups of lots shall be considered as a single lot or several lots of minimum permitted size and the lot or lots in one ownership shall be subjected to the requirements of chapters 5 through 11 of this title. (Ord. of Jan. 8, 1970)

11-703. Front yards. The front yard requirements of chapters 5 through 11 of this title for dwellings shall not apply to any lot where the average depth of existing front yards on developed lots, located within one hundred (100) feet on each side of such lot and within the same block and zoning district and fronting on the same street as such lot, is less than the minimum required front yard depth. In such case, the minimum front yard shall be the average of the existing front yard depths on the developed lots. (Ord. of Jan. 8, 1970)

11-704. Group housing projects. In the case of a group housing project or two or more buildings to be constructed on a plot of ground of at least one acre not subdivided into the customary streets and lots, and which will not be so subdivided, or where the existing or contemplated street and lot layout make it impracticable to apply the requirements of chapters 5 through 11 of this title to the individual building units in such housing projects, a special exception to the terms of chapters 5 through 11 of this title may be made by the board of zoning appeals in a manner that will be in harmony with the character of occupancy

and an intensity of land use no higher and a standard of open space no lower than that permitted by chapters 5 through 11 of this title in the district in which the project is to be located. However, in no case shall the board of zoning appeals authorize a use prohibited in the district in which the project is located, or a smaller lot area per family than the minimum required in such district, or a greater height, or a larger coverage than the requirements of chapters 5 through 11 of this title permit in such a district. (Ord. of Jan. 8, 1970)

11-705. Exception on height limits. The height limitations of chapters 5 through 11 of this title shall not apply to church spires, belfries, cupolas, and domes not intended for human occupancy, monuments, water towers, observation towers, transmission towers, windmills, chimneys, smokestacks, derricks, conveyors, flag poles, radio towers, masts, and aerials. (Ord. of Jan. 8, 1970)

CHAPTER 8

ENFORCEMENT

SECTION

- 11-801. Enforcing officer.
- 11-802. Building permit required.
- 11-803. Issuance of building permit.
- 11-804. Certificate of occupancy.
- 11-805. Remedies.

11-801. Enforcing officer. The provisions of chapters 5 through 11 of this title shall be administered and enforced by the municipal building inspector. This official shall have the right to enter upon any premises necessary to carry out his duties in the enforcement of chapters 5 through 11 of this title. (Ord. of Jan. 8, 1970)

11-802. Building permit required. It shall be unlawful to commence the excavation for or the construction of any building including accessory buildings, or to commence the moving or alteration of any building, including accessory buildings, until the building inspector has issued for such work a building permit including a statement that the plans, specifications, and intended use of such building in all respects conform with the provisions of chapters 5 through 11 of this title. Application for a building permit shall be made to the building inspector. (Ord. of Jan. 8, 1970)

11-803. Issuance of building permit. In applying to the building inspector for a building permit, the applicant shall submit a dimensioned sketch or scale plan indicating the shape, size, height, and location of all buildings to be erected, altered, or moved, and of any building already on the lot. He shall also state the existing and intended use of all such buildings and supply such other information as may be required by the building inspector. For determining whether the provisions of chapters 5 through 11 of this title are being observed. If the proposed excavation of construction as set forth in the application are in conformity with the provisions of chapters 5 through 11 of this title, the building inspector shall issue a building permit for such excavation or construction. If a building permit is refused, the building inspector shall state such refusal in writing with cause. (Ord. of Jan. 8, 1970)

11-804. Certificate of occupancy. Upon the completion of the construction or alteration of a building or structure for which a building permit has been granted, application shall be made to the building inspector for a certificate of occupancy. Within three days of such application, the building inspector shall make a final inspection of the property in question, and shall issue a certificate

of occupancy if the building or structure is found to conform to the provisions of chapters 5 through 11 of this title and the statements made in the application for the building permit. If such a certificate is refused, the building inspector shall state such refusal in writing, with the cause. No land or building hereafter erected or altered in its use shall be used until such a certificate of occupancy has been granted. (Ord. of Jan. 8, 1970)

11-805. Remedies. In case any building or structure is erected, constructed, reconstructed, repaired, converted, or maintained, or any building, structure, or land is used in violation of chapters 5 through 11 of this title, the building inspector or any other appropriate authority or any adjacent or neighboring property owner who would be damaged by such violation, in addition to other remedies, may institute injunction, mandamus, or other appropriate action in proceeding to prevent the occupancy or use of such building. (Ord. of Jan. 8, 1970)

CHAPTER 9

BOARD OF ZONING APPEALS

SECTION

- 11-901. Creation and appointment.
- 11-902. Procedure.
- 11-903. Appeals; how taken.
- 11-904. Powers.
- 11-905. Action of the board of zoning appeals.

11-901. Creation and appointment. A board of zoning appeals is hereby established in accordance with § 3-7-205, Tennessee Code Annotated, Volume 3A, same being section 5, chapter 44 of Public Acts of Tennessee of 1935. The Jonesborough Municipal Planning Commission is hereby designated as the board of zoning appeals and the terms of the members of the board of zoning appeals shall be concurrent with the terms of the members of the Jonesborough Municipal Planning Commission. (Ord. of Jan. 8, 1970)

11-902. Procedure. Meetings of the board of zoning appeals shall be held at the call of the chairman or by a majority of the membership and at such other times as the board may determine. Such chairman, or in his absence, the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of the board shall be open to the public. The board shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact; shall take all evidence necessary to justify or explain its action, and shall keep records of its examinations and of other official action, all of which shall be immediately filed in the office of the board and shall be a public record. (Ord. of Jan. 8, 1970)

11-903. Appeals; how taken. An appeal to the board of zoning appeals may be taken by any person, firm, or corporation aggrieved, or by any governmental officer, department, board, or bureau affected by any decision of the building inspector based in the whole or part on provisions of chapters 5 through 11 of this title. Such appeal shall be taken within a reasonable time, as provided by the rules of the board, by filing with the building inspector and with the board of zoning appeals a notice of appeal, specifying the grounds thereof. The building inspector shall transmit forthwith to the board all papers constituting the record upon which the action appealed was taken. The board shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing, any party may appear in person or by agent or attorney. (Ord. of Jan. 8, 1970)

11-904. Powers. The board of zoning appeals shall have the following powers:

(1) Administrative review. To hear and decide appeals where it is alleged by the appellant that there is error in any order, requirement, permit, decision, determination, or refusal made by the building inspector or other administrative official in the carrying out or enforcement of any provision of chapters 5 through 11 of this title.

(2) Special exceptions. To hear and decide special exceptions to chapters 5 through 11 of this title as set forth in chapter 7.

(3) Variances. To hear and decide applications for variance from the terms of chapters 5 through 11 of this title, but only where, by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of the adoption of the provisions of chapters 5 through 11 of this title was a lot of record; or where by reason of exceptional topographical conditions or other extraordinary or exceptional situations or conditions of a piece of property, the strict application of the provisions of chapters 5 through 11 of this title would result in exceptional practical difficulties to or exceptional and undue hardship upon the owner of such property, provided that such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of chapters 5 through 11 of this title. In granting a variance the board may attach thereto such conditions regarding the location, character, and other features of the proposed building, structure or use as it may deem advisable in furtherance of the purpose of chapters 5 through 11 of this title. Before any variance is granted, it shall be shown that special circumstances are attached to the property which do not generally apply to other property in the neighborhood. (Ord. of Jan. 8, 1970)

11-905. Action of the board of zoning appeals. In exercising the aforementioned powers, the board of zoning appeals may, in conformity with the provisions of chapters 5 through 11 of this title, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from, and to that end shall have all powers of the building inspector. The concurring vote of a majority of the board shall be necessary to reverse any order, requirement, decision, or determination of any such administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under chapters 5 through 11 of this title, or to authorize any variance from the terms hereof. (Ord. of Jan. 8, 1970)

CHAPTER 10

HISTORIC ZONING PROVISIONS

SECTION

- 11-1001. General purposes.
- 11-1002. Definitions.
- 11-1003. Creation.
- 11-1004. Appointment.
- 11-1005. Membership.
- 11-1006. Terms of appointment, removal, and vacancies.
- 11-1007. Election of officers, rules and meetings.
- 11-1008. Conflict of interest.
- 11-1009. Powers and duties.
- 11-1010. Procedures for review of historic zoning commission of permit applications.
- 11-1011. Enforcement.
- 11-1012. Designation of historic districts.
- 11-1013. Appeals.

11-1001. General purposes. The historic district zoning provisions are established in order that appropriate measures may be taken to ensure the preservation of structures of historic value to the Town of Jonesborough pursuant to the authority contained in § 13-7-401 of the Tennessee Code Annotated. The general intent includes, among others, the following specific purposes:

- (1) To effect and accomplish the preservation and protection of historic sites and districts having a special historic, architectural, or cultural interest and value to this town, state, and nation.
- (2) To regulate proposed exterior alterations to existing structures and property and the proposed exterior design of new construction within historic districts to ensure compatibility.
- (3) To regulate the proposed demolition of structures within historic districts, the loss of which would be detrimental to the public interest.
- (4) To promote the educational, cultural, economic, and general welfare of the people and safeguard the town's history and heritage as embodied and reflected in historic districts.
- (5) To stabilize and improve property values in historic districts and in the town as a whole.
- (6) To foster civic pride in the value of notable accomplishments of the past.
- (7) To strengthen the economy of the town.
- (8) To protect and enhance the town's attractions to residents, tourists, and visitors, and serve as support and stimulus to business and industry.

(9) To enhance the visual and aesthetic character, diversity, and interest of the town. (Ord. of May 8, 1989)

11-1002. Definitions. (1) Alteration. Any act that changes the exterior features of a designated property.

(2) Construction. The act of adding an addition to an existing structure or the erection of a new principal or accessory structure on a lot or property.

(3) Demolition. Any act that destroys the external walls in whole or in part of a structure in a historic district.

(4) Design guidelines. Standards adopted by the Jonesborough Historic Zoning Commission which preserve the historic, cultural, and architectural character of an area or of a structure.

(5) Economic hardship. An economic burden imposed upon the owner which is unduly excessive and prevents a realization of a reasonable rate of return upon the value of his property.

(6) Historic district. An area meeting one or more of the criteria contained in § 11-1012 of this of this chapter.

(7) Ordinary repair and maintenance. Any work, the purpose and effect of which is to correct any deterioration or decay of or damage to a structure or any part thereof and to restore the same, as nearly as may be practicable, to its condition prior to such deterioration, decay or damage, using the same materials or those materials available which are as close as possible to the original.

(8) Relocation. Any change of the location of a structure in its present setting or to another setting.

(9) Structure. A nonmovable work make up of interdependent and interrelated parts in a definite pattern of organization. (Ord. of May 8, 1989)

11-1003. Creation. A Historic Zoning Commission (HZC) is hereby created for the Town of Jonesborough, Tennessee. It shall consist of nine members who shall have been bona fide residents of the area of jurisdiction of the Town of Jonesborough for not less than three years immediately prior to the appointment and who shall continue to be so eligible as long as they serve. (Ord. of May 8, 1989)

11-1004. Appointment. Members of the historic zoning commission shall be appointed by the Mayor of the Town of Jonesborough subject to approval by the Jonesborough Board of Mayor and Aldermen. (Ord. of May 8, 1989)

11-1005. Membership. Membership on the historic zoning commission shall be composed of the following:

(1) One architect who is a member, or meets the membership requirements of the American Institute of Architects.

- (2) One member of the Jonesborough Planning Commission at the time of his appointment.
- (3) One member representing the local historic organization.
- (4) Six (6) members as selected from the community in general. (Ord. of May 8, 1989)

11-1006. Terms of appointment, removal, and vacancies. Appointments to membership on the Jonesborough Historic Zoning Commission shall be arranged so that the terms of no more than two members shall expire each year and their successors shall be appointed in like manner for a term of five (5) years. All members shall serve without compensation and may be removed from membership by the appointing authority after adequate notice and just cause. Any member being so removed shall be provided upon request, a public hearing on the removal decision before the board of mayor and aldermen. Vacancies on the historic zoning commission shall be filled for the unexpired term of those members whose position has become vacant in the manner herein provided for the appointment. Members who miss three consecutive meetings without just cause and adequate notice to the Chairman shall be subject to removal by the commission. (Ord. of May 8, 1989)

11-1007. Election of officers, rules and meetings. The historic zoning commission shall elect from its members its own chairman and other officers deemed appropriate to carry out its purpose. The commission shall adopt rules of order and establish regular meeting dates. At least five members of the commission shall constitute a quorum for the transaction of its business. A concurring vote of a majority of any quorum shall constitute final action of the commission of any matter before it. (Ord. of May 8, 1989)

11-1008. Conflict of interest. Any member of the historic zoning commission who shall have a direct or indirect interest in any property which is the subject matter of, or affected by, a decision of the commission shall be disqualified from participating in the discussion, decision, or proceedings of the historic zoning commission in connection therewith. (Ord. of May 8, 1989)

11-1009. Powers and duties. (1) The historic zoning commission shall review applications regarding the creation of historic districts. The review of such applications shall be in accordance with the provisions set forth in § 11-1009 of this chapter. The commission shall furnish to the Jonesborough Board of Aldermen, in writing, its recommendations regarding the creation of any historic district. The district shall be established in accordance with Article XIII of the Jonesborough Zoning Ordinance. The board of aldermen shall review the recommendations of the commission prior to the establishment of such district.

(2) Prior to the establishment of a historic district the historic zoning commission shall adopt for each such proposed district a set of review guidelines, which it will apply in ruling upon the granting or denial of a certificate of appropriateness as provided for in this chapter. Such review guidelines shall be consistent with the purposes of the ordinance and with regulations and standards adopted by the Secretary of the Interior pursuant to the National Historic Preservation Act of 1966, as amended, applicable to the construction, alteration, rehabilitation, relocation, or demolition of any historic structure situated within a historic district.

(3) The historic zoning commission shall review permit applications for the alteration, construction, relocation, or demolition of structures within historic districts.

Such review shall be to ensure that all work undertaken in the historic districts complies with the applicable review guidelines, with primary consideration given to

(a) The historical or architectural value of the present structure.

(b) The relationship of the exterior architectural features of such structure to the rest of the structure, to the surrounding area, and to character of the district.

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

(d) To any other factor, including aesthetic, which is reasonably related to the purpose of this chapter.

(4) The historic zoning commission may conduct surveys and inventories to identify historically, culturally, and architecturally significant structures, sites, and areas that exemplify the cultural, social, economic, political, architectural, and archeological history of the nation, state, or town.

(5) The historic zoning commission shall testify before all boards and commissions on any matter affecting historically exceptional or significant structures, sites, or areas or historic district.

(6) The historic zoning commission shall inform and educate the citizens of Jonesborough concerning the historical, cultural, architectural, and archaeological heritage of the town. (Ord. of May 8, 1989)

11-1010. Procedures for review of historic zoning commission of permit applications. (1) Permit applications and building inspector. All permit applications for exterior alterations, new construction, relocation, or demolition with the historic districts shall be referred to the historic zoning commission, together with all plans, elevations, or other information as may be necessary to determine the appropriateness of the features to be passed upon by the historic zoning commission by the building inspector.

(2) Historic zoning commission review. The historic zoning commission shall meet within fifteen days after notification by the building inspector of the filing of a complete permit application involving property in the

historic district. At such meeting, the historic zoning commission shall apply the applicable design guidelines for the historic district to determine the appropriateness of the proposal and approve or disapprove the application with or without attached conditions or defer the application.

(3) Approval. Upon approval of an application, the historic zoning commission shall forthwith issue a certificate of appropriateness to the applicant and notify the building inspector of the approval. Upon failure of the historic zoning commission to take final action with thirty days after receipt of an application, the application shall be deemed approved, except when mutual agreement has been made for an extension of the time limit.

(4) Disapproval. In the case of disapproval by the historic zoning commission of any permit application, the historic zoning commission shall state the reasons therefore in a written statement to the applicant, in terms of design, arrangement, texture, color, material, and the like of the property involved. Notice of such disapproval and a copy of the written statement of reasons therefore shall also be transmitted to the building inspector.

(5) Economic hardship in cases of demolition. In cases involving demolition, the historic zoning commission may take into account economic hardship in addition to other review guidelines. The historic zoning commission may, after reasonable notice to the applicant and the public set an application for demolition for public hearing and may consider any or all of the following:

(a) Estimate of the cost of proposed redevelopment, alteration, demolition, or removal and an estimate of any additional cost that would be incurred to comply with the recommendations of the historic zoning commission for changes necessary for the issuance of a certificate of appropriateness.

(b) A report from a licensed engineer or architect with experience in rehabilitation as to the structural soundness of any structures on the property and their suitability for rehabilitation.

(c) Estimated market value of the property in its current condition; after completion of the proposed redevelopment, alteration, demolition, or removal; after any changes recommended by the historic zoning commission; and, in the case of a proposed demolition, after renovation of the existing property for continued use.

(d) In the case of a proposed demolition, an estimate from an architect, developer, real estate consultant, appraiser, or other real estate professional experienced in rehabilitation as to the economic feasibility of rehabilitation or reuse of the existing structure on the property.

(e) Amount paid for the property, the date of purchase, and the party from whom purchased, including a description of the relationship, if any, between the owner of record or applicant and the person from whom the property was purchased, and any terms of financing between the seller and buyer.

(f) If the property is income-producing, the annual gross income from the property for the previous two years; itemized operating and maintenance expenses for the previous two years; and depreciation deduction and annual cash flow before and after debt service if any during the same period.

(g) Any other information considered necessary by the historic zoning commission to a determination as to whether the property does or may yield a reasonable return to the owners. (Ord. of May 8, 1989)

11-1011. Enforcement. (1) Enforcing officer. The historic zoning provisions shall be enforced by the town building inspector, who shall have the right to enter upon any premises necessary to carry out his duties in this enforcement.

(2) Penalties. Any person violating any provision of this chapter shall be guilty of a misdemeanor, and upon conviction shall be fined not less than two dollars (\$2.00) nor more than fifty dollars (\$50.00) for each offense. Each day such violation shall continue shall constitute a separate offense. (Ord. of May 8, 1989)

11-1012. Designation of historic districts. Criteria. A historic district shall be defined as a geographically definable area which possesses a significant concentration, linkage or continuity of sites, building, structures or objects which are united by past events or aesthetically by plan or physical development, and which meets one or more of the following criteria:

(1) That it is associated with an event which has made a significant contribution to local, state, or national history.

(2) That it includes structures associated with the lives of persons significant to local, state, or national history.

(3) That it contains structures or groups of structures which embody the distinctive characteristics of a type, period, or method of construction, or that represents the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction.

(4) That it has yielded or may be likely to yield archeological information important in history or prehistory.

(5) That it is listed in the National Register of Historic Places. (Ord. of May 8, 1989)

11-1013. Appeals. Appeals from any decision of the historic zoning commission may be taken to a court of competent jurisdiction as provided for by state law.

Nothing in this chapter shall be interpreted as giving the historic zoning commission any authority to consider, review, examine or control the use of property classified as within a historic district. Use shall be controlled solely by

the zoning controlling such property prior to its designation as a historic district or as may be rezoned by subsequent amendments. (Ord. of May 8, 1989)

CHAPTER 11

AMENDMENT

SECTION

11-1101. Procedure.

11-1102. Approval by planning commission.

11-1103. Introduction of amendment.

11-1101. Procedure. The board of mayor and aldermen may amend the regulations, restrictions, boundaries, or any provision of chapters 5 through 11 of this title. Any member of the board of mayor and aldermen may introduce such amendment, or any official, board, or any other person may present a petition to the board of mayor and aldermen requesting an amendment or amendments to chapters 5 through 11 of this title. (Ord. of Jan. 8, 1970)

11-1102. Approval by planning commission. No such amendment shall become effective unless the same be first submitted for approval, disapproval, or suggestions to the planning commission. If the planning commission within thirty (30) days disapproves after such submission, it shall require the favorable vote of the majority of the entire membership of the board of mayor and aldermen to become effective. If the planning commission neither approves nor disapproves such proposed amendment within forty-five (45) days after such submission, the action of such amendment by said board shall be deemed favorable. (Ord. of Jan. 8, 1970)

11-1103. Introduction of amendment. Upon the introduction of an amendment to chapters 5 through 11 of this title, or upon the receipt of a petition to amend these chapters, the board of mayor and aldermen shall publish a notice of such request for an amendment, together with the notice of time set for hearing by the board of mayor and aldermen on the requested change. Said notice shall be published in some newspaper of general circulation in the Town of Jonesborough, Tennessee. Said hearing by the board of mayor and aldermen shall take place not sooner than fifteen (15) days after the date of publication of such notice. (Ord. of Jan. 8, 1970)

CHAPTER 12

BUSINESS AND ADVERTISING SIGNS

SECTION

- 11-1201. Purpose and intent.
- 11-1202. General premise.
- 11-1203. Minimum standards.
- 11-1204. Definitions.
- 11-1205. Permit required.
- 11-1206. Permit exceptions.
- 11-1207. Prohibited signs.
- 11-1208. Sign locations.
- 11-1209. Illumination/electrical compliance.
- 11-1210. Structural requirements.
- 11-1211. Inspection, maintenance, and removal.
- 11-1212. Off-premise advertising signs.
- 11-1213. Nonconforming signs.
- 11-1214. Sign regulations by district.
- 11-1215. Sign permit requirements.
- 11-1216. Permit application.
- 11-1217. Fees for sign permits.
- 11-1218. Nullification.
- 11-1219. Variances/appeals.
- 11-1220. Violations/existing signage.
- 11-1221. Parties responsible for violations.
- 11-1222. Penalties.
- 11-1223. Historic district.

11-1201. Purpose and intent. The purpose of this chapter is to create the legal framework to control the erection, location, and maintenance of all exterior signs, billboards, and other advertising structures and devices to protect the public health, safety, morals and general welfare. In addition, the intent of this chapter is as follows:

- (1) To encourage good design in the control of the overall image and visual environment of the town.
- (2) To protect property values, to enhance the appearance of the business community and to stimulate the economic vitality of Jonesborough.
- (3) To ensure that signs are adequate, but not excessive, for the intended purpose of identification or advertisement.
- (4) To prohibit the erection of signs in such numbers, sizes, designs, and locations as may create danger to the public by obscuring road signs or by diverting the attention of motorists, or as may produce an environment that encourages visual blight.

(5) To prohibit signs which are likely to create unsafe conditions because of unsound structures or unsuitable locations.

(6) To avoid excessive competition for signs so that permitted signs provide identification and direction while minimizing clutter and unsightliness. (Ord. of Oct. 9, 1989, as replaced by Ord. #99-02, April 1999, and Ord. #2006-03, May 2006)

11-1202. General premise. The general premise for the control of signs within the Town of Jonesborough includes legibility, the effective display of information, the safety of passing traffic, and the coordination of signs with buildings, landscaping and other elements of the visual environment. In particular, signs should be designed and constructed as follows:

(1) For maximum legibility, signs should be designed appropriate to the legal speed of passing traffic.

(2) For size and dimensions, signs should be related to the frontage and setback of the building.

(3) The setback and size of signs should give a fair exposure to all commercial buildings in a given area.

(4) Signs should be integrated with the architecture of the buildings to which they relate, and with the necessary landscaping.

It is further the premise of this chapter that too many signs and too much information on signs creates confusion, contributes to unsafe driving conditions, distracts drivers and conflicts with the intent of § 11-1201 by creating visual clutter and unsightliness. This chapter seeks to encourage signs which avoid excessive information and which significantly contribute to the quality of their surrounding environment. (Ord. of Oct. 9, 1989, as replaced by Ord. #99-02, April 1999, and Ord. #2006-03, May 2006)

11-1203. Minimum standards. The minimum standards set forth in this chapter shall not relieve an owner or tenant of the responsibility for compliance with other local ordinances, codes and regulations. (Ord. of Oct. 9, 1989, as replaced by Ord. #99-02, April 1999, and Ord. #2006-03, May 2006)

11-1204. Definitions. (1) "Abandoned sign." A sign which identifies or advertises a discontinued business, lessor, owner, product or activity, that use having been discontinued for a period of thirty (30) days or more.

(2) "Animated sign." A sign which uses movement or change of lighting or other electrical impulse to depict action or create a special effect or scene.

(3) "Business directional sign or pointer." A sign located off-site which contains the name, indication of direction, and possibly the distance to the establishment or destination.

(4) "Business sign." A sign which primarily directs attention to a business or profession conducted on premise.

(5) "Canopy sign." A sign that is a part of or attached to an awning, canopy or other productive cover over a door, entrance, window, or outdoor service area.

(6) "Commercial signs." Signs advertising, calling attention to, identifying or otherwise aiding in the promotion of the sale of products, goods, services or events, any place or business, subject, person, firm, public performance, article, medicine, merchandise or building.

(7) "Marquee sign." A sign attached to, or made part of, a marquee or other permanent roof structure that projects beyond a building face and is not supported from the ground.

(8) "Off-premise advertising sign." A sign on which advertising or other matter may be displayed promoting goods, services or other things not sold or available upon the site where the sign is located. Off-premise signs may include billboards which are changeable signs.

(9) "Portable signs." Any sign which is or is intended to be affixed or mounted to a frame for the expressed purpose of easy mobility and the intention to be readily relocated and not permanently affixed to the ground or a structure. These signs ordinarily are used for short periods of time for promotional sales, grand openings, etc. Portable signs also include sidewalk signs, A-frame signs, and signs attached to or painted on a vehicle or trailer that is parked and visible from the public right-of-way, unless said vehicle is used in normal day-to-day operations of the business. Portable signs are not non-permanent signs associated with gas or service station canopies which are considered window or internal signs

(10) "Projecting sign." A sign which is attached in a plane approximately perpendicular to the surface of the building or structure on which it is located.

(11) "Real estate signs." On-site or directional/pointer portable or permanent signs erected by the owner, or owner's agent, advertising the sale, rental or development of the parcel of land on which the sign is located, or providing direction to a property which is for sale, lease, rent, or development.

(12) "Sign." Any communication device, structure, placard, or fixture using any object, letter, figure, design, symbol, artistic display, trademark, flag or other device intended to call attention to, identify, advertise, or aid in the promoting of the sale of products, goods, services or events, any place, subject, person, firm, business, public performance, article, machine, merchandise, or building. The term "sign" shall not be deemed to include the term "building" or "landscaping" or any architectural embellishment of a building not intended to communicate information.

(13) "Sign area." The entire area within a joined continuous perimeter which encloses the extreme limits of writing, background, representation and other sign information, but the sign area shall not include any structural elements, other than the background, which are not an integral part of the

display. For the purpose of computing the allowable sign area of a double-faced sign, only one (1) face shall be considered.

(a) Wall sign: When the sign is composed of individual letters or symbols using a wall as a background with no added decoration, the total sign area shall be the sum of the areas of the smallest rectangles which close each individual letter or symbol. Otherwise, the wall sign area will be determined by the smallest geometric shape that encloses all borders, graphics and letters as a complete sign.

(b) Free standing: The sign area shall be the area of the smallest rectangle or geometric shape that encloses the sign and its cabinet, but not the foundation, structural or architectural features.

(14) "Sign height." The height of a sign shall be computed as the difference between the average ground level at the base of the sign and the elevation of the uppermost extremity of the sign or sign support structure.

(15) "Temporary sign." A portable sign. (Ord. of Oct. 9, 1989, as replaced by Ord. #99-02, April 1999, and Ord. #2006-03, May 2006, and amended by Ord. #2010-09, June 2010)

11-1205. Permit required. (1) No sign, except for those signs listed in § 11-1206 below, shall be painted, constructed, erected, remodeled, relocated, or expanded until a sign permit has been obtained in accordance with the provisions of this chapter. When a sign permit has been issued, it shall also be unlawful to substantially modify a sign without prior approval of the building inspector. A written record of such approval shall be entered upon the original permit application and maintained in the permit record. Signs placed in the historic district and zone are also subject to the approval of the historic zoning commission through the commission's advertising standards and guidelines.

(2) No permit for any sign shall be issued unless the sign complies with all requirements of this chapter, and with the requirements of the Southern Building Code as amended for outdoor displays, and signs, including portable signs.

(3) A sign or sign structure which is replaced to show a new trade name, a new design, different color or other changes in shape, location or size shall require a permit.

(4) All commercial and business signs, outdoor signs, and subdivision entry signs for single family and multifamily developments must be approved by the planning commission before a sign permit is issued, with the exception of signs within the historic district or zone. Signs within the historic district or zone shall be reviewed and approved by the historic zoning commission. Sign permit applications shall include the information specified in § 11-1216 of this chapter. (Ord. of Oct. 9, 1989, as replaced by Ord. #99-02, April 1999, and Ord. #2006-03, May 2006)

11-1206. Permit exceptions. (1) The following operations shall not be considered as creating a sign, and therefore shall not require an additional sign permit:

(a) The changing of the advertised copy or message on an approved sign which is specifically designed for the use of replaceable copy;

(b) Painting, cleaning, and other normal maintenance and repair of a conforming sign unless a structural change is made.

(2) The following enumerated signs shall be exempt from the requirements of this chapter:

(a) Signs of any constituted governmental body such as traffic signs and signals, legal notices, railroad crossing signs, danger signs, and other temporary, emergency, and non-advertising signs.

(b) Memorial tablets or signs, historic markers, corner stones, or a building name and date of erection when constructed of incombustible material.

(c) Signs required to be maintained by law such as governmental order, rule, or regulation with a total surface area not to exceed ten (10) square feet.

(d) Flags, emblems, or insignias of any constituted governmental body, religious groups, civic organizations and service clubs.

(e) Small signs displayed for the direction or convenience of the public including signs which identify rest rooms, location of public telephones, freight entrances, parking or the like with a total area not to exceed four (4) square feet. Horizontal directional signs flush with paved areas are exempt from these standards.

(f) Seasonal displays and decorations not advertising a product, services, or entertainment.

(g) Freestanding signs or signs attached to fences at approximate eye level that are no larger than four (4) square feet warning the public against hunting, fishing, trespassing, dangerous animals, swimming, or designating private property, private drive, ATM, etc.

(h) Any information or directional signs erected by a public agency to give directions and distances to commercial facilities or points of interest for the convenience of the traveling public but the signs may not give direction to any specific business establishment.

(i) Temporary window signs, except as specified in § 11-1205(3), internally mounted, that do not exceed twenty five percent (25%) of the area of the window or any glass door to which they are attached. All window signs shall be in conformance with all applicable safety, building and electrical codes.

(j) Permanent window signs except as specified in § 11-1205(3), internally mounted, that do not exceed ten percent (10%) of the area of

the window or any glass door to which they are attached. All permanent window signs shall be in conformance with all applicable safety, building, and electrical codes. Permanent window signs within the historic district and zone shall be subject to approval by the historic zoning commission through the commission's advertising standards and guidelines.

(3) Except where specifically qualified below, no permit shall be required for any of the following temporary signs:

(a) Official public notices. Official notices or advertisement, required by the direction of any public or court officer in the performance of his official or directed duties or by trustees under deeds of trust, deeds of assignment or other similar instruments; provided, that all such signs shall be removed not later than ten (10) days after the last day of the period for which they are required to be displayed.

(b) Political signs. Political preference or campaign signs for federal, state, and local elections not exceeding six (6) square feet in residential zones except R-4 and including B-2 (central business district) or not exceeding thirty-two (32) square feet in R-4 all other non-residential zones may be erected or posted on any private lot, but not within the public right-of-way. Such signs must contain no commercial message in order to be exempt. Each sign must be removed within seven (7) days after the announced results of that nomination, election or referendum. Political signs larger than six (6) square feet displayed on or upon vehicles may not be located in public parking lots or spaces after 6:00 P.M. to dawn.

(c) Non-profit temporary signs. Temporary signs not exceeding six (6) square feet in area announcing a campaign, drive or event of a civic, philanthropic, education or religious organization, provided, that the sponsoring organization shall insure proper and prompt removal of such sign. Such sign may be maintained for a period not to exceed one (1) month, and must be removed within seven (7) days of the end of a campaign or when the event has taken place.

(d) Real estate signs. Temporary, freestanding, real estate signs may be erected without a permit for any property that is offered for sale, lease or rent under the following conditions:

(i) Signs may be two faced with the maximum total sign surface per sign face as follows:

Residential zones except R-4, and including B-2 (central business) - six (6) square feet.

R-4 zone - thirty-two (32) square feet.

All other business and manufacturing zones thirty-two (32) square feet.

(ii) Real estate signs must be erected on private property and not on public right-of-way and shall not create any sight visibility hazard to motorists.

(iii) Such signs shall be removed within seven (7) days of the sale, rental or lease.

(iv) Directional or pointer real estate signs may be used off-site from the property for sale, lease or rental, however, such signs may not be in the public right-of-way and must be used in reasonable numbers. Directional signs must be removed on the same schedule as other real estate signs.

(v) One sign is allowed per lot road frontage, however, property in excess of three (3) acres may include up to two (2) additional signs provided such signs are spaced at five hundred (500) foot intervals.

(vi) Properties for sale, lease, rent that do not have visual access from the nearest street or roadway, but can be seen from streets further away, may have signs larger than six (6) square feet or thirty-two (32) square feet as specified in § 11-1206(3)(d)(i) provided justification is presented and approval is issued in the form of a variance by the Jonesborough Planning Commission/Board of Zoning Appeals.

(e) Construction signs. Construction signs which identify the architects, engineers, contractors and other individuals or firms involved with the construction, but not including any advertisement of any product, and signs announcing the character of the building enterprise or the purpose for which the building is intended, during the construction prior, to a maximum area of twenty-five (25) square feet for each sign. The sign shall be confined to the site of the construction, and shall be removed within fourteen (14) days following completion of construction. Construction signs representing state and federal funding agencies that have certain size and wording requirements as a condition of funding are exempt from the above construction sign requirements.

(f) Temporary or portable signs. Temporary or portable signs may be exempt from permitting provided they meet the following conditions:

(i) Temporary signs advertising specials, new products, or other such special conditions related to the business shall be posted for a period not to exceed sixty (60) days. Signs that only display the name of a business or a logo, or other such symbol are not allowed and thus not exempted from permit requirements.

(ii) Only one temporary sign shall be displayed at a given time for a single business, and in locations with multiple tenants only two (2) signs total may be displayed per lot at the same time.

(iii) Except as designated in title 11, chapter 2, §§ 11-1206(3)(f)(vii) and 11-1206(3)(f)(ix) below, the total sign area per sign shall not exceed nine (9) square feet per side.

(iv) Signs may not be placed on public sidewalks or right-of-ways except in the B-2 Zone or as authorized in special event applications approved by the board of mayor and aldermen. No temporary sign authorized may be placed to cause a site distance problem, obstruction or a hazard.

(v) Temporary signs must be set back a minimum of ten (10) feet from the public right-of-way.

(vi) Temporary or portable signs must be located on the same premise or lot in which the business activity is taking place.

(vii) Portable A-boards or "sandwich board" signs may only be displayed during business hours. These signs must be located on-premises or in the B-2 zone or other zone within the historic district in which a heritage occupation is approved, said sign shall be immediately in front of the business being promoted, Portable A-boards or "sandwich boards" within the historic district zone must be approved in advance by the historic zoning commission. Portable A-boards or "sandwich board" signs must be placed so they do not block pedestrian or vehicular traffic and where they do not create a safety hazard.

(viii) Business owners shall notify the building inspector of any placement of a portable sign upon their premise in order that the allowable time period can be observed and enforced.

(ix) Temporary or portable signs advertising a grand opening or going out of business, not exceeding thirty-two (32) square feet, may be displayed for said purposes only one (1) time in a twelve (12) month period for a period not to exceed sixty (60) days. Signs located more than one hundred feet (100') or more from the edge of the public street pavement can be larger upon approval of the board of zoning appeals.

(x) Temporary signs meeting the sixty (60) days criteria must be taken down by the next morning the day immediately after the sixty (60) days has expired.

(xi) Any existing non-conforming temporary or portable sign shall be discontinued or be brought into compliance no later than thirty (30) consecutive calendar days from the effective date of this ordinance. (Ord. of Oct. 9, 1989, as replaced by Ord. #99-02, April 1999, Ord. #2006-03, May 2006, and amended by Ord. #2010-09, June 2010)

11-1207. Prohibited signs. The following signs are prohibited from being erected or maintained in any zoning district and in any area of the Town of Jonesborough:

- (1) Any lighting arrangement by exposed tubing or strings of lights, outlining any portion of a building or structure or affixed to any ornamental feature thereof.
- (2) Any portable sign, except as provided for in § 11-1206(3)(f),
- (3) Any sign that violates any provision of any law or regulation of the State of Tennessee or United States relative to outdoor advertising.
- (4) Any sign that violates any provision of the Southern Standard Building Code unless specifically authorized otherwise in this chapter.
- (5) Any sign so located so as to obscure all or any portion of a sign or traffic signal erected by a governmental authority.
- (6) Any sign of which all or any part is in motion by means of the atmosphere, including fluttering, or rotating.
- (7) Any animated sign that by movement or by other method or manner of illumination, flashes on or off, winks, strobes, blinks with varying light or color intensity, except signs meeting the following criteria:
 - (a) The sign is located on property in a B-3 or B-6 zone.
 - (b) If the sign is an electronic variable message sign, the sign owner must submit an executed agreement stating that the business understands the associated conditions in which this type sign can be used and agrees to comply with them. The executed agreement must be posted in clear view at the electronic message board control panel, so it is easily seen by any control panel operator.
 - (c) The sign does not attempt or appear to attempt to direct the movement of traffic, or which interferes with, imitates, or resembles any official traffic sign, signal or device.
 - (d) Duration of message on-time: on-time duration of an acceptable commercial electronic variable message sign should be fifteen (15) seconds for a sign panel with three (3) lines, and having twenty (20) characters per line; however, regardless of the number of lines and characters, the total length of the information cycle or the on-time period must be no less than six (6) seconds.
 - (e) If the sign face changes the size must have changing text; signs that display information cycles without changing text are prohibited.
 - (f) The sign does not have a running message with continuous movement. The message displayed must be complete and unchangeable within the no less than six (6) second display, and shall not continuous onto the next text display.
 - (g) If the light intensity of the sign changes, it only occurs in two "on" and "off" cycles during a twenty-four (24) hour period based on daylight and darkness.
 - (h) The brightness of the sign lumination does not cause disability glare or discomfort glare as defined in the town's lighting ordinance.

(i) The sign changes message, electronically or mechanically, by the appearance of complete substitution or replacement of one display by another, and in which the appearance of movement during the message display, or of messages appearing to move across the display face, is not present. Use of animated, chasing, scintillating, traveling, moving, or dissolving displays in which part or all of a message displayed on the sign appears to be moving is prohibited. Messages that appear to be written on or erased off the display face one letter or one word at a time or piecemeal, rather than all at once, are prohibited.

(j) In order for the message to be conveyed to the motorist quickly, clearly and unambiguously, the sign character size, spacing, and typeface must be appropriate based on the associated speed limit, sign location, and environmental factors.

(8) Any sign that obstructs any window, door, fire escape, stairway, ladder, opening or access, intended for light, air, ingress to or egress from any building.

(9) Any sign that is attached to a tree.

(10) Any sign that is attached to a utility pole, whether on public or private property, except utility warning announcements, such traffic and safety related signs as deemed necessary by the public safety director, and signage, banners, flags, etc. approved on street lamps by the board of mayor and aldermen or designated committee or other such body created by the board of mayor and aldermen.

(11) Any sign, which by reason of its location, position, size, shape or color may obstruct, impair, obscure, interfere with the view of, or be confused with any traffic control signs, signal or device, or where it may interfere with, mislead or confuse traffic, and is deemed to be a safety hazard by the building inspector, public safety director, or the public works director.

No sign shall use the words "stop," "slow," "caution," "yield," "danger," "warning," or "go" when such sign may be confused with a traffic control sign used or displayed by a public authority.

(12) Inflatable signs, including helium or other gas which is contained within the sign, or sign parts, at a pressure greater than atmospheric pressure making it able to float.

(13) Any off-premise signs, except real estate directional signs, political signs, outdoor signs, public service/civic event signs, garage sale signs, and off-premise directional signs authorized in § 11-1206(3) of this chapter.

(14) Any commercial sign supporting any business, etc. as defined in § 11-1206(3) "commercial signs" of this chapter, that is not within the Town of Jonesborough except as may be permitted through billboards.

(15) Any sign that exhibits statements, words or pictures of a racial, offensive, or obscene nature.

(16) Any sign that has sign copy that misrepresents the business use or activities being carried out on the property represented by said sign.

- (17) Abandoned or dilapidated signs.
- (18) Roof signs, or signs extending beyond the main roof line, unless specifically approved by the Jonesborough Planning Commission, and the Jonesborough Historic Zoning Commission if within the historic zone.
- (19) Any commercial sign located in a residential district not otherwise provided for in this chapter.
- (20) Any sign that has not been permitted as required, or whose permit has been revoked.
- (21) Signs which are made structurally sound by guy wires or unsightly bracing.
- (22) Signs which contain reflective material, except as approved in § 11-1206.
- (23) Signs which advertise an activity, business, product or service not conducted on the premises upon which the signs is located, except as specifically permitted through this chapter. (Ord. of Oct. 9, 1989, as replaced by Ord. #2006-03, May 2006, and amended by Ord. #2009-02, March 2009, and Ord. #2012-14, Nov. 2012)

11-1208. Sign locations. Commercial signs shall be located on the property in which they are intended to promote. No commercial signs shall be on public right-of-way except as permitted by the State of Tennessee or the Jonesborough Planning Commission. In addition, the following limitations apply.

(1) No signs on medians or public right-of-way. No political, real estate, civic, or other non-public exempt signage shall be posted or erected on highway medians, islands, or along public right-of-way. Jonesborough Parks and Recreation, appropriate work or construction signage, and other town signage approved by the board of mayor and aldermen may be located on medians provided the signage meets all state guidelines and all safety requirements. Unapproved signs in the public right-of-way will be removed by either the public works department, public safety department or building inspector.

(2) Spacing. All permanent freestanding signs on any premise shall be spaced at minimum two hundred foot (200') intervals along each public way that views the premises, unless otherwise provided for in this chapter. Electronic variable message signs must be located a minimum of two hundred feet (200') apart. The planning commission may consider waiving the two hundred foot (200') interval for freestanding signs including electronic message boards when a written request for a waiver is submitted along with a justification based on lot limitations that cannot be changed, topography, preserving important vegetation, etc., provided that additional landscaping is also submitted that can buffer any negative effects of freestanding signage in close proximity.

(3) Sight distance triangle. All entrance signs and free standing signs located near the corners of an intersection, shall be located outside of the "sight

distance triangle." The "sight distance triangle" is a triangle shaped area that is measured at a distance of thirty-five feet (35') running parallel to each intersecting street or roadway and the line connecting them to form a triangle. This area shall be free of any permanent or temporary signs that may inhibit clear sight visibility from motorist. Any exceptions must be approved by the state department of transportation and/or the Jonesborough Planning Commission.

(4) Setback. All permanent signs shall be setback at least seven and one-half feet (7 1/2') from the edge of the street or public right-of-way, unless otherwise specified in this chapter. No permanent sign shall be located within a public utility or drainage easement, unless authorized by the Jonesborough Planning Commission and the utilities involved. Temporary signs shall be located at least ten feet (10') from the edge of the street or public right-of-way.

(5) Authority for placement. No sign and/or sign structure shall be erected on any property without the express permission of the property owner or his agent. Upon request of the building inspector, such permission granted must be made in writing. (Ord. of Oct. 9, 1989, as replaced by Ord. #99-02, April 1999, and Ord. #2006-03, May 2006, and amended by Ord. #2012-14, Nov. 2012)

11-1209. Illumination/electrical compliance. Illuminated signs or signs with electricity shall adhere to the following provisions and restrictions in addition to those stated in the sign requirements by zone.

(1) The light from any illuminated sign shall be so shaded, shielded or directed that the light illuminated only the sign and does not become a safety hazard or a visual nuisance.

(2) No sign shall have blinking, flashing, strobe, or fluttering lights or other illuminating devices which have a changing light intensity, or brightness or color. Beacon lights are not permitted.

(3) No colored lights, (especially red, yellow and green) shall be used at any location in any manner so as to be confused with or construed as a traffic signal device.

(4) Neither the direct nor reflected light from primary light sources shall create a traffic hazard to operators of motor vehicles on public streets and thoroughfares.

(5) Illuminated signs must meet any requirements applicable in the Jonesborough Lighting Ordinance.

(6) All signs having electrical wiring shall bear a seal of approval of Underwriters Laboratory (UL) or are other nationally recognized electrical testing laboratory. Each sign with electrical wiring must have an outside disconnect. Where appropriate, label numbers shall be registered with the building inspector at the time a sign permit is issued. (Ord. of Oct. 9, 1989, as replaced by Ord. #99-02, April 1999, and Ord. #2006-03, May 2006)

11-1210. Structural requirements. All signs shall meet the structural requirements for same as set forth in the Southern Standard Building Code. (Ord. of Oct. 9, 1989, as replaced by Ord. #99-02, April 1999, and Ord. #2006-03, May 2006)

11-1211. Inspection, maintenance and removal. (1) Signs for which a permit is required shall be inspected annually by the building inspector for compliance with this and other ordinances of Jonesborough.

(2) All signs and components thereof shall be kept in good repair and in a safe, clean, neat and attractive condition.

(3) When any sign becomes insecure, in danger of falling, or otherwise unsafe, or if any sign shall be unlawfully installed, erected or maintained in violation of any provisions of the Southern Standard Building Code, the owner, person, or firm maintaining the sign shall, upon written notice of the building inspector, within not more than ten (10) days make such sign conform to the provisions of this chapter or shall remove it. If within ten (10) days the order is not complied with, the building inspector may remove such sign at the expense of the owner or lessee thereof as provided in the Southern Standard Building Code.

(4) The building inspector or public safety director may remove a sign immediately and without written notice if in his opinion, the condition of the sign is such as to present an immediate threat to the safety of the public.

(5) A sign shall be removed by the owner or lessee of the premises upon which the sign is located when the business which it advertises is no longer conducted on the premises and has not been so conducted for a period of one (1) year. If the owner or lessee fails to remove it, the building inspector shall give the owner fifteen (15) days written notice to remove it. Upon failure to comply with this notice, the building inspector may remove the sign at the expense of the owner or lessee thereof as provided in the Southern Standard Building Code. (Ord. of Oct. 9, 1989, as replaced by Ord. #99-02, April 1999, and Ord. #2006-03, May 2006)

11-1212. Off-premise advertising signs. Off-premise advertising signs, also commonly referred to as billboards or poster panels, but can also be any sign which advertises products, businesses, or services primarily not connected with the site or building on which the sign is located, shall be prohibited in all zones, with the following exceptions.

(1) Directional signs specifically permitted within the historic district and upon approval of the historic zoning commission.

(2) Directional signs indicating the existence of a commercial, recreational, organizational or institutional establishment not located on the parcel in which the sign is located on the following conditions:

(a) The sign is requested by the board of mayor and aldermen after a statement of finding that the placement of a directional sign is in the best interest of the general public; or.

(b) The need and placement of the sign meets the following criteria:

(i) There is a sight-line obstruction or distance issue that makes it difficult for the traveling public on arterial routes to know where the commercial or public/private facility is located.

(ii) The commercial or public/private facility has enough of a projected or verified customer/visitor base that possible safety issues could occur due to motorists u-turning or trying to make turns at wrong locations.

(iii) The presence of the off-premise sign can be shown to relieve confusion of motorists, traffic congestion, etc, and thus be shown to improve driver safety.

(iv) There is a suitable sign location for the sign needed.

(v) If the sign location is on private property that there is an approval of the property owner.

(vi) Only one (1) sign, with two (2) faces, if needed, is erected at one location with the sign face being no more than nine (9) square feet per individual establishment or twenty-five (25) square feet for multiple establishments.

(vii) Small monument signs are used when appropriate or if requested short posted directional signs that are justified to the planning commission.

(viii) The sign and structure are approved by the Jonesborough Planning Commission. (Ord. of Oct. 9, 1989, as replaced by Ord. #99-02, April 1999, and Ord. #2006-03, May 2006, and amended by Ord. #2011-09, April 2011)

11-1213. Nonconforming signs. Signs that do not conform to the intent and premises of this ordinance at the time of passage are encouraged to voluntarily comply with the regulations and guidelines established. This ordinance has been generated as a result of a community vision process in which residents have determined how they want Jonesborough to look and develop.

The continued existence of signs which are nonconforming is inconsistent with the stated intent and premise of this ordinance as outlined in § 11-1201. It is the desire of the board of mayor and aldermen, in recognition of the importance to the quality of life of Jonesborough residents, that nonconforming usage of signs not tend to flourish indefinitely and in perpetuity. The following regulations related to nonconforming signs are hereby established to the extent allowable under state law:

(1) Any legal nonconforming non-temporary signs located in a residential zone shall be discontinued or brought into compliance pursuant to this chapter not later than five (5) years from the date of this ordinance.

(2) Any legally nonconforming temporary sign shall be discontinued or be brought into compliance within thirty (30) days.

(3) Commercial signs which do not conform to the regulations and restrictions prescribed in this chapter, but which were erected in accordance with all applicable regulations in effect at the time of their erection may remain in place only so long as the existing use which they advertise or identify remains, except that the advertising copy on a lawfully nonconforming marquee sign or off-premise billboard sign may be changed.

(a) No nonconforming commercial sign, except for billboards, may be structurally altered or changed in any manner, nor shall it be worded so as to advertise or identify any use other than that in effect at the time it became a nonconforming sign, unless the sign change or restructuring results in the sign now being in conformity with the applicable regulations of this ordinance.

(b) If a nonconforming use ceases to be a lawful nonconforming use under Tennessee State Law or through the Jonesborough Zoning Ordinance, then the sign which advertises or identifies that use shall also become an unlawful sign and subject to abatement/removal.

(c) Non-conforming or "grandfathered" billboard signs that were erected in accordance with all applicable regulations at the time of their erection may be replaced with changeable message signs, hereby defined as an off-premise advertising device that displays a series of messages at intervals by means of digital display or mechanical rotating panels, under the following conditions:

(i) Changeable message signs must replace one (1) or more existing billboard signs, and it is determined that the end product of the change more closely meets the intent of current sign regulations.

(ii) The location of the changeable message sign must be the exact same location of a billboard removed, or be a location determined to be more suitable and approved by the planning commission.

(iii) Digital display is defined as a series of messages at intervals through electronic coding of lights or light emitting diodes or other means that does not require mechanical rotating panels.

(iv) Changeable message signs may be back-to-back only if the billboard sign replaced is back-to-back, however, there may be only one (1) sign face in any direction.

(v) The sign face may not be larger than the billboard being replaced, and the planning commission may require a

smaller off-premise changeable message sign than the sign replaced as a condition of approval.

(vi) Each digital display image or message shall remain static and non-moving for a minimum of eight (8) seconds with a maximum time between images of two (2) seconds. Images changed must be displayed all together without intermittent transitions regardless how short.

(vii) The images and messages displayed must be complete in themselves, without continuation in content to the next image or message or to any other sign.

(viii) The changeable message sign shall not be configured to resemble a warning, danger signal, official signage used to control traffic or to cause a driver to mistake the digital sign for a warning or danger signal.

(ix) The display period must be non-moving or static, and video, continuous scrolling message, animation and flashing messages are expressly prohibited.

(x) The digital display must be designed and equipped to freeze the image in one (1) position or immediately discontinue the display altogether if a malfunction occurs.

(xi) No digital display may display light of such intensity or brilliance to cause glare or otherwise impair the vision of the driver or result in a nuisance to the driver.

(xii) No digital display may be of such intensity or brilliance that it interferes with the effectiveness of an official traffic signal, sign, or device.

(xiii) The maximum brightness initially established per day is 7,500 nits (6,967,728 candela sq. ft.) and per night is 750 nits (69.677 candela sq. ft.); however, the planning commission is authorized to modify the maximum sign brightness for digital display signs if it is deemed to be in the public interest, and

(A) The sign owner must be provided a seven (7) day notice in advance of the meeting the planning commission may consider a change in brightness limits.

(B) Initial approval of a permit to replace an existing billboard with a digital display sign shall be on the condition that the planning commission may change the brightness limits if it is deemed to be in the public interest, and any existing digital display sign shall not be "grandfathered."

(xiv) All changeable message signs must be equipped with both a dimmer control and a photocell that automatically adjusts the display's intensity according to natural ambient light conditions.

(xv) A new sign permit is required to convert an existing non-conforming but properly qualified billboard into a changeable message sign.

(xvi) Any request to convert an existing billboard to a changeable message sign must be approved by the planning commission.

(xvii) Any changeable message sign found to be out of compliance with a standard of this section must be shut off immediately.

(4) A nonconforming sign shall not be enlarged, expanded, extended or structurally altered so as to create additional nonconformity or to increase the extent of the existing nonconformity. This section shall not be construed to prohibit the changing of the copy area, provided that there is no increase in the copy area or height, or change in the sign area framework, and provided that no portion of the sign is located within the right-of-way or under any electrical line.

(5) Nonconforming signs shall be brought into compliance once a change in use of the premises occurs.

(6) No nonconforming sign shall be moved on the same lot nor to another lot, in whole or in part, without the approval of the Jonesborough Planning Commission, and unless the moving will relocate the sign into a zoning district or any area in which it will conform, or unless the reconstructed or repaired sign conforms to the provisions of this ordinance.

(7) In the event that a nonconforming sign is destroyed or is allowed to become dilapidated to the extent of fifty percent (50%) or more of the current cost to replace the sign, including labor and materials, the sign shall not be reconstructed or repaired, and the owner of the sign shall be required to remove the sign, regardless of other provisions contained in this ordinance, unless the reconstructed or repaired sign conforms to the provisions of this ordinance.

(8) A nonconforming sign or sign structure shall be removed if the building containing the use to which the sign is accessory is demolished or destroyed to an extent exceeding fifty percent (50%) of the building appraised value.

(9) A sign displaying no message for ninety (90) days or signs on property in which an activity, business product or service which has not been produced, conducted or sold for a period of ninety (90) days on the premises which the sign is located shall be considered abandoned and all rights to maintain the sign shall be terminated.

(10) Nothing in this section shall be deemed to prevent keeping in good repair a nonconforming sign, and for sign structure through routine maintenance defined as repairing, repainting or refinishing the surface of the existing sign face or sign structure so as to maintain the appearance.

(11) Under no circumstances shall a sign deemed by the building inspector to be illegal at the time of the adoption of this ordinance, be considered a legally nonconforming sign.

(12) Any sign given a variance by the Jonesborough Board of Zoning Appeals that is not in compliance with regulations subsequently adopted in this chapter shall be considered in conformity provided that the area(s) of non-conformity resulting from changes in this ordinance are the same areas allowed under the variance previously provided. (Ord. of Oct. 9, 1989, as replaced by Ord. #99-02, April 1999, and Ord. #2006-03, May 2006, and amended by Ord. #2011-01, Jan. 2011)

11-1214. Sign regulations by district. The following regulations shall apply to all signs which require a permit by the provisions of this chapter. The regulations as set forth shall be qualified by those additional provisions which may be presented elsewhere in this chapter for particular uses.

(1) Residential districts. In addition to regulations which may be presented for a given use in a particular zoning district, the following regulations shall apply to all signs which are located on unused lands or are accessory to residential uses in all residential districts.

(a) One (1) sign not exceeding four (4) square feet in area shall be permitted for each dwelling unit with the exception of subsections (b), (c), (g), (h), and (i) below. Such sign shall indicate only the name of the occupant, address, or home occupation.

(b) In addition to the signs permitted by paragraph (a) above, a thirty-two (32) square foot sign may be permitted to identify the name of a single family development at the major entrance thereto. Sign areas larger than thirty-two (32) square feet must be approved by the board of zoning appeals.

(c) One (1) non-permanent sign not exceeding thirty-two (32) square feet in area, advertising a subdivision development and located therein adjacent to any street bounding such development may be permitted; provided that no such sign shall be displayed for a longer time than two (2) years and shall require a permit from the building inspector. At the end of any two-year period, a renewal of the permit shall be obtained from the building inspector. One (1) off-site sign not exceeding thirty-two (32) square feet may be permitted subject to the conditions and approvals established in § 11-1212 above.

(d) Permitted signs may be located anywhere on the premises beyond the seven and one-half foot (7 1/2') setback.

(e) Freestanding signs shall be ground mounted and shall extend no more than eight feet (8') above the ground including any part of the supporting members.

(f) Illumination, if used, shall be what is known as white and not colored light, and shall not be blinking, fluctuating, or moving. Light rays shall shine only on the sign or upon the property where the sign is located and shall not spill over the property line in any direction except by indirect reflection.

(g) Multi-family dwellings may have one (1) or more signs per building with a total permitted sign area of twelve (12) square feet per building which shall indicate only the name and address of the building. In addition, one (1) thirty-two (32) square foot sign may be permitted for each street frontage to identify the name, address, phone number and owner of the development.

(h) One (1) sign not exceeding thirty-two (32) square feet in area shall be allowed for each public owned building and use, public and private schools and churches located in a residential zone. Upon approval of the Jonesborough Planning Commission and if appropriate the State of Tennessee, off-site signage to public buildings, schools, and churches may be permitted.

(2) R-4 districts. There shall be no more than one (1) free standing sign per principal building which must be a monument or ground mounted sign with a sign face of no more than thirty-two (32) square feet per face and all signs shall not project above buildings nor have flashing or moving illumination. Although signs must be monument or ground mounted signs, the total sign and support structure height and distance of the sign face from the ground will be determined by the planning commission based on the following criteria:

- (a) Topography of the property,
- (b) Location of plant material including trees.
- (c) Location of entrance.
- (d) Distance sign is located from front property line and from arterial road surface.

A sign schematic showing dimensions, as well as a location map showing distance from pavement, associate landscaping, and other features, as well as the principal building(s) must be submitted to the planning commission for approval.

(3) Commercial districts. In addition to the regulations which may be presented for a given use in a particular zoning district, the following regulations shall apply to all signs which are accessory to commercial use located in any commercial district.

(a) Building mounted signs may be reviewed and approved based on one (1) of two (2) methods. Option one (1) requires that information related to building signage is prepared by an architect, building designer or other appropriate person familiar with the building design that includes one (1) or more sign areas designated as part of the building design. The Jonesborough Regional Planning Commission is granted the authority to create and use established standards and guidelines for submitting and evaluating signage schematics presented for option one (1) review.

- (i) The option one (1) process results in approval of sign areas that can be on any side of a building.

(ii) Approval of any sign area is based on criteria established in the option one (1) signage standards and guidelines, and is not limited otherwise by a set amount for sign square footage.

(iii) Content within the sign area approved by the planning commission through the option one (1) process can change upon obtaining a sign permit from the building inspector but without having to go to the planning commission if the new sign content fits within the sign area previously approved by the planning commission.

(iv) The planning commission in reviewing option one (1) building signage submittals shall use the option one (1) building signage standards and guidelines adopted and amended by the planning commission that will include at least the following guidelines:

(A) The information submitted must include building elevations showing all full sides of the building in which signs are to be located.

(B) The submittal must clearly show the sign area(s) in which building signage will be located on each exterior area of the building, including the dimensions of the sign area. To the extent possible, the sign content intended to be used should be shown within the sign area, however, the content can change as long as it remains within the approved sign area(s).

(C) The sign locations must be identified with some measurement from an identifiable fixed location.

(D) The sign area(s) will be evaluated using the following criteria:

(1) The proportion of the sign area size in relationship to the size of the building wall exterior.

(2) The scale of the sign(s) and its relationship to the architectural elements of the exterior building wall including windows, doors, cornices and other ornamental elements, columns, possible landscape features, etc.

(3) The size of the sign area in relationship to the reasonable viewing distance so that the sign content can be legible and readable.

(4) The sign area surface being free from obstruction and allowing an appropriately sized building sign. (Sign won't cover vents, fans, conduit, downspout, etc.)

(5) The amount of signage requested and whether there is unnecessary redundancy.

(b) Building mounted signs may also be reviewed and evaluated through option two (2). Option two (2) building mounted signs on buildings housing one (1) or more tenants shall not exceed a total of one (1) square foot of sign area on the building for each linear foot of building frontage occupied by each tenant. In addition, one (1) square foot of building signage will be allowed on any other building wall that can be seen from the street frontage for each linear foot of the corresponding building wall length. Large retailers with one (1) or more internal business components such as video, pharmacy, care, bakery, etc. intending to advertise on the external building wall, will be considered as one (1) or more tenants within the building complex, and total sign area combined will be based on the linear feet of building frontage. Building mounted signs submitted under option two (2) may be approved by the building inspector without being reviewed by the planning commission if the building sign requested meets the option two (2) requirements. Any variance request must be submitted to the planning commission and will only be considered under the option one (1) guidelines. The building inspector shall have the authority to refer any building sign request to the planning commission for any reason.

(c) Building mounted signs may be located anywhere on the surface of the building and may project not more than one foot (1') therefrom.

(d) No building mounted sign shall extend more than four feet (4') above the lowest point of the roof.

(e) Signs may be on the vertical face of a marquee but shall not project below the lower edge of the marquee. The bottom of the marquee sign shall be no less than nine feet (9') above a walkway or grade at any point. No part of the sign shall extend above the vertical marquee face, and no such sign shall exceed seven feet (7') in height.

(f) Freestanding signs and shall be ground mounted-monument signs, and shall not exceed one-hundred (100) square feet of sign area. Freestanding signs shall be set back a minimum of seven and one-half feet (7 1/2') from all property lines and shall not exceed a height of fourteen feet (14') above ground level including supports. Multiple tenant commercial buildings with seven or more tenants may apply for an additional eleven (11) square feet of sign area for each additional tenant above six (6) up to a maximum of one hundred forty-four (144) square feet. The board of zoning appeals may consider variances to sign height, sign area, and sign number requirements provided justification is submitted on one or more of the following considerations:

(i) The topography around the sign creates visibility issues.

(ii) Existing landscaping creates visibility issues and it is the desire to maintain existing trees and shrubs.

(iii) Visibility, ingress and egress can be better served with more than one sign.

(iv) There is a substantial sign setback.

(v) The site layout of the development lends itself to justifying a larger sign.

Freestanding signs in historic overlay zones are governed by the advertising standards and guidelines of the Jonesborough Historic Zoning Commission.

(g) Projecting signs may be used in lieu of a freestanding sign. When projecting signs are used, the following conditions apply:

(i) All projecting signs shall have a minimum clearance of eight feet (8') above a walkway and fifteen feet (15') above a driveway or alley.

(ii) One (1) projecting sign is permitted for each ground floor business, or at the entrance to upper level businesses.

(iii) Area: The sign may have a maximum of ten (10) square feet per business, or where multiple businesses are signed, the total square footage of all signs in one grouping may not exceed ten (10) square feet.

(iv) Location: On a single story building, no projecting sign shall be higher than fifteen feet (15') nor shall such sign project above the cornice line of its supporting building or above the parapet wall or mansard wall to which it is attached. On a multi-story building, no projecting sign shall extend above the lower sill line of the second floor windows. No projecting sign shall interfere with any part of a window or other architectural opening.

(v) No projecting sign shall extend more than four feet (4') from the wall of its supporting structure.

Projecting signs within a historic overlay zone are governed by the advertising standards and guidelines of the historic zoning commission.

(h) Signs shall be limited to identifying or advertising the property, the individual enterprises, the products, services, or other entertainment available on the same property where the sign is located, except as may be specifically permitted in other sections of this ordinance.

(i) One (1) building mounted sign per street frontage per tenant is permitted. One (1) freestanding sign per street frontage per building is permitted. These signs must be located on the premises for the products or services they primarily advertise and they shall be subject to § 11-1211.

(j) Service stations may be allowed one (1) additional square foot of sign on each gasoline pump to identify the specific product dispensed.

(k) Business direction signs are permitted in the historic district which advertises businesses located off Boone Street and Main Street provided the following requirements are satisfied.

(i) Only one (1) such sign per business shall be permitted. In addition, a single sign mounted at the top of a pole may be permitted to identify the group of businesses whose signs are mounted on the pole.

(ii) Only one (1) pole for the purpose of mounting such signs pointing in the same direction off Boone or Main Street shall be permitted per intersection.

(iii) All such signs at any one intersection must be mounted on the same pole.

(iv) Poles on which such signs are mounted must serve no other purpose nor have any other types of signs mounted on them, but may include public facility signs such as parking and restrooms.

(v) All poles for such purpose shall at the time of their installation, be consistent in structure and design with poles used by the Town of Jonesborough for public directional signs in the central business district.

(vi) In order to facilitate easy recognition and identification, each sign may be unique to the business being identified and may include the characteristic colors, lettering and or logos of the particular business.

(vii) The size and location of each pole and the position and size of each sign must be approved by the historic zoning commission, the chief of police and the town administrator.

(viii) All signs and poles must be consistent with the sign ordinance and the standards and guidelines of the historic zoning commission and must be approved by the historic zoning commission.

(ix) Any such signs and poles shall be at no cost to the Town of Jonesborough.

(x) Signs designating an area shall not exceed three (3) square feet.

(xi) Signs designating an individual business shall not exceed two (2) square feet.

(4) Historic districts. Signs in H-1 and H-2 overlay zones are governed by the advertising standards and guidelines adopted for these zones and administered by the Jonesborough Historic Zoning Commission. When conflict may occur between the historic zoning commission's standards and guidelines and the sign regulations established in this chapter, the standard and guidelines of the historic zoning commission shall govern.

(5) Manufacturing district. In addition to regulations which may be presented for a given use in a particular zoning district, the following regulations shall apply to all property developed for industrial uses in areas zoned for manufacturing.

(a) Building mounted signs shall not exceed a total area of two (2) square feet for each linear foot of building frontage to a maximum total area of all signs permitted for any establishment of three hundred (300) square feet. Where the frontage is on more than one street, only the sign area computed with the frontage of that street shall face that street.

(b) Signs may be flat against the wall and located anywhere on the surface of the building. Signs may be projecting signs only if they do not create any safety hazards.

(c) All signs shall have a minimum clearance of nine feet (9') above a walkway and fifteen feet (15') above a driveway or alley.

(d) No building mounted sign shall extend more than four feet (4') above the lowest point of the roof; except where there is a structural or functional part of the building extending above the roof, such as a parapet, chimney, mullion, mansard or other such architectural embellishment, signs may be placed on and limited to the face of that part and extend not more than five feet (5') above the highest point of the roof; but in no event shall a sign extend above the height limit established for the zoning district in which a sign is located.

(e) One (1) freestanding or ground-supported sign may be erected for each industrial use. Such sign shall have a maximum area of one hundred seventy-five (175) square feet, have a minimum setback of five feet (5'), and not exceed fourteen feet (14') in height including any supports.

(f) Signs allowed by this section shall be limited to identifying or advertising the property, the individual enterprises, the products, services, or entertainment available on the same property where the sign is located. (Ord. of Oct. 9, 1989, as replaced by Ord. #99-02, April 1999, and Ord. #2006-03, May 2006, and amended by Ord. #2012-13, Nov. 2012)

11-1215. Sign permit requirements. (1) Commercial signs, subdivision signs, and signs for multi-family developments shall be approved by the Jonesborough Planning Commission prior to a permit being issued.

(2) Except as otherwise provided herein, no sign shall be erected, altered, or relocated without a permit issued by the building inspector.

(3) Any sign erected under permit shall indicate the number of that permit; and the name of the person, firm or corporation owning, erecting, maintaining or operating such sign.

(4) It shall be the responsibility of the company, firm, or individual constructing or planning any sign to obtain any required permit.

(5) Commercial establishments using temporary or portable commercial signs must notify the building inspector in advance of the size being displayed. (Ord. of Oct. 9, 1989, as replaced by Ord. #99-02, April 1999, and Ord. #2006-03, May 2006)

11-1216. Permit application. The application for a sign permit shall be filed with the building inspector on forms furnished by the town. The application shall contain the location of the sign structure, the name and address of the sign owner and drawings showing the design of the sign and such other pertinent information as the building inspector or the planning commission may require to insure compliance with the ordinance of the town. Any sign located within the Town of Jonesborough shall be in conformity with the uses existing in the neighborhood where it is proposed to be located. The Jonesborough Planning Commission shall determine any questions concerning the conformity of a sign. (Ord. of Oct. 9, 1989, as replaced by Ord. #99-02, April 1999, and Ord. #2006-03, May 2006)

11-1217. Fees for sign permits. (1) A nominal fee to cover administrative cost shall be charged for each sign permit issued.

(2) The building inspector or representative may charge double sign permit fees for any permit application that is not obtained prior to the beginning of sign construction at its intended location. (Ord. of Oct. 9, 1989, as replaced by Ord. #99-02, April 1999, and Ord. #2006-03, May 2006)

11-1218. Nullification. (1) A sign permit shall become null and void if the work for which the permit was issued has not begun within a period of six (6) months after the date of the permit.

(2) In the event that construction cannot be commenced within the six (6) month period, an application for extension of an additional six (6) month period may be made to the building inspector. (Ord. of Oct. 9, 1989, as replaced by Ord. #99-02, April 1999, and Ord. #2006-03, May 2006)

11-1219. Variations/appeals. (1) Except for instances relating to signs or sign structure located or proposed to be located on or over public property, any person who has been ordered by the building inspector to incur an expense for the alteration or removal of a sign may appeal to the board of zoning appeals. The board of zoning appeals may permit the alteration or permit the sign to remain, provided it finds that the sign is safe, necessary to the occupation which it represents, and does not conflict with the intent of this chapter.

(2) In cases where an individual enterprise located within a shopping center would be so situated as not to have frontage visible from a street, the board of zoning appeals may grant sign area for such uses to be erected at entrances. In granting such a variance, the board of zoning appeals shall limit

the areas of such signs to that which in its opinion is reasonably in keeping with the provisions of this chapter.

(3) The board of zoning appeals shall hear and decide appeals where it is alleged by the permit applicant that there is an error in any permit, decision, determination, or refusal made by the building inspector or other administrative official in carrying out or enforcing any provision of this chapter.

(4) The board of zoning appeals shall hear and decide applications for variance by reason of exceptional topographical conditions, practical difficulties, or undue hardships caused by strict application of the ordinance for additional signs, sign area, sign height and sign location. (as added by Ord. #2006-03, May 2006)

11-1220. Violations/existing signage. Existing signage that is in violation of this ordinance and was in violation of the previous sign ordinance shall continue to be in violation and shall have no implied right to exist in its urgent status as result of it being located in its current site for any extended period of time with no enforcement action. (as added by Ord. #2006-03, May 2006)

11-1221. Parties responsible for violations. The building inspector may determine the lessor of a property in which a sign is located that is not in compliance with this chapter; or the property owner in which the illegal sign is located; or both to be in violation. (as added by Ord. #2006-03, May 2006)

11-1222. Penalties. Any person violating any provision of this ordinance shall be guilty of a misdemeanor, and upon conviction shall be fined not more than fifty dollars (\$50.00) for each offense. Each day such violation shall continue shall constitute a separate offense. (as added by Ord. #2006-03, May 2006)

11-1223. Historic district. In addition to regulations which exist for signs in residential, commercial and manufacturing districts any sign proposed to be located in the Jonesborough Historic District shall also be subject to the regulations adopted by the Jonesborough Historic Zoning commission. Any signs proposed to be located in the Jonesborough Historic District shall be reviewed and approved by the Jonesborough Historic Zoning Commission prior to the issuance of a building permit. (as added by Ord. #2006-03, May 2006)

CHAPTER 13

MOBILE HOMES

SECTION

11-1301. Mobile home dwellings.

11-1301. Mobile home dwellings. Mobile home dwellings may be placed on a lot, except within the historic zoning district, subject to the following conditions:

(1) The mobile home has the metal plate certifying that it meets minimum standards of the Department of Housing and Urban Development. Uncertified mobile homes, recreational vehicles, and campers may not be placed on a lot for long or short term occupancy.

(2) The mobile home is anchored in accordance with state law.

(3) That the space between the bottom of the mobile home and the ground be enclosed with a permanent material.

(4) A mobile home may temporarily be placed on a lot with a site built or a modular dwelling unit if the lot could be subdivided and meet the requirements of the subdivision regulations. The lot would have to be subdivided if the mobile home was to be permanently located on the lot. Recorded deeds may be used to subdivide the property if the land is to be sold to another person or a recorded plat may be used if the original owner is going to retain ownership of the property. All plats must be approved by the planning commission. (Ord. of Jan. 13, 1986)

CHAPTER 14

HOME OCCUPATIONS

SECTION

11-1401. Customary incidental home occupations.

11-1401. Customary incidental home occupations. A home occupation shall be clearly incidental to and subordinate to the principle residential use. The home occupation shall be carried on by residents of the dwelling plus one (1) additional person may be employed who is not a resident of the dwelling. The home occupation may not display or create outside the building any external evidence of the home occupation except for an unanimated, non-illuminated flat or window sign having an area of not more than two hundred (200) square inches. The home occupation shall not utilize more than one-third (1/3) of the area of the principle building not to exceed five hundred (500) square feet. The parking and traffic generated by the home occupation shall not be significantly different than that generated by the normal single family dwelling unit. No sounds, dust, or odors shall be created that are not compatible with single family residences. (Ord. of January 13, 1986)

CHAPTER 15

DISH ANTENNAS AND TELECOMMUNICATION TOWERS

SECTION

- 11-1501. Dish antennas - definition.
 11-1502. Dish antennas - permitted use.
 15-1503. Telecommunication towers.

11-1501. Dish antennas - definition. Dish Antenna - Antennas designed to receive satellite communication for digital data, video signals, and private voice satellites. These antennas shall be considered accessory uses. (Ord. of Jan. 17, 1989, as amended by Ord. #2015-5, May 2015 *Ch12_04-09-18*)

11-1502. Dish antennas - permitted use. (1) No dish antenna which exceeds twenty inches (20") in diameter may be used on a residential or business property in the historic district for the purpose of receiving entertainment television transmissions intended for general public use. Dish antennas may be used on business properties in the district for the purpose of communicating digital data, private voice telephone services and television video transmission specifically intended for education and training and are assigned:

- (a) The dish is assigned to a single user.
- (b) A site plan is reviewed and approved by the Jonesborough Historic Zoning Commission.

- (c) The structure shall be placed in the rear or side yard at the discretion of the Historic Zoning Commission and no closer than ten feet (10') from any property line.

- (d) The structure shall not exceed eight feet (8') in height nor six feet (6') in diameter.

- (e) The structure shall be adequately landscaped to provide screening from public view.

(2) Dish antennas of less than twenty inches (20") in diameter may be used provided that:

- (a) The dish is solely for private use.
- (b) A sight plan is reviewed and approved by Historic Zoning Commission.

- (c) The structure be appropriately situated so that it is not in public view. (Ord. of Jan 17, 1989, as replaced by Ord. #94-05, April 1994, and amended by Ord. #2015-05, May 2015 *Ch12_04-09-18*)

11-1503. Telecommunication towers. The regulations set forth in this section shall apply to wireless transmission facilities including telecommunication towers and antennas within the corporate limits of Jonesborough. The purpose of the regulations within this section is to minimize

the potential negative impact to surrounding properties of telecommunication tower and facilities installation through application of reasonable technical and developmental standards for the installation and placement of wireless transmission facilities.

(1) Permit required. A telecommunications tower permit is required from the Jonesborough Building Inspector on all tower and antenna installations and reconstructions within the corporate limits of Jonesborough. The telecommunications tower permit shall not be issued until the Telecommunications Tower application and site plan have been approved by the Jonesborough Planning Commission.

(2) Definitions. (a) "Tower" means the base of any wireless transmission facility including but not limited to, a self-supporting tower or monopole, together with any antenna or other appurtenances.

(b) "Wireless transmission facilities" means building, cabinets structures and facilities including generating and switching stations, repeaters, antennas, transmitters, receivers, towers and all other buildings and structures relating to low-power mobile voice transmission, data transmission, video transmission, radio transmission, or wireless transmission.

(c) "Collocation" means the mounting or installation of an antenna on an existing tower, building or structure for the purpose of transmitting and/or receiving radio frequency or other type signals for communication purposes.

(3) Pre-existing towers or antennas. Shall not be required to meet the requirements of this section other than subsections 11-1503(4)(g) and 11-1503(4)(h).

(4) Standards. (a) The use of land for wireless transmission facilities shall be permitted in the residential, business and manufacturing districts, with the exception of the historic districts as detailed in subsection 11-1503(4)(b), and under conditions established in this chapter.

(b) No towers shall be allowed in the H-1 and H-2 Historic Districts.

(c) Towers must be located on one parcel or tract.

(d) Signs - signs on towers or antennas shall be prohibited, except those required by regulatory agencies.

(e) Lighting - towers shall not be lighted unless as required by the Federal Aviation Administration. Documentation from the FAA detailing the requirement for lighting shall be submitted with the site plan application to the planning commission.

(f) Ingress and egress - towers or wireless transmission facilities must be located on a tract that has access to a town street or county road.

(g) Buildings and support equipment - all buildings and signal equipment must comply with Jonesborough's building codes and be permitted and inspected by the Jonesborough Building Inspector.

(h) Tower construction must be in compliance with ANSI Standards, any Federal Aviation Administration Standards, any state and/or local building codes, and the applicable standards for tower and antennas published by the Electronic Industries Association, as may be revised. The applicant must show certification from a registered structural engineer that the tower's structural design meets the minimum standards outlined above.

(5) Setbacks. The setback shall be the total height of the tower and any associated antennas plus ten feet (10') in every direction on the single tract of land from each side of the tower base. No buildings or structures except associated facilities or appurtenances shall be located in the setback area. Applicant must show steps taken to prevent any development within the setback area while tower is in the location proposed.

(6) Security fencing. Towers and related appurtenances such as guy wires/anchors shall be enclosed by security fencing no less than six feet (6') in height, and shall also be equipped with appropriate anti-climbing devices.

(7) Buffering. (a) Tower facilities shall be landscaped with plant material on all sides that effectively screens the view of the tower compound and ground-based equipment or facilities from nearby residences, using a Class 1 buffer in the Jonesborough Landscape Ordinance as a minimum guideline.

(b) Existing mature growth and natural landforms on the site shall be preserved to the maximum extent practicable. In some cases, upon approval by the tree and townscape board, existing natural growth around the property perimeter may be accepted as effective screening or buffering.

(8) NEPA and SHPO initial approval. Prior to an application and required site plan being submitted to the Jonesborough Regional Planning Commission for approval, the applicant must be able to document that the proposed site and tower development has met the requirements of the National Environmental Policy Act and the National Historic Preservation Act (state historic preservation officer approval). Antenna installation under a collocation agreement that meets the exemptions of the FCC from having to obtain NEPA and SHPO approval, may submit a permit application to the Jonesborough Regional Planning Commission along with verification of their review exemption.

(9) Site plan for towers and associated appurtenances. A site plan for any proposed telecommunication tower development must be submitted to and approved by the Jonesborough Regional Planning Commission prior to the issuance of any building, grading, or telecommunication tower permit. Site plans must include the following components:

(a) An accurate description of the property boundary including distances along property lines.

(b) The location of a tower with distances from each side of the tower base to the adjoining property line, and location of any improvements within the property in which the tower is proposed to be located.

(c) Certification of the height of tower designed and any associated antennas or appurtenances, along with cross sections, and elevations.

(d) A complete fall zone based on the height of the tower and any associated antennas plus ten feet (10').

(e) A layout and square footage of any buildings or equipment associated with the tower, and the location of any appurtenances.

(f) Documentation of scale and verification that the site plan has been prepared by a licensed civil engineer and/or a Tennessee state certified surveyor, and that the survey information and distances are accurate and all easements and right-of-ways are shown.

(g) Ingress and egress from a public street, including drives and parking.

(h) Name(s) of owner(s) of the lot, and names of adjoining property owners.

(i) Name(s) of the applicant seeking approval.

(j) Zoning of site and all adjoining tracts.

(k) Landscape buffer areas.

(l) Any changes in topography.

(m) Drainage plan and water quality measures limiting run-off and minimizing pollutant run-off.

(n) Documentation showing ownership applicant of tract or an existing lease, or an active option to purchase or lease the tract on which the telecommunications facilities are intended to be located.

(o) A vicinity map showing proposed facility location within Jonesborough's corporate limits.

(p) Location of other area towers, at least within one-half (1/2) mile of proposed site.

(10) Height justification/broadcast area. Application must provide documentation showing why the site proposed has been selected and why the site is better than any other alternative site. Also, the applicant must justify the height of the tower proposed and how that height is necessary to provide the broadcast area desired and why this broadcast (geographic service) area generated by the tower is needed.

(11) Tower capacity - initial user. A new communication tower shall be constructed to accommodate a minimum of three (3) primary cellular/personal communication systems/antenna, and must be available for collocation to more than one (1) commercial communications company. A tower shall have a

minimum of one (1) user immediately after construction of the tower is completed. The name, address and contact information of the initial user of the tower upon completion must be provided by the applicant, along with the capacity for communication antennas.

(12) Shared use. The applicant's proposal for a new wireless transmission facility shall not be approved unless it can be documented by the applicant that the equipment planned for the proposed tower cannot be reasonably accommodated on an existing tower. An affidavit must be submitted attesting to the fact that the applicant has made a diligent, but unsuccessful, effort to obtain permission to install or collocate the applicant's telecommunications facilities on useable towers or antenna support structures within a reasonable distance (minimum one-half (1/2) mile) of the proposed tower site. Justification for an additional tower can include, but is not limited to one or more of the following:

- (a) Exceeding the structural capacity of the existing tower(s).
- (b) Causing radio frequency interference.
- (c) Failing to effectively provide the coverage area needed (geographic service requirements).
- (d) An existing tower has no space on which the equipment can be placed and also function properly.

Note: If structural capacity of an existing tower or failure to provide the intended coverage area is used as justification for a new tower, the applicant must provide evidence from an engineer that the proposed tower antenna(s) or telecommunication facilities cannot be installed or collocated on another person's tower or usable antenna support structure within a reasonable distance (minimum of one half (1/2) mile) of the proposed tower site.

A description of the new tower's capacity, including the number and type of antennas that it can accommodate must be submitted with the application information.

An affidavit of commitment must be submitted by the applicant to leave excess space on the tower for other potential users at prevailing rates and standard terms. The affidavit shall commit the tower owner(s) and its successors in interest to this obligation.

(13) Termination of use. All telecommunication towers and related equipment shall be removed when the facility has not been in service for more than six (6) months. The legal responsibility of such removal shall be specified on the site plan, along with a detail of the tower removal process. The last tower owner and/or property owner will be notified by the town's code enforcement officer, after the tower has not been used by any company for six (6) months, that the tower is considered abandoned and removal must be initiated. The appropriate party shall be given one hundred twenty (120) days to remove the abandoned tower, and failure to remove the tower in the specified time period is a violation of this ordinance.

(14) Right of access for inspection. Language authorizing inspection of the proposed telecommunication facilities by town and other designated regulatory personnel shall be specified on the site plan.

(15) Violations and penalty. Violations of this chapter shall be subject to the maximum fines allowed by state law. Each and every day of violation may be considered a separate offense. [as added by Ord. #2015-05, May 2015 ***Ch12_04-09-18***]

CHAPTER 16

DEMOLITION BY NEGLIGENCE

SECTION

- 11-1601. Minimum maintenance requirements to prevent demolition by neglect.
- 11-1602. Characteristics of deterioration.
- 11-1603. Implementation of minimum maintenance requirements.
- 11-1604. Initiating citation process.
- 11-1605. Citation hearing/public meeting.
- 11-1606. Enforcement.
- 11-1607. Unreasonable economic hardship.
- 11-1608. Penalties.

11-1601. Minimum maintenance requirements to prevent demolition by neglect. Any designated landmark within the Jonesborough City limits; or any building or structure within the historic zone must be kept in good repair and must be maintained at minimum maintenance requirements that will prevent one or more of the characteristics of deterioration set forth in § 11-1602 of this chapter. The presence of one or more of these characteristics, which left unrepaired could lead to deterioration of the building's structural frame or architectural integrity, shall constitute a failure to meet minimum maintenance requirements and is thus determined to be demolition by neglect. (as added by Ord. #93-02, June 1993)

11-1602. Characteristics of deterioration. Demolition by neglect is determined to be deterioration of a building(s) and/or surrounding environment, and the failure to meet minimum maintenance requirements characterized by one or more of the following:

- (1) Those buildings which have parts thereof which are so attached that they may fall and injure members of the public or property;
- (2) Foundations that are deteriorated or inadequate;
- (3) Floor supports that are defective or deteriorated or floor supports insufficient to carry imposed loads with safety;
- (4) Members of walls, or other vertical supports that split, lean, list or buckle due to defective material or deterioration;
- (5) Members of walls or other vertical supports that are insufficient to carry imposed loads with safety;
- (6) Members of ceilings, roofs, ceiling and roof supports, or other horizontal members which sag, split, or buckle due to defective material or deterioration;
- (7) Members of ceilings, roofs, ceiling and roof supports, or other horizontal members that are insufficient to carry imposed loads with safety;

- (8) Fireplaces or chimneys which list, bulge, or settle due to defective material or deterioration;
- (9) Important defining architectural features that are substantially deteriorated;
- (10) Those buildings with the peeling of external paint, rotting, holes, and other forms of decay;
- (11) Unsafe electrical and/or mechanical conditions;
- (12) Exterior plaster or mortar that is deteriorated or crumbling;
- (13) Those buildings with a lack of maintenance of the surrounding environment that is associated with the defining historical character of the structures; e.g. fences, gates, sidewalks, steps, signs, accessory structures, and landscaping;
- (14) Any fault, defect, or condition in the building which renders the same structurally unsafe, not properly water tight, or likely to lead to the deterioration characteristics listed above. (as added by Ord. #93-02, June 1993)

11-1603. Implementation of minimum maintenance standards.

(1) Identification of the failure to meet minimum maintenance requirements in a building as listed in § 11-1602 above may be made by a member of the historic zoning commission, commission staff, or the building inspector. This initial identification may be made by routine inspection of the district or neighborhood or by referral from someone in the area.

(2) Information related to initial identification of demolition by neglect is presented to the historic zoning commission. Upon determination of the historic zoning commission that the landmark or the building within the historic zone may not meet minimum maintenance requirements, the historic zoning commission may request; upon majority vote, that the building inspector inspect the structure. The chairman of the historic zoning commission shall send a letter by certified mail to inform the property owner of the action by the commission, the impending inspection by the building inspector, and the opportunity he or she will have at the next meeting to address the commission about the preliminary identification of demolition by neglect and the inspection report.

(3) The building inspector or his or her designee will present the inspection findings at the next commission meeting. The report shall detail any defects which constitute, in the inspectors opinion, a failure to meet the minimum maintenance requirements.

(4) If the determination is made by the building inspector that the structure does not meet the minimum maintenance requirements, the historic zoning commission, upon a majority vote, may initiate the citation process as specified in § 11-1604. At this time, the historic zoning commission must prepare an application for a certificate of appropriateness specifying corrective work that is required according to the commission's standards and guidelines, and indicating the time schedule that will be necessary to complete the

minimum maintenance improvements. The time schedule mandated by the historic zoning commission will be a minimum of thirty (30) days unless the building inspector determines that failure to immediately meet minimum maintenance requirements creates an imminent threat to the safety of the public or the property. (as added by Ord. #93-02, June 1993)

11-1604. Initiating citation process. (1) A citation is formal notification to the property owner that the historic zoning commission has determined that demolition by neglect is occurring on the property because minimum maintenance requirements have not been met; and notification of the owner that correction of the defects must be undertaken.

(2) After action by the historic zoning commission authorizing the citation process, the building inspector or his/her designee will attempt to notify the property owner(s) of the determination of demolition by neglect by the commission. The notification shall state the reasons why the structure is found to be in violation of the minimum maintenance requirements. In addition the notification shall include a copy of the application for a certificate of appropriateness listing the work required according to the commission's standards and guidelines. The notification shall be in writing and shall be delivered by certified mail, registered mail, or such other method that shows the receipt of the notification by the owner. Notice of the date, time, and location of a citation hearing/public meeting in which the owner may address the commission concerning said violations will also be provided.

(3) If after two attempts, the owner fails to receive the notification regarding the determination of demolition by neglect, the building inspector or designee will post the building/property with a notice of the violation. Posting will be in a conspicuous, protected place on the property. The posted notice will include the fact that the building is in violation of minimum maintenance standards and the date, time, and location of the citation hearing/public meeting held on the violations by the historic zoning commission.

(4) The owner(s) of the building/property determined to be in violation of the minimum maintenance standards shall be notified of said violations as specified in §§ 11-1604(2) or 11-1604(3) above a minimum of thirty (30) days in advance of the meeting on the issue held by the commission.

(5) After receiving notification of the determination of demolition by neglect, the owner(s) may initiate corrective action before the citation hearing/public meeting is held. Before work is begun however, the owner(s) must complete the application for a certificate of appropriateness, obtain a certificate of appropriateness, and a building permit. (as added by Ord. #93-02, June 1993)

11-1605. Citation hearing/public meeting. (1) If by the designated citation hearing/public meeting, the owner(s) of the property has not completed the corrective work specified in the notification of violation and the application

for a certificate of appropriateness, the historic zoning commission will restate the violations of the minimum maintenance requirements related to the property. The owner(s) will then be provided with the opportunity to address the concerns of the commission, to provide evidence, and to show cause why a citation should not be issued regarding the alleged violations.

(2) After reviewing the violations of the minimum maintenance requirements and providing the opportunity for the owner(s) to address the concerns; the historic zoning commission may consider a motion to recognize the condition of the building/property and the owner(s) failure to correct defects. Upon a majority vote of the commission, the building inspector may be authorized to issue a citation to the owner(s) for failure to comply with the minimum maintenance requirements of this ordinance. This citation will include the following requirements:

(a) A list of the minimum maintenance requirements still in violation.

(b) Any remaining or amended requirements detailed in the application for a certificate of appropriateness initially issued through § 11-1603(4) above.

(c) A written schedule of the time allotted to correct the violations.

(d) A statement detailing the requirement to complete and return within ten (10) days the application for a certificate of appropriateness, and to obtain a certificate of appropriateness, and a building permit.

(3) The determination of the historic zoning commission related to the citation and certificate of appropriateness as specified in § 11-1605(2) above shall on the date it is authorized be a final administrative decision subject only to the application process for unreasonable economic hardship as specified in § 11-1607 and appealable only to the appropriate state court. Any appeal of the historic zoning commission's decision to the state court must be made within thirty (30) days. (as added by Ord. #93-02, June 1993)

11-1606. Enforcement. If the owner has not complied with the historic zoning commission's requirement to complete the application for a certificate of appropriateness, obtain a certificate of appropriateness, and a building permit within ten (10) days; or if the owner(s) does not adhere to the allotted schedule for the corrections to take place as approved or amended by the commission in the certificate of appropriateness; or if the owner(s) has not complied with the requirements specified from the commission's standards and guidelines detailed in the certificate of appropriateness, then any or all of the following may apply:

(a) The owner(s) may be required to attend the next meeting of the historic zoning commission to explain to the commission's satisfaction why the corrections to the owner(s) cited building/property have not been made and to show cause why the commission should not initiate

additional enforcement action. Upon review of any information provided regarding delays in the correction of the demolition by neglect, the commission may defer the matter in order to provide the owner(s) with more time either to correct the deficiencies, make a proposal for repairs, or perhaps sell the property.

(b) The commission, upon majority vote, may request the board of mayor and aldermen to direct the town attorney to take the appropriate legal action, either civil or criminal, against the owner(s).

(c) Charges may be brought against the owner(s) in the municipal court of the town for the violation(s) of this chapter.

(d) The commission may upon majority vote, request the board of mayor and aldermen to cause such property to be repaired by the town at the town's expense at such time funds are available, or to cause such property to be repaired by a designated agent of the town. If repairs are initiated through action by the board of mayor and aldermen, the board will instruct the town attorney to file the necessary affidavits with the courts and/or the register of deeds which shall establish a lien and privilege against the cited property for the benefit of the town or the agent of the town to the extent of the amount of money spent for said repairs plus interest accrued at bank prime rates in effect beginning at the completion of said repairs and continuing until the lien is satisfied.

(e) In final recourse and to preserve the property from irreversible damage or loss, violations of the minimum maintenance requirements shall make a property subject to the town's right of eminent domain. The commission may, upon majority vote, request the board of mayor and aldermen to exercise its power of eminent domain if it is determined that no alternate course of action is feasible. The board may work with any agent to develop a plan for the purchase and the repair of the cited building. Upon obtaining ownership of the property, the town may transfer said ownership to any party or agent that enters into and consummates an agreement with the board of mayor and aldermen to make the necessary building repairs and maintenance corrections in an agreed upon period of time. (as added by Ord. #93-02, June 1993)

11-1607. Unreasonable economic hardship. (1) Unreasonable economic hardship can be considered when enforcement of regulations in the chapter deprives the owner(s) of the entire reasonable economic value of the property. Enforcement of a minimum maintenance requirement may create unreasonable economic hardship only if all of the following apply:

(a) There is no reasonable return possible on the property as it is;

(b) There is no profitable use to which, the property could be adapted;

(c) The sale or rental of the property is impractical or it is not feasible for the owner(s) to dispose of the property as is at a reasonable price.

(2) An owner(s) that feels he or she fits the criteria established for unreasonable economic hardship may file an application for a certificate of economic hardship. Applications will be accepted by the historic zoning commission after the commission votes to authorize the building inspector to issue a citation for violations and the notification has been received by the owner(s).

(3) The owner(s) of property cited for demolition by neglect must inform the historic zoning commission in writing of his or her intent to file an application for a certificate of economic hardship within ten (10) days of the date the citation was issued.

(4) The owner(s) of the cited property must file within thirty (30) days of the date the citation was issued, a completed application for a certificate of economic hardship. The completed application must be filed with the historic zoning commission and must be submitted with the following information:

- (a) A copy with the current recorded deed.
- (b) The amount paid for the property and purchase date.
- (c) The current assessed value.
- (d) Past and current use of property.
- (e) Current market value of the property preferably determined by a recent appraisal(s) or if not through county tax records.
- (f) Ownership structure of property (partnership, corporation, joint venture, not for profit, sole proprietorship, etc.)
- (g) Mortgage history of the property including any current mortgage principal balance and interest rate, and any other financing secured by the property including a detail of principal and interest.
- (h) Equity in current use and in previous alternative uses.
- (i) Tax bracket of ownership, and federal income tax returns for previous two (2) years.
- (j) Past and current income, expense, and net worth statements for a two (2) year period. If the property is income producing, annual gross income from the property and the itemized operating and maintenance expenses for the previous two (2) years. In addition the depreciation deduction and annual cash flow before and after debt services, if any, during the same period.
- (k) Past capital expenditures during ownership of the current owner(s).
- (l) Estimate of the cost of the proposed construction, alteration, demolition, or removal related to the corrective measures detailed in the citation issued by the historic zoning commission.
- (m) A detailed description of what alternative legal adaptive uses have been considered by the owner(s).

(n) A detailed description of what efforts have been made by the owner(s) to sell the property, including any listing of the property for sale or rent, price asked, and offers received, if any.

(o) A detailed description of what efforts have been made by the owner(s) to obtain financial assistance, tax credits, transfer of density, etc. that might generate funding for the needed improvements.

(5) The historic zoning commission shall schedule and hold a public hearing on the owners application for a certificate of economic hardship within thirty (30) days from receipt of the application. Notice of the date, time, and place of the hearing shall be provided to the owner(s) a minimum of seven (7) days in advance of the meeting.

(6) The historic zoning commission may require at the hearing that the applicant furnish additional information relevant to the application including but not limited to the solicitation of expert testimony.

(7) The historic zoning commission may request, receive, and consider studies and economic analysis related to the property in question from other agencies and sources including private organizations and individuals.

(8) In evaluating the owner's information provided in the application for a certificate of economic hardship, if the historic zoning commission determines that the owner(s) present return is not reasonable, the commission must consider whether there are other uses currently allowed for the structure that would provide a reasonable return and whether such a return could be obtained through an investment in the rehabilitation of the property.

(9) The historic zoning commission shall review all the evidence and information required of the applicant for a certificate of economic hardship, and make a determination within thirty (30) days following the conclusion of the hearing.

(10) Written notice of the determination will be provided to the applicant along with the reasons justifying the decision by the historic zoning commission.

(11) If the historic zoning commission grants a certificate of economic hardship, the commission must detail options it has considered that would bring the property up to minimum maintenance requirements and why each option is not deemed feasible. In granting a certificate of economic hardship, the historic zoning commission may determine that some corrections may be feasible while others cannot be implemented due to economic hardship. Under such circumstances, the historic zoning commission must authorize the building inspector to issue a building permit for any activity that is deemed feasible under the conditions detailed in the certificate of economic hardship.

(12) In granting a certificate of economic hardship, the historic zoning commission may also detail any feasible plan to relieve any aspect of the economic hardship. The plan may include, but is not limited to, tax relief, loans and grant available from any source public or private, building code modifications, etc. The commission may recommend that the planning

commission consider changes in zoning. The commission may also request the board of mayor and aldermen to consider relaxation of the provisions of this chapter sufficient to allow reasonable beneficial use of or return from the property. If no alternative cause of action has been deemed feasible, the commission may request the board to consider acquisition through eminent domain.

(13) If the historic zoning commission denies a certificate of economic hardship, the commission must detail in writing the economic and financial options that in the judgment of the commission will allow the improvements to be made to the property as required in the citation issued as specified in § 11-1605(2) above.

(14) If a certificate of economic hardship is denied by the historic zoning commission, the commission will revise, to the extent necessary, the designated schedule for completion of the corrective measures detailed in the citation taking into account any reasonable need for additional time due to time lost during consideration of the certificate application. The commission will notify the owner(s) in writing of any schedule amendments with the notification of the denial of the certificate.

(15) The determination by the historic zoning commission of an application for a certificate of economic hardship, either approving or disapproving, shall on the date it is issued be a final administrative decision appealable only to the appropriate state court. Any appeal of the historic zoning commission's decision to state court must be made within thirty (30) days. (as added by Ord. #93-02, June 1993)

11-1608. Penalties. Any person violating any provision of this chapter shall be guilty of a misdemeanor and upon conviction shall be fined not more than fifty dollars (\$50.00) for each offense. Each day such violation shall continue shall constitute a separate offense. (as added by ord. #93-02, June 1993)

CHAPTER 17

OUTDOOR LIGHTING ORDINANCE

SECTION

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11-1701. Short title. The ordinance shall be known as the Jonesborough Outdoor Lighting Ordinance. (as added by Ord. #2005-01, Jan. 2005)

11-1702. Purpose. The purpose of this ordinance is to protect the public health, safety, welfare and quality of life of Jonesborough residents and visitors by establishing regulations and guidelines and a review process for the installation and use of exterior lighting that will achieve the following goals.

- (1) To protect against direct glare and excessive lighting.
- (2) To provide safe streets for motorists, cyclists, and pedestrians.
- (3) To prevent light trespass in unwanted areas throughout town impacting the safety and privacy of Jonesborough residents, merchants, and visitors.

(4) To ensure that sufficient lighting is provided in public and commercial areas enhancing the safety of the general public in a cost-effective manner.

(5) To promote efficient and cost-effective lighting.

(6) To establish guidelines for the effective use of street lighting in Jonesborough at the minimal cost to tax payers.

(7) To provide protection from the sometimes unnecessary lighting expectations of commercial establishments to the people who live and/or work on adjoining properties. (as added by Ord. #2005-01, Jan. 2005)

11-1703. Scope and applicability. It is the intent of this ordinance to provide guidelines and regulations concerning exterior lighting in all locations within the Town of Jonesborough where said lighting is used; including but not limited to residential, multi-family residential, commercial, industrial, public, public and private recreational, institutional, sign and billboard, and architectural and landscape lighting. All outdoor or exterior electrically powered illuminating devices shall be installed in conformance with the provisions of this ordinance, the building code, the electric code, and the sign ordinance. (as added by Ord. #2005-01, Jan. 2005)

11-1704. Definitions. The following definitions shall apply in the implementation and enforcement of the outdoor lighting regulations contained in this chapter:

(1) "Disability glare." The eye's line-of-sight contact with a direct light source which causes a partial blindness.

(2) "Exterior lighting." Temporary or permanent lighting that is installed, located or used in such a manner to cause light rays to shine outside or outdoors. The night-time illumination of an outside area or object by a manmade device located outdoors, or by a fixture that is intended to shine outdoors, by any means. (Indoor fixtures intended to light something outside are considered exterior lighting.)

(3) "Fixture." The assembly that houses a lamp or lamps and can include all or some of the following parts: a housing, a mounting bracket or pole socket, a lamp holder, ballast, a reflector or mirror, and/or a refractor or lens.

(4) "Flood or spot light." Any light fixture or lamp that incorporates a reflector or a refractor to concentrate the light output into a directed beam in a particular direction.

(5) "Footcandle." A quantitative unit measuring the amount of light cast onto a given point, measured as one lumen per square foot.

(6) "Full cut-off luminary." An outdoor light fixture shielded in such a manner that all light emitted by the fixture either directly from the lamp or indirectly from the fixture is projected below the horizontal plane running through the lowest point on the fixture where light is emitted, as certified by a

photometric test report. A light fixture which cuts off all upward transmission of light.

(7) "Fully shielded." Attribute of a lighting fixture provided with internal and/or external shields and louvers to prevent brightness from lamps, reflectors, refractors and lenses from causing glare at normal viewing angles.

(8) "Glare." Intense light that results in visual discomfort created by insufficiently shielded light sources in the field of view.

(9) "High intensity discharge lamp." A mercury vapor, metal halide, or high pressure sodium lamp.

(10) "Initial lumens/footcandles." The lumens/footcandles emitted from a lamp, as specified by the manufacturer of the lamp; the luminous flux of a lamp or the amount of light in footcandles emitted from the luminaire at the time it is first installed.

(11) "Lamp." The bulb or a component of a luminary that produces light.

(12) "Light inventory." The list of lamps in a fixture or luminary indicating the bulb type, bulb wattage, and manufacturer through which the rated lumens can be determined.

(13) "Light trespass." Light output or dispersions emitting from a light fixture or installation which is cast beyond the boundaries of the property on which the lighting installation is sited.

(14) "Lumen." A standard unit of measurement of luminous flux emitted by a light source. One footcandle is one lumen per square foot.

(15) "Luminaire." A complete lighting unit consisting of a lamp or lamps together with the fixture; or components designed to distribute the light, to position and protect the lamps, and to connect the lamps to the power supply.

(16) "Maintained footcandle." Luminance of lighting fixtures adjusted for a maintenance factor accounting for lamp output depreciation and dirt build-up. The maintenance factor to account for this depreciation is 0.75, which means 75% of the initial lumens value will be used to determine compliance with § 11-1705 of this ordinance.

(17) "Minor and major additions." Building additions or modifications and/or parking area expansions that are less than twenty-five (25%) percent of the existing use. The percentage of addition or modification shall be based on the land use of an initial development or the use at the time this Ordinance is enacted and any subsequent single or cumulative additions or improvements. Cumulative modification or replacement of outdoor lighting constituting twenty-five percent (25%) or more of the permitted lumens for the parcel, no matter the actual amount of lighting already on a non-conforming site, shall constitute a major addition and be subject to requirements of § 11-1716. The routine changing of the tenants in a strip center, when not requiring building additions and only internal modifications, shall be considered a minor addition or change.

(18) "Non-essential." Lighting that is not necessary for an intended purpose after a purpose has been served. Non-essential lighting does not include

security lighting at night and lighting used for safety and/or public circulation purposes. For the purposes of this ordinance, non-essential lighting does include business/signage lighting after business hours, billboard lighting after 11:00 P.M., office and commercial or outdoor advertising lighting, parking lighting after closing hours, ballfield lighting after an activity, etc. (as added by Ord. #2005-01, Jan. 2005)

11-1705. Exterior lighting. All exterior lighting shall be full cut-off fixtures and comply with the following standards.

(1) The candlepower distribution classification of the luminary as a cut-off type shall be in accordance with the ASSI/IES lighting definitions and the IES (Illuminating Engineering Society of North America) Lighting Handbook.

(2) Cut-off luminaries shall be mounted and maintained plumb and level in accordance with the intended application of their design.

(3) All lighting shall be aimed, located, designed, fitted, and maintained so as not to present a hazard to drivers or pedestrians by impairing their ability to safely traverse and so as not to create a nuisance by projecting or reflecting objectionable light onto a neighboring use or property. The maximum light level projecting onto a neighboring residential property shall be 1.2 maintained footcandles at any property line, and 2.0 maintained footcandles at any public street right-of-way or commercial property. If initial footcandles are used, the maximum light level projecting onto a neighboring property shall be 1.5 initial footcandles at any property line, and 2.5 initial footcandles at any public street right-of-way or commercial property.

When a property is zoned business but has a mixed or residential use, the offsite footcandle limitations shall be based as if the adjoining property was commercial.

(4) Pole mounted fixtures for lighting horizontal tasks shall be aimed straight down. (as added by Ord. #2005-01, Jan. 2005)

11-1706. Exceptions to 11-1705. The following exceptions have been made to the full cut-off requirements listed above in § 11-1705. Although the following exceptions allow luminaries that are not full cut-off fixtures to be used under certain conditions, other than the use of street lighting on public streets and right-of-ways, all excepted lighting installations must meet the light trespass restrictions established in this ordinance in § 11-1705.

(1) Luminaries that have a maximum output of 3000 lumens per fixture or less, regardless of the number of bulbs, may be left unshielded provided the fixture has an opaque top to keep light from shining directly up. For the purpose of determining compliance with the regulations of this ordinance, the following rated lamp wattages shall be deemed to emit three thousand (3,000) or more initial lumens, unless documentation is provided by

a lamp manufacturer that the rate wattage of a lamp emits either more or less than the three thousand (3,000) initial lumens.

- (a) Incandescent lamp: one hundred sixty (160) or more watts
- (b) Quartz halogen lamp: one hundred sixty (160) or more watts
- (c) Florescent lamp: thirty-five (35) or more watts
- (d) Mercury vapor lamp: seventy-five (75) or more watts
- (e) Metal halide lamp: forty (40) or more watts
- (f) High pressure sodium lamp: forty-five (45) or more watts
- (g) Low pressure sodium lamp: twenty-five (25) or more watts

If the luminaire is equipped with more than one lamp, the lumens of the lamp with the highest initial lumens shall determine the lumens emitted.

(2) Externally illuminated billboards and signs shall be lighted by fixtures mounted at the top of the billboard or sign and aimed downward. The fixture shall be designed, fitted and aimed to place the light output onto and not beyond the sign or billboard.

(3) The planning commission (board of zoning appeals) can issue a variance to § 11-1705 above for sign and billboard lighting when presented with a lighting plan for floodlights that does not light from above provided that the flood lights have external shielding that may be angled such that the light from the fixture does not cause glare or light to shine on adjacent property or public rights-of-way. Floodlights with directional shielding are encouraged. Floodlights must not project their output into the windows of neighboring residences, past the object being illuminated, skyward or onto a public roadway or pedestrian way.

(4) Internally lighted signs are allowable where bare bulbs cannot be seen directly, except as may be prohibited by zone, including the historic zone.

(5) Sensor activated lighting may be unshielded provided it is located in such a manner as to prevent direct glare and lighting into adjoining properties or into the public right-of-way; and provided the light is set to only go on when activated and to go off within five minutes after activation has ceased, and the light shall not be triggered by activity off the property.

(6) Vehicular lights and all temporary emergency lighting needed by the fire and police departments or other emergency services, shall be exempt from the requirements of this ordinance.

(7) The United States and State of Tennessee flags shall be permitted to be illuminated from dusk until dawn. Flag lighting sources shall not exceed 10,000 lumens per flagpole. The light source shall have a beam spread no greater than necessary to illuminate the flag.

(8) Temporary holiday or special event lighting are exempt, however, non-cutoff luminaries shall not exceed 3000 lumens and shall be situated to prevent disability glare and light trespass. All flood lamps or spotlights shall be directed away from adjacent properties and roadways.

(9) Exterior lighting for public monuments.

(10) Transportation/traffic related signals.

(11) Street lighting approved for use within the Town of Jonesborough.

(12) Decorative parking lot or private street lighting fixtures using high pressure sodium or low pressure sodium lamps having no more than 150 watt output per lamp.

(13) Any high pressure sodium or low pressure sodium lighting fixture with no more than 100 watt output per lamp provided that the light emitted above the horizontal plane is less than 2.5% of the lamp's total light output and the adjoining properties are protected from glare.

(14) Any light fixture used regularly by the Johnson City Power Board approved for use in parking lot, roadway or security use within the Town of Jonesborough. (as added by Ord. #2005-01, Jan. 2005)

11-1707. Light measurement technique. Light levels are specified, calculated and measured in footcandles (FC). Measurements shall be taken with a light meter that has a cosine and color correction and an accuracy to luminance of no greater than plus or minus five percent (5%). Measurements shall be taken with a light meter that has been calibrated within the year.

Light level measurements shall be made at the property line of the property which the light to be measured is generated. Measurements shall be made at finished grade with the light registering portion of the meter held parallel to the ground pointing up. (as added by Ord. #2005-01, Jan. 2005)

11-1708. Non-essential lighting. All non-essential commercial or business lighting, including display, aesthetic, parking and sign lighting area encouraged to be turned off after business hours, leaving only the necessary lighting for site security. Parking facility and vehicular and pedestrian way lighting, except those minimum lights needed for security and all-night business operations; for commercial, industrial, and institutional uses shall be encouraged to be extinguished no later than one hour after the close of business or facility operation. (as added by Ord. #2005-01, Jan. 2005)

11-1709. Lights for public street illumination. Lights used to illuminate public streets or roadways owned by the Town of Jonesborough may be installed at a maximum height of twenty-five feet (25') and may be positioned at that height up to the edge of any bordering property. Street lights on state right-of-way shall not exceed the minimum height determined by the State of Tennessee.

(1) Use requirements of various fixtures. (a) Low pressure sodium: This is the preferred light source to reduce light pollution. Low pressure sodium lights may be used in any zone. Fully shielded fixtures are preferred but not required.

(b) Metal halide: This type of light source may be used for field lighting for recreational use. Metal halide lighting is primarily used for display purposes and it shall not be used for security lighting after 11:00

P.M. or after closing hours if before 11:00 P.M. Metal halide lamps shall be installed only in enclosed luminaries.

(c) Mercury vapor: A quartz tube filled with mercury with a high intensity discharge (HIP). Because of the high energy costs, this fixture should not be used for street lights.

(d) High pressure sodium: Used mainly for outdoor lighting, more efficient than metal halide, and a good choice if true color is not critical.

(2) Street lights shall be included in all new residential, commercial and industrial developments in which public streets and/or right-of-ways are included. A street light plan shall be included in the final site plan. Street light locations shall be determined based on the following elements:

(a) Number of intersections - at least one located at each intersection

(b) Number of curves and cul-de-sacs

(c) Pedestrian crossings

(d) Tree locations, especially where tree height is lower than the height of the street light.

(e) Driveways to non-public facilities that carry substantial traffic

(f) Any other area creating a safety concern

Street lights on public streets or right-of-ways are intended for safety purposes. The director of public safety will have final authority to approve the necessary number of street lights in a development. Street lights under the responsibility of the town shall be used to improve both vehicular and pedestrian safety on streets and right-of-ways, and are not intended to be used to light adjoining properties.

Street lighting intended to be dedicated to the Town of Jonesborough shall comply with the Jonesborough Street Lighting Policy. (as added by Ord. #2005-01, Jan. 2005)

11-1710. Lights for commercial and industrial parking areas. Fixtures on poles for the lighting of commercial industrial parking areas shall not exceed a height of twenty-five feet (25'). (as added by Ord. #2005-01, Jan. 2005)

11-1711. Use of vegetative and other screens. While the use of screening materials to avoid disability glare and light trespass is encouraged, vegetative screens and other such mechanisms used to block glare shall not be employed to serve as the primary means of controlling glare; rather glare control shall be achieved through such means as cut-off fixtures, shields and buffers, and appropriate application of fixture mounting height, wattage, aiming angle and fixture placement. The Jonesborough Planning Commission may allow screening to be used when necessary to reduce disability glare and light trespass with existing applications that cannot be improved through requirements outlined in

§ 11-1715 of this ordinance. However, any vegetation or other screening/buffering approved and installed to facilitate compliance with the requirements of this ordinance shall be deemed to be a required buffer and must be maintained as a required buffer under the requirements specified in § 11-617 of the municipal code. When vegetative or other such screening/buffering is used to block glare or prevent light trespass, the benefit derived from such screening/buffering shall be calculated on the object size at the time of installation, not what potential growth may occur in the future. (as added by Ord. #2005-01, Jan. 2005)

11-1712. Under-canopy commercial lighting. Under-canopy lighting, for such application as gas-service stations, hotel-theater entrances, fastfood/bank/drug store covered drive-ups, etc., shall be located within twenty-five feet (25') of the ground or less; and shall be accomplished using flat-lens full cut-off fixtures aimed straight down and shielded in such a manner that the lowest opaque edge of the fixtures shall be below the light source at all lateral angles. (as added by Ord. #2005-01, Jan. 2005)

11-1713. Security lighting requirements. Non cut-off luminaries shall be permitted for security lighting use provided that the luminaries used meet the following requirements:

(1) All luminaries shall be shielded and aimed so that the light intensity distribution is directed toward the functional area being secured or protected. Luminaries shall not be directed toward property lines if such direction causes light trespass.

(2) Security lighting shall not be used to illuminate vertical surfaces, i.e. building facades, walls, doors, and windows, etc. that are higher than eight feet (8') above grade.

(3) Poles and fixtures used for security lighting with non cut-off luminaries should be no farther than ten feet (10') beyond the perimeter of the area being secured.

(4) Security lighting used to illuminate a perimeter such as a fence line is encouraged to have motion sensors that will keep lights off until activated by motion. (as added by Ord. #2005-01, Jan. 2005)

11-1714. Exception for alternative technology. Luminaries that do not meet the definition for cut-off luminaire, yet employ alternative technology that causes the photometric performance to approach that of cut-off luminaries, may be approved on a case-by-case basis by the Jonesborough Planning Commission. Such luminaries include, but are not limited to, period-style luminaries with refractive globes and internal cut-off reflectors. (as added by Ord. #2005-01, Jan. 2005)

11-1715. Modifications, waiver or variation. The board of zoning appeals may modify, waive or vary the standards and requirements set forth in this ordinance in a particular case or individual circumstance, and the board of zoning appeals may impose conditions of such modifications, waivers or variations which it deems appropriate to further the purposes of these outdoor lighting regulations under the following circumstances:

(1) Upon a finding that strict application of a standard would not forward the purposes of this chapter or otherwise serve the public interest, or that alternatives proposed by the owner/developer would satisfy the purposes of these outdoor lighting regulations at least to an equivalent degree.

(2) Upon a finding that an outdoor luminaire or system of outdoor luminaries cannot reasonably comply with the standards set forth in this ordinance and reasonably provide a safe use as determined by recommended practices adopted by the Illuminating Engineering Society of North America for that type use or activity.

Prior to considering a request to modify, waive or vary by the Jonesborough Board of Zoning Appeals, a written notice shall be provided to the owner, owner's agent or occupant of each abutting or adjoining lot or parcel and each parcel immediately across any street or road from the site which is the subject of the request. The written notice shall be sent five (5) days in advance of the meeting and shall identify the nature of the request along with the date and time the board of zoning appeals will consider the request. (as added by Ord. #2005-01, Jan. 2005)

11-1716. Non-conforming luminaries and lighting systems. Any lighting fixture or lighting installation existing on the effective date of this ordinance that does not conform with the requirements of this ordinance shall be considered as a lawful non-conformance. A non-conforming lighting fixture or lighting installation shall be made to conform with the requirements of this ordinance when:

(1) Minor corrective action such as re-aiming or shielding can achieve conformity with the applicable requirements of this ordinance. The Jonesborough Building Inspector shall determine if the corrective action needed is considered minor. The building inspector's decision can be appealed to the Jonesborough Board of Zoning Appeals whose decision is final administratively.

(2) It is deemed by the public safety department or other designated department of the Town of Jonesborough to create a serious safety hazard.

(3) It is replaced by another fixture or fixtures, expanded, abandoned or relocated.

(4) There is a change in use, expansion, renovation or an abandonment of use with the property.

(a) The relinquishment of a property of a property, or the cessation of a use or activity by the owner or tenant for a period of six months; excluding temporary or short term interruptions for the purpose

of remodeling, maintaining or otherwise improving or rearranging a facility that is defined as minor additions, shall be deemed abandonment of use. A use shall be deemed abandoned when such use is suspended as evidenced by the cessation of activities or conditions that constitute the principle use of the property. If a property or use with non-conforming lighting is abandoned, then all outdoor lighting shall be reviewed and brought into compliance with this ordinance before the use is resumed or a new certificate of occupancy is issued.

(b) Additions or modifications of more than twenty-five (25%) percent to existing uses including, but not limited to, additional dwelling units, gross floor area or parking spaces, either with a single addition or with cumulative additions initiated after the effective date of this ordinance, but not considered minor additions as defined, shall invoke the requirements of this ordinance for the entire property, including previously installed and any new outdoor lighting.

(c) Minor additions as defined in § 11-1704, or modifications of less than twenty-five percent (25%) to existing uses that require a building permit, shall require the submission of a complete inventory and site plan detailing all existing and any proposed new outdoor lighting, as specified in §§ 11-1719 and 11-1720 of this ordinance. Any new lighting on the site shall meet the requirements of this ordinance with regard to shielding and lamp type, the total outdoor light output after the modifications have been completed shall not exceed that on the site before the modifications, or that permitted by this ordinance, whichever is larger.

Non-conforming luminaries and lighting systems may be maintained and repaired, including replacement of burned out or inoperative lamps, and replacement or repair of inoperative components like ballasts, igniters, lenses, reflectors, refractors, sockets, or photocell controls. (as added by Ord. #2005-01, Jan. 2005)

11-1717. Determination of safety hazard. If the public safety department or other designated Town of Jonesborough department determines that a lighting fixture or lighting installation creates a safety hazard, the person(s), business, corporation, or other such entity responsible for its existence and/or maintenance shall be notified of said safety hazard and required to take remedial action. Notification shall be in writing and shall include a description of the safety hazard and the expected corrective actions to be taken. Corrective action shall take place in a reasonable period of time to be determined by the public safety director, building inspector or Jonesborough Planning Commission, however, the time period for corrective action shall be at least fourteen (14) days. Failure to comply with the corrective actions detailed in the notification within the time period required will be deemed a violation of this ordinance and subject to fine. (as added by Ord. #2005-01, Jan. 2005)

11-1718. Improper lighting installation. If the building inspector and/or designated enforcement official determines that a lighting installation has been or is being made in violation of this ordinance including, but not limited to, producing unacceptable levels of disability glare, skyward light, excessive or insufficient illumination levels, or other such variation from the requirements of this ordinance, the following steps shall be taken:

(1) If the installation is in progress, the building inspector or designated enforcement official may issue a stop work order requiring installation to cease until corrective action has been taken.

(2) Notification of the violation shall be given to the person(s), business, corporation or other such entity responsible for the luminaire(s) giving a summary of the violation(s) and expected corrective action(s). A reasonable period of time will be given for the remedial action to be implemented, however, unless the violation involves a serious safety hazard as in § 11-1716, a minimum of thirty (30) days will be given to allow for the appropriate corrective action. Failure to take the corrective action within the designated time period will be deemed a violation of this ordinance. (as added by Ord. #2005-01, Jan. 2005)

11-1719. Site plan requirements. Site plans required to be presented to the Jonesborough Planning Commission for final approval shall have a lighting plan that shall include the following:

- (1) Land use of adjoining properties and zone(s).
- (2) Property boundary lines.
- (3) Areas or elements to be illuminated on the property.
- (4) Proposed layout of the outdoor or exterior lighting installation on the property including, but not limited to:
 - (a) All pole-mounted luminaries - location and mounting height.
 - (b) Ballard or pedestal-mounted luminaries.
 - (c) Canopy-mounted luminaries.
 - (d) Luminaries mounted on the exterior of buildings and structures, except residential building mounted fixtures do not need to be included.
 - (e) Fixture type and designation for all luminaries required including light inventory, aiming direction and mounting height.
 - (f) Manufacture's product data sheet including photometric report (certified to IES Standards).
 - (g) An luminance grid projecting the lighting coverage areas on the perimeter of the property and any impact on adjoining properties.
 - (h) Optional: detail outlining cutoff plan for nonessential lighting. (as added by Ord. #2005-01, Jan. 2005)

11-1720. Exceptions to site plan requirements. Individuals, corporations, developers, contractors, etc. installing lighting in a commercial or institutional

setting may be exempt from the requirements of submitting a full lighting plan as part of the site plan for approval under the following conditions:

(1) The light fixtures used are listed in the Jonesborough list of approved lighting fixtures through the Johnson City Power Board.

(2) The individual or official representative of the corporation, developer, contractor, etc. installing the lights signs a certification stating that he or she has read, understands, and agrees to comply with the town's outdoor lighting ordinance and street lighting policy.

(3) The building inspector is given the necessary information to determine that the lighting used will meet the requirements of the town's lighting ordinance and street lighting policy and is comfortable in issuing the building permit.

(4) Any performance bond requirements that include the outdoor lighting are met to the satisfaction of the building inspector and town attorney.

The planning commission shall have the right to request any information they feel is necessary to ensure that the purposes of these outdoor regulations are met. (as added by Ord. #2005-01, Jan. 2005)

11-1721. Owner/developer retains responsibility. Approval of a lighting plan does not relieve the property owner, developer, contractor, etc. of their responsibility for meeting the terms of this ordinance should any lighting fixture or application fail to perform as approved. The building inspector or designated enforcement officer shall have the authority to require modification to the installed lighting if a violation is determined to exist. (as added by Ord. #2005-01, Jan. 2005)

11-1722. Change in lamp or fixture. Any change in luminaire, mounting height, aiming direction, etc. from the plan approved by the planning commission must be submitted to the building inspector and/or designated enforcement official for review. If the building inspector or designated enforcement official determines the change is minor and still conforms with the requirements of this ordinance, the building inspector can approve the changes in writing. However, any change deemed significant will have to be re-presented to the planning commission for review and approval. (as added by Ord. #2005-01, Jan. 2005)

11-1723. Conflicts with other ordinances and policies. If any regulation or requirement in this ordinance is in conflict with a regulation, guideline or requirement in state law or another Jonesborough ordinance or policy, the more stringent of the regulations, guidelines, or requirements shall apply. (as added by Ord. #2005-01, Jan. 2005)

11-1724. Violations, enforcement and penalties. Any violation of this ordinance will be deemed a misdemeanor and will be subject to the maximum

fine allowed by state law. Each and everyday a violation occurs shall be deemed as a separate violation. The building inspector, public safety officers and/or any designated enforcement official approved by the Jonesborough Board of Mayor and Aldermen shall have the authority to determine violations, issue citations, and carryout the enforcement responsibilities of this ordinance. (as added by Ord. #2005-01, Jan. 2005)

11-1725. Severability. If any provisions of this ordinance are held to be unconstitutional or invalid, such unconstitutionality or invalidity shall not affect any remaining provisions. (as added by Ord. #2005-01, Jan. 2005)

CHAPTER 18

PERMANENT WATER QUALITY STORMWATER MANAGEMENT

SECTION

- 11-1801. Short title.
- 11-1802. Purpose.
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- 11-1806. Exemptions.
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- 11-1811. Appeal of administrative action.
- 11-1812. Variances.
- 11-1813. Penalties; enforcement.
- 11-1814. Severability.
- 11-1815. Effective date.

11-1801. Short title. This chapter be known as the "Permanent Water Quality Stormwater Management Ordinance of the Town of Jonesborough, Tennessee." (as added by Ord. #2008-07, June 2008, and replaced by Ord. #2012-10, Dec. 2012, and Ord. #2015-03, April 2015 **Ch12_04-09-18**)

11-1802. Purpose. The purpose of this chapter is to conserve the land, water and other natural resources of the Town of Jonesborough; promote the public health and welfare of the people by establishing requirements for the control of stormwater, by establishing procedures whereby these requirements shall be administered and enforced; diminish threats to public safety from degrading water quality caused by stormwater conveying excessive pollutants into our public drainage systems; and reduce the economic loss to individuals and the community at large. (as added by Ord. #2008-07, June 2008, and replaced by Ord. #2012-10, Dec. 2012, and Ord. #2015-03, April 2015 **Ch12_04-09-18**)

11-1803. Definitions. Definitions. For the purpose of this chapter, the following definitions shall apply:

(1) "Best Management Practices (BMP or BMPs)." Schedules of activities, prohibitions of practices, maintenance procedures, water quality management facilities, structural controls and other management practices designed to prevent or reduce the pollution of waters of the United States. Water quality BMPs may include structural or non-structural practices.

(2) "Channel." A natural or man-made watercourse with a defined bottom and banks to confine and convey continuously or periodically flowing stormwater.

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

(4) "Covenants for Maintenance of Stormwater Facilities and Best Management Practices." A legal document executed by the property owner, or a homeowners' association as owner of record, and recorded with the register of deeds in the Washington County, Tennessee Courthouse which guarantees maintenance of water quality management facilities and best management practices.

(5) "Developer." Any person, owner, individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, government entity or any other legal entity, or their legal representative, agents, or assigns.

(6) "Development." Any land change that alters the hydrologic or hydraulic conditions of any property, often referred to as "site development." Development includes, but is not limited to, providing access to a site, clearing of vegetation, grading, earth moving, providing utilities, roads and other services such as parking facilities, water quality management facilities and erosion control systems, potable water and wastewater systems, altering land forms, or construction or demolition of a structure on the land.

(7) "Development plan." Detailed engineering or architectural drawing(s) showing existing site conditions and proposed improvements with sufficient detail for town review, approval, and then subsequent construction. The contents of a development plan are further defined by the town zoning ordinance, subdivision regulations, and other town departmental standards for constructing developments and public works projects.

(8) "Exceptional waters of the state." Surface waters of the State of Tennessee that satisfy the characteristics as listed in Rule 1200-4-3-.06 of the official compilation - rules and regulations of the State of Tennessee. Characteristics include waters with exceptional biological diversity or other waters with outstanding ecological or recreational value as determined by the State of Tennessee.

(9) "Existing stormwater facility." Any existing structural feature that conveys, slows, filters, or infiltrates runoff after a rainfall event.

(10) "Hotspot." An area where the land use or activities generate highly contaminated runoff with concentrations of pollutants in excess of those typically found in stormwater. These sites could include concrete and asphalt facilities, auto repair, auto supply, car washed, and large commercial parking lots.

(11) "Impaired waters of the state." Any segment of surface waters that has been identified by the State of Tennessee as failing to support classified

uses. The State of Tennessee periodically compiles a list of such waters known as the 303(d) list.

(12) "Impervious surface." A surface comprised of material(s) that prohibits or severely restricts the infiltration of stormwater into the underlying soil such as, but not limited to, asphalt, buildings, concrete, and brick. Compacted stone/gravel such as found in parking and drive areas is considered impervious.

(13) "Lake." An inland body of standing water, usually of considerable size.

(14) "NPDES - National Pollutant Discharge Elimination System." NPDES is the program administered by the United States Environmental Protection Agency to eliminate or reduce pollutant discharges to the waters of the United States.

(15) "Owner or property owner." The legal owner of the property as recorded in the register of deeds office in the Town of Jonesborough, Tennessee.

(16) "Person." Any individual, firm, corporation, partnership, association, organization or entity, including governmental entities, or any combination thereof.

(17) "Pond." An inland body of standing water that is usually smaller than a lake.

(18) "Redevelopment." The improvement of a lot(s) or parcel of land that is improved with existing structures. If the existing impervious areas including but not limited to buildings and parking remain as is, then this chapter only applies to the newly constructed structures and disturbed areas. If the existing impervious areas are removed and the soil underneath disturbed and then replaced with new impervious areas or newly graded areas then this chapter applies to the entire disturbed area. Areas or uses designated as "hotspots" that are redeveloped must provide water quality improvements for not only the new impervious and graded areas but also the existing impervious areas that remain.

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

(20) "Stormwater." Also "stormwater runoff" or "runoff." Surface water resulting from rain, snow, or other form of precipitation, which is not absorbed into the soil and results in surface water flow.

(21) "Stream." For the specific purpose of vegetated buffers, a stream is defined as a linear surface water conveyance that can be characterized with either perennial or ephemeral base flow and is regulated by the town as a Special Flood Hazard Area (SFHA) or has been identified by the United States Army Corps of Engineers or the Tennessee Department of Environment and Conservation as a stream.

(22) "Structure." For the purpose of this chapter, anything constructed or erected such that the use of it requires a more or less permanent location on

or in the ground. Such construction includes, but is not limited to, objects such as buildings, houses, towers, overhead transmission lines, carports, garages, walls, parking areas, driveways, roads, and sidewalks.

(23) "TMDL - Total Maximum Daily Load." A TMDL is a calculation of the maximum amount of a pollutant that a waterbody can receive and still meet water quality standards, and an allocation of that amount to the source(s) of the pollutant.

(24) "Town." The Town of Jonesborough, Tennessee.

(25) "Town administrator." - The Town Administrator of the Town of Jonesborough, Tennessee, or designee.

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

(27) "Vegetated buffer. A use-restricted vegetated area that is located along the perimeter of streams, ponds, lakes, or wetlands, containing natural vegetation and/or enhanced or restored vegetation.

(28) "Water quality BMP manual." A document which contains policies, design standards and criteria, technical specifications and guidelines, maintenance guidelines, and other supporting documentation to be used as the policies and technical guidance for implementation of the provisions of this chapter. The manual to be used shall be the Town of Jonesborough's manual, if developed, or if it has not been developed then the Northeast Tennessee Water Quality BMP Manual, latest edition, shall be used.

(29) "Water quality management facilities." Structural and non-structural features designed to prevent or reduce the discharge of pollution in stormwater runoff from a development or redevelopment.

(30) "Water quality management plan." An engineering plan for the design of water quality management facilities and best management practices within a proposed development or redevelopment. The water quality management plan includes a plan showing the extent of the land development activity, water quality management facilities, BMPs, vegetated buffers, water quality volume reduction areas, design calculations for water quality management facilities and BMPs, and may contain record drawings/certifications and covenants for maintenance of stormwater facilities and best management practices along with easements for the water quality management facilities, BMPs, vegetated buffers, water quality volume reduction areas.

(31) "Water quality volume reduction." A decrease in the water quality volume for one or more areas of a proposed development which is obtained only for specific site development features or approaches that can reduce or eliminate the discharge of pollutants in stormwater runoff. Water quality volume reductions can only be obtained when specific guidelines presented in the water quality BMP manual are met.

(32) "Water quality volume reduction areas." Areas within the proposed development or redevelopment for which a water quality volume reduction can be obtained.

(33) "Waters of the state." Defined in the Tennessee Water Quality Control Act and means any and all water, public or private, on or beneath the surface of the ground, which are contained within, flow through or border upon Tennessee or any portion thereof except those bodies of water confined to and retained within the limits of private property in single ownership which do not combine to affect a junction with natural surface or underground waters.

(34) "Wetland." An area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetland determination shall be made by the United States Army Corps of Engineers, and/or the Tennessee Department of Environment and Conservation. (as added by Ord. #2008-07, June 2008, and replaced by Ord. #2012-10, Dec. 2012, and Ord. #2015-03, April 2015 *Ch12_04-09-18*)

11-1804. General requirements. (1) Owners of land development activities not exempted under § 11-1806 must submit a Water quality management plan. The water quality management plan shall be submitted as part of the site development plans as required by the town zoning ordinance, subdivision regulations, and other standards for development plans.

(2) The water quality bmp manual to be used shall be The Town of Jonesborough's manual, if developed, or if it has not been developed then the Northeast Tennessee Water Quality BMP Manual, latest edition, shall be used.

(3) The water quality management plan shall include the specific required elements that are listed and/or described in the water quality BMP manual. The town administrator may require submittal of additional information in the water quality management plan as necessary to allow an adequate review of the existing or proposed site conditions.

(4) The water quality management plan shall be subject to any additional requirements set forth in the minimum subdivision regulations, zoning ordinance, or other town ordinances and regulations including the peak stormwater management and erosion and sediment control ordinance.

(5) Water quality management plans shall be prepared and stamped by a design professional qualified to prepare stormwater and site plans in accordance with State of Tennessee law.

(6) Other state and/or federal permits that may be necessary for construction in and around streams and/or wetlands shall be approved prior to approval of a water quality management plan by the town.

(7) The approved water quality management plan shall be adhered to during grading and construction activities. Under no circumstance is the owner or operator of land development activities allowed to deviate from the approved

water quality management plan without prior approval of a plan amendment by the town administrator.

(8) The approved water quality management plan shall be amended if the proposed site conditions change after plan approval is obtained, or if it is determined by the town administrator during the course of grading or construction that the approved plan is inadequate.

(9) The water quality management plan shall include a listing of any known legally protected state or federally listed threatened or endangered species and/or critical habitat located in the area of land disturbing activities and a description of the measures that will be used to protect them during and after grading and construction.

(10) Water quality management facilities, BMPs, vegetated buffers and water quality volume reduction areas shown in water quality management plans shall be maintained through covenants for maintenance of stormwater facilities and best management practices or other legal means as determined by the town administrator. The other means must be legally enforceable to ensure ownership, maintenance responsibility, and inspection requirements are provided for in perpetuity. The covenants, or other legal means, must be approved by and shall be enforceable by the town. The covenants shall be recorded with the register of deeds at the Washington County Courthouse and shall run with the land and continue in perpetuity.

(11) Water quality management facilities, BMPs, vegetated buffers and water quality volume reduction areas shown in water quality management plans shall be placed into a permanent stormwater facilities and best management practices easement held by the town that is recorded with the register of deeds at the Washington County Courthouse.

(12) A maintenance right-of-way or easement, having a minimum width of fifteen feet (15') shall be provided to all water quality management facilities, BMPs, vegetated buffers and water quality volume reduction areas from a driveway, public road or private road.

(13) Owners of land development activities not exempted from submitting a water quality management plan may be subject to additional watershed or site-specific requirements than those stated in this chapter in order to satisfy other local, state, and federal water quality requirements. Areas subject to additional requirements may also include developments, redevelopments, or land uses that are considered pollutant hotspots or areas where the town administrator has determined that additional restrictions are needed to limit adverse impacts of the proposed development on water quality or channel protection.

(14) The town administrator may waive or modify any of the requirements of § 11-1805 of this chapter if adequate water quality treatment and channel protection are suitably provided by a downstream or shared off-site water quality management facility, or if engineering studies determine that installing the required water quality management facilities or BMPs would

actually cause adverse impact to water quality or cause increased channel erosion or downstream flooding.

(15) This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, deed restrictions, or existing ordinances and regulations. If provisions of this chapter and another regulation conflict, that provision which is more restrictive or imposes higher standards or requirements shall control. (as added by Ord. #2008-07, June 2008, and replaced by Ord. #2012-10, Dec. 2012, and Ord. #2015-03, April 2015 *Ch12_04-09-18*)

11-1805. Design criteria. (1) All owners of developments or redevelopments who must submit a water quality management plan shall provide treatment of stormwater runoff in accordance with the following requirements:

(a) The stormwater runoff from the site must be treated for water quality prior to discharge from the site in accordance with the stormwater treatment standards and criteria provided in the water quality BMP manual and as found in the peak stormwater management and erosion and sediment control resolution.

(b) The treatment of stormwater runoff shall be achieved through the use of one or more water quality management facilities and/or BMPs that are designed and constructed in accordance with the water quality BMP manual or other BMPs as approved by the town administrator.

(c) Methods, designs or technologies for water quality management facilities or bmps that are not provided in the water quality BMP manual may be submitted for approval by the town administrator if it is proven that such methods, designs or technologies will meet or exceed the stormwater treatment standards set forth in the water quality BMP manual and this chapter.

(d) BMPs shall not be installed within public right-of-ways or on public property without prior approval of the town administrator.

(2) All owners of developments or redevelopments who are required to submit a water quality management plan shall provide downstream channel erosion protection in accordance with design criteria stated in the water quality BMP manual. Downstream channel erosion protection can be provided by an alternative approach in lieu of controlling the channel protection volume subject to prior approval by the town administrator. Sufficient hydrologic and hydraulic analysis that shows that the alternative approach will offer adequate channel protection from erosion must be provided.

(3) All owners of developments or redevelopments who require a grading permit, plan approval, or subdivision approval shall establish, protect, and maintain a vegetated buffer along all streams, ponds, rivers, lakes, wetlands, or other waters of the state.

The buffer widths are based on the drainage area to the point along the stream or other Waters of the State where the buffer is being determined:

(a) For drainage area less than one (1) square mile, the buffer is thirty feet (30').

(b) For drainage areas one (1) square mile or more, the buffer is sixty feet (60') average with a thirty feet (30') minimum width. To use the sixty feet (60') average/thirty feet (30') minimum method, it must be shown that the straight sixty foot (60') width would be a hardship to developing the property and may not be based solely on the difficulty or the cost of implementation.

If it is not practical to provide the required buffer or only a portion of the buffer can be provided, approval through the Town of Jonesborough Board of Zoning Appeals must be obtained. Justification for this variance must be justified in accordance with the boards of zoning appeals criteria.

Exemptions from this requirement are as follows:

(a) Vegetated buffers are not required around the perimeter of ponds that have no known connection to streams, other ponds, lakes, rivers, or wetlands.

(b) Vegetated buffers are not required around water quality management facilities, BMPs, or detention ponds that are designed, constructed and maintained for the purposes of water quality and/or quantity control, unless expressly required by the design standards and criteria for the facility that are provided in the water quality BMP manual.

(c) The installation of utilities, development of roads crossing the waterway, trails and walkways, or construction of outfalls for stormwater facilities and related drainage improvements, and the removal of invasive species to enhance the existing buffer are allowed within the buffer. These utility, road, trail/walkway, and stormwater outfall disturbances shall be designed to minimize disturbance and impact on the waters of the state and their buffers. Any disturbance to streams, wetlands, or other waters of the state require an aquatic resource alteration permit through the State of Tennessee.

(4) In addition to the above requirements, all owners of developments or redevelopments who must submit a water quality management plan shall:

(a) Provide erosion prevention and sediment control in accordance with the ordinances and regulations of the town;

(b) Control stormwater drainage onsite and provide peak stormwater management in accordance with the ordinances and regulations of the town; and

(c) Adhere to all local floodplain development requirements in accordance with ordinances and regulations of the town. (as added by Ord. #2008-07, June 2008, and replaced by Ord. #2012-10, Dec. 2012, and Ord. #2015-03, April 2015 *Ch12_04-09-18*)

11-1806. Exemptions. (1) Owners of developments and redevelopments who conform to the criteria in § 11-1806(3) are exempt from the requirements of this chapter, unless the town administrator has determined that treatment of stormwater runoff for water quality is needed to order to satisfy local or state NPDES, TMDL or other regulatory water quality requirements, or the proposed development will be a pollutant hotspot, or to limit adverse water quality or channel protection impacts of the proposed development.

(2) The exemptions listed in § 11-1806(3) shall not be construed as exempting the owners of developments and redevelopments from compliance with stormwater requirements stated in the minimum subdivision regulations, zoning ordinance, or other town ordinances and regulations including peak stormwater management and erosion prevention and sediment control.

(3) The following developments and redevelopments are exempt from the requirements for a water quality management plan:

(a) Developments or redevelopments that disturb less than one (1) acre of land. No exemption is granted if the development or redevelopment is part of a larger common plan of development or sale that would potentially disturb one (1) acre or more and the stormwater runoff from the development or redevelopment is not treated for water quality via a downstream or regional water quality management facility or BMP that meets the requirements of this ordinance;

(b) Minor land disturbing activities such as residential or non-residential repairs, landscaping, or maintenance work;

(c) Public utility service connections, unless such activity is carried-out in conjunction with the clearing, grading, excavating, transporting, or filling of a lot or lots for which a water quality management plan would otherwise be required;

(d) Installation, maintenance, or repair of individual septic tank lines or drainage fields, unless such activity is carried out in conjunction with the clearing, grading, excavating, transporting, or filling of a lot or lots for which a water quality management plan would otherwise be required;

(e) Agricultural activities;

(f) Emergency work to protect life, limb or property, and emergency repairs. (as added by Ord. #2008-07, June 2008, and replaced by Ord. #2012-10, Dec. 2012, and Ord. #2015-03, April 2015 *Ch12_04-09-18*)

11-1807. Special pollution reduction requirements. (1) A special pollution reduction plan shall be required for the following land uses, which are considered pollutant hotspots:

(a) Vehicle, truck or equipment maintenance, fueling, washing or storage areas including but not limited to: automotive dealerships, automotive repair shops, and car wash facilities;

(b) Recycling and/or salvage yard facilities;

(c) Restaurants, grocery stores, and other food service facilities;

(d) Commercial facilities with outside animal housing areas including animal shelters, fish hatcheries, kennels, livestock stables, veterinary clinics, or zoos;

(e) Other producers of pollutants identified by the town administrator as a pollutant hotspot using information provided to or collected by him/her or his/her representatives, or reasonably deduced or estimated by him/her or his/her representatives from engineering or scientific study.

(2) A special pollution reduction plan may be required for land uses or activities that are not identified by this chapter as hotspot land uses but are deemed by the town administrator to have the potential to generate concentrations of pollutants in excess of those typically found in stormwater.

(3) The special pollution reduction plan shall be submitted as part of the water quality management plan and the BMPs submitted on the plan shall be subject to all other provisions of this chapter.

(4) Best management practices specified in the special pollution reduction plan must be appropriate for the pollutants targeted at the site.

(5) A special pollution reduction plan will be valid for a period of five (5) years, at which point it must be renewed. At the time of renewal, any deficiency in the pollutant management method must be corrected. (as added by Ord. #2008-07, June 2008, and replaced by Ord. #2012-10, Dec. 2012, and Ord. #2015-03, April 2015 *Ch12_04-09-18*)

11-1808. Performance bonds. (1) A performance bond that guarantees satisfactory completion of construction work related to water quality management facilities, channel protection, and/or the establishment of vegetated buffers is required. Final plat approval or certificate of occupancy may be granted if items in § 11-1808 (3) and (4) are completed or if a performance bond guarantees their completion.

(2) The performance bond must be in a form satisfactory to and approved by the town attorney, and it must be properly executed and filed with the town administrator. A project cost summary must accompany the application so that it can be used to help determine the bond amount. The bond may not be higher than an amount equal to the estimated cost of the improvements plus an additional fifteen percent (15%), and said bond shall only be released by the Town Administrator following completion of construction work related to water quality management facilities, channel protection, and/or the establishment of vegetated buffers. The planning commission shall determine the amount of the bond and the date the bond will become due, but

in no event will this period exceed one (1) year. Any performance bond shall become due upon the developer's failure to comply with the terms and requirements of any notice of non-compliance properly issued pursuant to § 11-1810(2)(f). Upon the posting of the bond, the developer must sign and have notarized a grant of authority to The Town of Jonesborough to implement the construction work related to water quality management facilities, BMPs, channel protection, and/or the establishment of vegetated buffers upon developer's failure to comply with the water quality management plan or the notice of non-compliance.

(3) Prior to approval of a final subdivision plat, release of the performance bond, and/or the issuance of an occupancy permit, the property owner/developer shall provide the town with an executed and recorded copy of the protective covenants and an executed and recorded copy of the easement plat showing the easements associated with the locations of the best management practices, water quality management facilities, vegetated buffers, water quality volume reduction areas, and access easements to said facilities.

(4) Prior to approval of a final subdivision plat, release of the performance bond, and/or the issuance of an occupancy permit, the property owner/developer shall provide the town with an accurate record drawing of the property for all the best management practices, water quality management facilities, vegetated buffers, and water quality volume reduction areas. (as added by Ord. #2008-07, June 2008, and replaced by Ord. #2012-10, Dec. 2012, and Ord. #2015-03, April 2015 *Ch12_04-09-18*)

11-1809. Record drawings and design certification. (1) Prior to approval of a final subdivision plat, release of the performance bond, and/or the issuance of an occupancy permit, the property owner/developer has to provide the town with an accurate record drawing of the property for all the best management practices, water quality management facilities, vegetated buffers, and water quality volume reduction areas shown on the approved water quality management plan(s).

(2) The boundaries of water quality management facilities, BMPs, vegetated buffers, or water quality volume reduction areas shall be shown on the record drawings along with any other information in accordance with guidance provided in the water quality BMP manual.

(3) Record drawings shall include sufficient design information to show that water quality management facilities required by this chapter will operate as approved. This shall include all necessary computations used to determine percent pollutant removal and the flow rates and treatment volumes required to size water quality management facilities and BMPs.

(4) The easements associated with the water quality management facilities, BMPs, vegetated buffers, or water quality volume reduction areas shall be shown on the record drawings along with any other information in accordance with guidance provided in the water quality BMP manual.

(5) The record drawings shall be stamped by the appropriate design professional required to stamp the water quality management plan and/or a registered land surveyor licensed to practice in the State of Tennessee. (as added by Ord. #2008-07, June 2008, and replaced by Ord. #2012-10, Dec. 2012, and Ord. #2015-03, April 2015 *Ch12_04-09-18*)

11-1810. Inspections and maintenance. (1) Right of entry. (a) During and after construction, the town administrator or designee may enter upon any property which has a water quality management facility, BMP, vegetated buffer, or water quality volume reduction area during all reasonable hours to inspect for compliance with the provisions of this chapter, or to request or perform corrective actions.

(b) Failure of a property owner to allow such entry onto a property for the purposes set forth in § 11-1810(1)(a) shall be cause for the issuance of a violation, stop work order, withholding of a certificate of occupancy, and/or civil penalties.

(2) Requirements. (a) The owner(s) of existing stormwater facilities, water quality management facilities, BMPs, vegetated buffers, and water quality volume reduction areas shall inspect and maintain all devices and areas in accordance with the covenants for maintenance of stormwater facilities and best management practices.

(b) Inspection and maintenance of privately-owned existing stormwater facilities, water quality management facilities, best management practices, vegetated buffers, and water quality volume reduction areas shall be performed at the sole cost and expense of the owner(s) of such facilities/areas. The best management practices owner shall perform routine inspections on at least an annual basis. Inspections shall be performed by a person familiar with the control measures. The Best Management Practices owner shall maintain documentation of these inspections. A comprehensive inspection of all BMPs shall be conducted once every five (5) years by a professional engineer or landscape architect. Records stating the BMP, date, latitude/longitude, address, BMP owner information, description of BMP, photos of BMP and any corrective action needed and when performed shall be maintained by the BMP owner.

(c) Inspections and maintenance shall be performed in accordance with specific requirements and guidance provided in the covenants for maintenance of stormwater facilities and best management practices and the water quality BMP manual. Inspection and maintenance activities shall be documented by the property owner (or his/her designee), and such documentation shall be maintained by the property owner for a minimum of three (3) years, and shall be made available for review by the town administrator upon request.

(d) The town administrator has the authority to impose more stringent inspection requirements as necessary for purposes of water quality protection and public safety.

(e) The removal of sediment and/or other debris from existing stormwater facilities, water quality management facilities, and best management practices shall be performed in accordance with all town, state, and federal laws and the water quality BMP manual. The town administrator may stipulate additional guidelines if deemed necessary for public safety.

(f) The town administrator may order corrective actions to best management practices, existing stormwater facilities, water quality management facilities, vegetated buffer areas, and/or water quality volume reduction areas as are necessary to properly maintain the facilities/areas within the town for the purposes of water quality treatment, channel erosion protection, adherence to local performance standards, and/or public safety. When corrective action is required, the BMP owner must initiate the correction action within thirty (30) days of notice. If the property owner(s) fails to perform corrective action(s), the town administrator shall have the authority to order the corrective action(s) to be performed by the town or others. In such cases where a performance bond exists, the town shall utilize the bond to perform the corrective actions. In such cases where a performance bond does not exist, the cost of labor, equipment, and materials used will be charged to the developer/owner in addition to a service charge of one hundred dollars (\$100.00) per hour. The town will invoice the developer/owner directly, and payment shall be received within fourteen (14) days. Failure to pay for remedial actions taken by the town under this section may result in the town attorney filing a lien against the property involved in the action, and may negate any intention by the town to accept responsibility for any best management practices, existing stormwater facilities, water quality management facilities, vegetated buffer areas, and/or water quality volume reduction areas. The decision of the town to take remedial actions to protect the health and safety of the public in no way supplants or negates the authority of the appropriate town staff to issue citations for violations of this chapter.

(3) Any alteration, improvement, or disturbance to water quality management facilities, BMPs, vegetated buffers, or water quality volume reduction areas shown in the water quality management plan, certified record drawings, and/or easement plats shall be prohibited without authorization from the town administrator. This does not include alterations that must be made in order to maintain the intended performance of the water quality management facilities, bmps, vegetated buffers, or water quality volume reduction areas. (as added by Ord. #2008-07, June 2008, and replaced by Ord. #2012-10, Dec. 2012, and Ord. #2015-03, April 2015 *Ch12_04-09-18*)

11-1811. Appeal of administrative action. Actions taken by the town administrator as authorized in this chapter are subject to appeal by the board of zoning appeals provided an appeal is timely filed in writing at the office of the town administrator within thirty (30) days from the date any written or verbal decision has been made which the developer feels adversely affects the developer's rights, duties or privileges to engage in the land disturbing activity and/or associated development proposed. (as added by Ord. #2008-07, June 2008, and replaced by Ord. #2012-10, Dec. 2012, and Ord. #2015-03, April 2015 *Ch12_04-09-18*)

11-1812. Variances. (1) Variances to the requirements of this chapter shall be handled by the board of zoning appeals.

(2) The board of zoning appeals shall not approve variances that cause the town to be in violation of any state or federal NPDES permit, TMDL, or other applicable water quality regulation. (as added by Ord. #2008-07, June 2008, and replaced by Ord. #2012-10, Dec. 2012, and Ord. #2015-03, April 2015 *Ch12_04-09-18*)

11-1813. Penalties; enforcement. Any developer or 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 any authorized enforcement officer or the Jonesborough Planning Commission, shall be guilty of a violation of this municipal ordinance, and each day of such violation or failure to comply shall be deemed a separate offense and punishable accordingly. Upon conviction, the developer or person shall be subject to fines of up to five thousand dollars (\$5,000.00) per day for each day of violation (Tennessee Code Annotated, §68-221-1101). Unless otherwise specified within any section of this chapter, the building inspector and the public works director are the designated enforcement officers of this ordinance. Citations for violations may be issued by any enforcement officer, the public safety director or any Jonesborough Police Officer. (as added by Ord. #2012-10, Dec. 2012, and replaced by Ord. #2015-03, April 2015 *Ch12_04-09-18*)

11-1814. Severability. If any provision of this chapter is held to be unconstitutional or invalid, such unconstitutionality or invalidity shall not affect any other provision of this chapter. (as added by Ord. #2008-07, June 2008, and replaced by Ord. #2012-10, Dec. 2012, and Ord. #2015-03, April 2015 *Ch12_04-09-18*)

11-1815. Effective date. This chapter will go into effect immediately upon passage on second and final reading; however, development projects that have already received at least preliminary site plan approval from the

Jonesborough Regional Planning Commission shall be exempt from the requirement to develop a water quality management plan. (as added by Ord. #2008-07, June 2008, and replaced by Ord. #2012-10, Dec. 2012, and Ord. #2015-03, April 2015 *Ch12_04-09-18*)