

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

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CHAPTER 1

MUNICIPAL PLANNING COMMISSION

SECTION

- 14-101. Creation and membership.
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- 14-103. Schedule of fees and charges.

14-101. Creation and membership. There is hereby created and established a municipal planning commission. Such planning commission shall consist of nine (9) members. One (1) of the members shall be the mayor of the municipality or a person designated by the mayor and one (1) of the members shall be a member of the board of mayor and aldermen selected by the board of mayor and aldermen. The other seven (7) members shall be appointed by the mayor. In making such appointments, the mayor shall strive to ensure that the racial composition of the planning commission is at least proportionately reflective of the municipality's racial minority population. The members of the planning commission shall serve without compensation. The terms of the seven (7) members appointed by the mayor shall be for three (3) years each. The term of the mayor shall run concurrently with the mayor's term of office. Except for the initial appointment, the terms of all members who are members of the board of mayor and aldermen shall be eight (8) months so that every member of the board of mayor and aldermen shall have the opportunity to serve during their term of office. The member of the board of mayor and aldermen first appointed, shall be appointed for a term ending with the regular meeting of the planning commission to be held in July, 2005. Any vacancy in an appointed membership shall be filled for the unexpired term by the mayor, who shall also have authority to remove any appointed member at the mayor's pleasure. (Ord. #292, July 2005)

14-102. Organization, powers, duties, etc.¹ The planning commission shall be organized and shall carry out its powers, functions, and duties in accordance with all applicable provisions of Tennessee Code Annotated, title 13. (Ord. #292, July 2005)

14-103. Schedule of fees and charges. There is established the following schedule of fees and charges intended to partially defray the administrative costs associated with zoning and land use control:

¹The Mt. Carmel Regional Planning Commission has duly adopted subdivision regulations on April 6, 1999, which are an appendix to this code.

(1) Public hearing. Requests for rezoning real property, requests for amendment to the zoning ordinance, requests for variances to be heard by the board of zoning appeals, and requests for deannexation all require public hearings. For each public hearing so held, the requestor shall pay to the town in advance a fee of thirty-five dollars (\$35.00).

(2) Agenda appearance. Requests for rezoning, zoning ordinance amendments, variances to be heard by the board of zoning appeals, and annexation and deannexation of real property must be calendared in a timely manner on the agenda(s) of the regional planning commission, board of zoning appeals, and/or the board of mayor and aldermen. For each such agenda appearance request, the requestor shall pay to the town in advance a fee of thirty-five dollars (\$35.00).

(3) Special called meeting. In the event a special called meeting of either the regional planning commission, board of zoning appeals, or board of mayor and aldermen is made by a requestor to hear that requestor's agenda appearance request item, a charge of fifty dollars (\$50.00) shall be paid by the requestor in advance of the notice of the special called meeting being sent to the applicable commission/board members.

(a) Review and inspection. A schedule of fees for review and inspection by town officials, engineering staff, planning staff, or legal staff shall be set by resolution of the board of mayor and aldermen from time to time as circumstances require.

(b) Advertising expense. For any administrative action undertaken as noted above that requires the advertisement of such meeting or hearing in a newspaper of general circulation, the requestor shall pay to the town the cost of publishing such advertisement. (Ord. #292, July 2005)

CHAPTER 2**AUTHORITY****SECTION**

14-201. Authority.

14-201. Authority. An ordinance, in pursuance of the authority granted by Tennessee Code Annotated, §§ 13-7-201 through 13-7-210, for the purpose of promoting the public health, safety, morals, convenience, order, prosperity and general welfare; to provide for the establishment of districts within the corporate limits; to regulate, within such districts, the location, height, bulk, number of stories and size of buildings and structures, the percentage of lot occupancy, the required open spaces, the density of population and the use of land, buildings and structures; to provide methods of administration of this ordinance and to prescribe penalties for the violation thereof. (Ord. #292, July 2005)

CHAPTER 3

TITLE AND PURPOSE

SECTION

14-301. Short title.

14-302. Purpose.

14-301. Short title. This ordinance shall be known as the zoning ordinance of Mount Carmel, Tennessee, and the map herein referred to, which is identified by the title, Mount Carmel, Tennessee Zoning Map shall be known as the zoning map of Mount Carmel, Tennessee, latest edition. The zoning map of Mount Carmel, Tennessee, and all explanatory matter thereon are hereby adopted and made a part of this ordinance. (Ord. #292, July 2005)

14-302. Purpose. The zoning regulations and districts as herein set forth have been made in accordance with a comprehensive plan for the purpose of promoting the health, safety, morals, and the general welfare of the community. They have been designed to lessen congestion in the streets, to secure safety from fire, panic and other dangers, to provide adequate light and air, to prevent the overcrowding of land, to avoid undue concentration of population, and to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements. They have been made with reasonable consideration, among other things, as to the character of each district and its particular suitability for particular uses; and with a view of conserving the value of buildings and encouraging the most appropriate use of land throughout the town. (Ord. #292, July 2005)

CHAPTER 4

DEFINITIONS

SECTION

14-401. Use of terms.

14-401. Use of terms. Unless otherwise stated the following words shall, for the purpose of this ordinance have the meaning herein indicated. Words used in the present tense include the future. The singular number includes the plural and the plural the singular. The word shall is mandatory, not directory. The word used or occupied as applied to any land or building shall be constructed to include the word intended, arranged, or designed to be used or occupied.

(1) "Accessory dwelling unit." A unit detached from the principle structure on the same residential lot, meant for occupancy as a dwelling.

(2) "Alley." A public way which affords only a secondary means of access to property and public travel, less than twenty feet (20') in width.

(3) "Arterial street." A street that provides for traffic movement between areas and across portions of the town and secondarily for direct access to abutting land, as shown on the zoning map of the Town of Mount Carmel.

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

(5) "Buffer strip." Planted with a staggered double row of conifer trees at least four feet (4') high planted on six foot (6') centers. Solid fencing would have to be a least six feet (6') high. Plantings shall be properly bedded and, maintained and fertilized to assure long life. The design of buffer strips, whether solid fencing or plantings, shall be subject to review and approval of the planning commission. All fencing and planted buffer strips shall be continually maintained by owners with dead plantings replaced.

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

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

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

(7) "Building height." The vertical distance from grade to highest finished roof surface in the case of flat roofs or to a point at the average height of the highest roof having a pitch. Height of a building in stories includes basements.

(8) "Business sign." A sign which directs attention to a business or profession conducted on the premises. A "For Sale" sign or a "For Rent" sign or similar sign shall be deemed a business sign.

(9) "Clinic." A structure used in providing medical services for outpatients only.

(10) "Club." Buildings and facilities owned or operated by an association or persons for a social or recreational purpose, but not operated primarily for profit or operated to render a service which is customarily carried on as a business.

(11) "Collector street." A street providing for traffic movement within the city as shown on the zoning map of the Town of Mount Carmel, Tennessee.

(12) "Communications facilities." A land-use facility supporting antennas and microwave dishes that sends and/or receives radio frequency signals. The facilities include structure, towers, and accessory buildings.

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

(14) "Day care center." A place operated by a person, society, agency, corporation, institution, or other group that receives pay for the care of eight (8) or more children under seventeen (17) years of age for less than twenty-four (24) hours per day, without transfer of custody. The term "day care center" also includes child development centers, nursery schools, day nurseries, play schools, and kindergarten as well as agencies providing before and after school care, regardless of names, purpose, or auspices. (Excluding schools graded one through twelve (1-12) and kindergartens operated by governmental units or by religious organizations).

(15) "Dwelling single family." A building designed, constructed, and used for one (1) dwelling unit.

(16) "Dwelling two family or duplex." A building designed, constructed, or reconstructed and used for two (2) dwelling units that are connected by a common structural wall.

(17) "Dwelling multi-family." A building designed, constructed, or reconstructed and used for more than two (2) dwelling units, with each dwelling unit having a common structural wall with any other dwelling unit on the same floor.

(18) "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 kitchen, and providing meals or lodging to not more than three (3) unrelated persons living together as one (1) housekeeping unit using one (1) kitchen.

(19) "Home occupation." An occupation for gain or support which is customarily conducted in the home, which is incidental to the use of the building or structure as a dwelling unit, which employs not more than two (2) persons not residents of the premises and not more than thirty percent (30%) of the total actual ground floor areas.

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

(a) "Lot areas." The total horizontal area within the lot lines of a lot exclusive of streets and easement of access to other property.

(b) "Lot, corner." A lot abutting on two (2) or more streets (other than an alley), at the 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(s) 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.

(21) "Mobile home." Is a manufactured home subject to the "UNIFORM STANDARDS CODE FOR MANUFACTURED HOMES AND RECREATIONAL VEHICLES ACT" codified at Tennessee Code Annotated, § 68-126-201 and further defined in § 68-126-202(4); designed for long term occupancy with sleeping accommodations, bath room(s), kitchen facilities with plumbing, and electrical connections provided for attachment to outside systems. Designed to be transported after fabrication on its own wheels, a flatbed, or other trailer and constructed as a single self-contained unit on a single chassis; and commonly known as a "single-wide."

A "residential dwelling" as defined by Tennessee Code Annotated, § 13-24-201, constructed in two (2) or more separate units, mounted on two (2) or more chassis, having the same general appearance as site built homes, and assembled on site commonly known as a "double-wide," shall not be considered a mobile home for the purpose of these regulations.

A modular building unit, structural unit or preassembled component unit subject to the "TENNESSEE MODULAR BUILDING ACT" codified at Tennessee Code Annotated, § 68-126-301, shall not be considered a mobile home for the purpose of these regulations.

(22) "Mobile unit." A structure which has all of the following characteristics:

(a) Designed to be transported after fabrication on its own wheels, or on a flatbed or other trailer;

(b) Arriving at the site where it is to function as an office, commercial establishment, assembly hall, storage, governmental or other similar purpose and is ready for use except for minor and incidental

unpacking and assembly operations, location on foundation supports, connections to utilities and the like.

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

(24) "Non conforming structure or use." A lawful existing structure or use at the time this ordinance or any amendment thereto becomes effective which does not conform to the requirements of this ordinance.

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

(26) "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.

(27) "Setbacks." The area of a lot which is reserved as open space. The following rules shall apply in determining setbacks:

(a) All structures including stoops, porches, decks, attached carports, and attached garages, shall meet the minimum setback requirement for the zoning district in which they are located.

(b) Overhangs of two feet (2') or less including gutters will be exempt from the setback requirement.

(c) Stoops, porches, or decks for front and rear entry whether covered or open up to eight feet (8') wide by six feet (6') deep will be exempt from the setback requirement.

(d) Stairs and/or ADHD ramps may project into the setback areas.

(e) Open driveways and walks are exempt from the setback requirement.

(f) Accessory structures shall be a minimum of three feet (3') off the side and/or rear property line unless the lot is in a zero rear setback area where the structure may go to the rear line.

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

(29) "Street." Any public or private way set aside for public travel, twenty feet (20') or more in width. The word street shall include the words road, highway, and thoroughfare.

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

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

(32) "Travel trailer." Any vehicle used, or so constructed as to permit its being used as a conveyance upon the public streets or highways and duly licensable as such, and constructed in such a manner as will permit occupancy thereof as a dwelling or sleeping place for one (1) or more persons, and designed for short-term occupancy, for frequent and/or extensive travel, and for recreational and vacation use, including camper trucks and self propelled campers, etc.

(33) "Travel trailer park." Any plot of land upon which two (2) 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 travel trailer park more than thirty (30) days.

(34) "Yard." An open space on the same lot with a principal building, open, unoccupied, and unobstructed by buildings from the ground to the sky except as otherwise provide in this ordinance.

(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 principal building.

(c) "Yard, side." A yard between the front and rear yard measured horizontally at right angles from the side lot line to the nearest point on a principal building.

(d) "Yard, street side." A yard adjacent to a street between the front yard and rear lot line measured horizontally and at right angles from the side lot line to the nearest point of a principal building. (Ord. #292, July 2005, as amended by Ord. #10-349, Feb. 2010, and Ord. #13-400, Dec. 2013)

CHAPTER 5

ESTABLISHMENT OF DISTRICTS

SECTION

14-501. Classification of districts.

14-502. Boundaries of districts.

14-501. Classification of districts. For the purpose of this title, Mount Carmel, Tennessee, is hereby divided into eleven (11) districts, designated as follows:

Residential:

- R-1 Single Family Residential District
- R-M Multi-Family Residential District
- R-5 Mobile Home Park District
- PD Planned Development District

Business:

- B-1 Neighborhood Business District
- B-2 Arterial Business District
- B-3 General Business District
- B-4 Shopping Center District
- MX-1 Mixed Use 1 District
- MX-2 Mixed Use 2 District

Industrial:

- M-I Industrial

(as replaced by Ord. #13-394, June 2013, and Ord. #14-403, June 2014)

14-502. Boundaries of districts. (1) The boundaries of districts described in § 14-501 are established as shown on the map entitled Zoning Map of Mount Carmel, Tennessee, latest edition, which is a part of this title and which is on file in the office of the town recorder.

(2) Unless otherwise indicated on the zoning map, the boundaries are lot lines, the center lines of streets or alleys or a specified distance therefrom, railroad rights-of-way, or the corporate limit lines as they existed at the time of the enactment of this title. Questions concerning the exact location of district boundaries shall be determined by the board of zoning appeals. (Ord. #292, July 2005, as replaced by Ord. #13-394, June 2013)

CHAPTER 6

MUNICIPAL PLANNING COMMISSION

SECTION

- 14-601. Zoning affects every building and use.
- 14-602. Continuance of non-conforming uses.
- 14-603. Only one principal building on any lot.
- 14-604. Reduction in lot area prohibited.
- 14-605. Vision clearance.
- 14-606. Street frontage.
- 14-607. Conformity to subdivision regulations.
- 14-608. Height and density.
- 14-609. Annexations.
- 14-610. Off-street automobile parking.
- 14-611. Off-street loading and unloading space.
- 14-612. Ingress and egress.
- 14-613. Communication facilities.

14-601. Zoning affects every building and use. No building or land shall hereafter be used and no building or part thereof shall be erected, moved or altered unless for a use expressly permitted by and in conformity with the regulations herein specified for the district in which it is located, whether operated for or without compensation. (Ord. #292, July 2005, as replaced by Ord. #13-394, June 2013)

14-602. Continuance of non-conforming uses. (1) Any building or use existing at the time of enactment or subsequent amendment of this ordinance, but not in conformity with its provisions, may be continued subject to the following limitations: any building or use which does not conform to the provisions of this ordinance or subsequent amendment may not be:

- (a) Changed to another non-conforming use.
- (b) Re-established after discontinuance for twelve (12) months except that non-conforming uses in the B-4 Shopping Center District may be re-established after the discontinuance for twenty-four (24) months.
- (c) Extended except in conformity with this ordinance.
- (d) Rebuilt or repaired after damage exceeding seventy-five percent (75%) of the fair market value of the building immediately prior to damage.
- (e) Non-conforming owner occupied residences in the business or industrial zones may be reestablished, rebuilt or extended using the same rules as apply to commercial residential property.

(2) Industrial, commercial, or other business establishments shall comply with provisions established in Tennessee Code Annotated, § 13-7-208. (Ord. #292, July 2005, as replaced by Ord. #13-394, June 2013, and amended by Ord. #2014-422, Oct. 2014)

14-603. Only one principal building on any lot. (1) In single family residential districts only one (1) principal building and its customary accessory buildings may hereafter be erected on any lot.

(2) The equipment of an accessory building with sink, cook stove or other kitchen facilities for the independent occupancy thereof, shall be prima facie evidence that such building is not a customary accessory building but a separate dwelling and must meet all minimum standards of lot area and yard requirements of the district in which it is located. (Ord. #292, July 2005, as replaced by Ord. #13-394, June 2013)

14-604. Reduction in lot area prohibited. No lot shall be reduced in area so that yards, lot area per family, lot width, building area or other requirements of this ordinance are not maintained. This section shall not apply when a portion of a lot is acquired for a public purpose. (Ord. #292, July 2005, as replaced by Ord. #13-394, June 2013)

14-605. Vision clearance. No fence, wall, shrubbery, sign 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. #292, July 2005, as replaced by Ord. #13-394, June 2013)

14-606. Street frontage. No residential building shall be erected on a lot which does not abut at least one (1) public street for a least fifty feet (50') except for lots on cul-de-sacs and flag lots which must abut one (1) public street for at least forty feet (40') or "lot of record" off of a permanent easement. The date to be considered a "lot of record" for lots fronting a permanent easement will be February 28, 1964 (date subdivision regulations were adopted) or the date when the property was annexed by the town if it is later then the date subdivision regulations were adopted. The date the lot was subdivided will be determined by the date it was put on record with the Hawkins County Register of Deeds. The owner must provide the building inspector with the deed, tax maps, and other documentation to clearly define the lot and permanent easement in question. The adjoining property owners will be responsible for maintaining the permanent easement. Names for private streets must be approved by Hawkins County 911, and the sign approved by the Mount Carmel Public Works Department. City services (garbage, sewer connection if available, etc.) will terminate at the intersection of the permanent easement with the public street except for emergency services. The garbage and trash pickup will be on the right-of-way at the intersection of the permanent easement with the public street. (Ord. #292, July 2005, as replaced by Ord. #13-394, June 2013)

14-607. 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, opened, or used 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 Mount Carmel Regional Planning Commission. (Ord. #292, July 2005, as replaced by Ord. #13-394, June 2013)

14-608. 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 that are required or specified in the regulations herein for the district in which it is located. (Ord. #292, July 2005, as replaced by Ord. #13-394, June 2013)

14-609. Annexations. All territory which may hereafter be annexed to the Town of Mount Carmel, Tennessee, shall be considered to be in a R-1 Single Family Residential District unless otherwise classified. (Ord. #292, July 2005, as replaced by Ord. #13-394, June 2013)

14-610. Off-street automobile parking. (1) General standards required. (a) Site plan. A site plan showing all parking spaces, landscaping, dimensions, setbacks, ingress/egress and any other parking requirements requested shall be submitted to and approved by the building inspector.

(b) Location. All required off-street parking spaces shall be located on the same lot as the structure or use to which they are accessory or on a lot contiguous thereto which has the same zoning classification and is under the same ownership.

(c) Parking surfaces. All parking lots other than single and two-family residential shall be paved with asphalt, concrete, or permeable pavers.

(d) Dimensions. No parking space shall be of dimensions of less than nine feet (9') in width and nineteen feet (19') in length. All parking spaces shall be striped and shall be maintained.

(e) Grades. Grades within the paved area of a parking lot shall at no place be less than one percent (1%) or more than twelve percent (12%). Grades of driveways or entrances from a public street serving a parking lot shall at no point exceed twelve percent (12%).

(f) Car repair. No motor vehicle repair work except emergency service shall be permitted in association with any required off-street parking facilities.

(g) Drive-thru business stacking lanes. Stacking lanes shall be designed to prevent circulation congestion, both on site and on adjacent public streets. Drive-thru establishments shall provide a minimum of four

(4) stacking spaces (within the site) before the transaction window. If said separate stacking lane is curbed, an emergency by-pass or exit shall be provided. An additional space shall also be provided adjacent to the transaction window.

(2) Minimum parking spaces required. (a) Off-street automobile parking spaces shall be provided on every lot on which any of the following uses are hereafter established:

- (i) Churches. One (1) space for each four (4) seats.
- (ii) Day care center, private schools, public schools or places of instruction and similar uses. Two (2) spaces for every three (3) employees plus such number of spaces for students as may be required for schools.
- (iii) Residential dwellings:
 - (1) Single and duplex -- Two (2) spaces for each unit.
 - (2) Multi-family -- Two (2) spaces each unit, plus one (1) visitor space per three (3) units.
- (iv) Funeral parlors. One (1) space for each four (4) seats in the chapel.
- (v) Gasoline service stations, automobile repair garages and similar establishments. Two (2) spaces for each bay or similar facility plus one (1) space for each employee; but, not less than five (5) total.
- (vi) Hospitals and nursing homes. One (1) space for each two (2) staff or visiting doctors plus one (1) space for each two (2) employees and one (1) space for each four (4) beds, computed on the largest number of employees on duty at any period of time.
- (vii) Hotel. One (1) space for each three (3) employees plus one (1) space for each guest room.
- (viii) Industry. One (1) space for each two (2) employees, computed on the largest number of persons employed at any period during day or night.
- (ix) Motels. One (1) space for each three (3) employees plus one (1) space for each accommodation.
- (x) Offices. (1) Medical. One (1) space for each two hundred (200) square feet of floor space.
 - (2) Other professional. One (1) space for each three hundred (300) square feet of floor space.
 - (3) General. One (1) space for each three hundred (300) square feet of floor space.
- (xi) Places of public assembly. One (1) space for each three (3) seats in the principal assembly area.

(xii) Recreation and amusement areas without seating capacity. One (1) space for each four (4) customers computed on maximum service capacity.

(xiii) Restaurants, clubs and lodges. One (1) space for each three (3) employees, plus one (1) space for each four (4) seats.

(xiv) Retail business and similar uses. One (1) space for each two hundred (200) square feet of net retail space. Net retail space expressly excludes the square footage of the walls surrounding the retail sales area, break rooms, storage rooms, utility rooms, office/meeting rooms and rest rooms.

(xv) Schools. High schools require one (1) space for each faculty member, plus one (1) space for each four (4) pupils. Elementary and junior high schools require four (4) spaces for each classroom.

(xvi) Mobile home parks. Two (2) spaces each unit, plus one (1) visitor space per three (3) units.

(xvii) Wholesale business. One (1) space for each two (2) employees based on maximum seasonable employment.

(3) Special exceptions from these requirements: (a) Special exception procedures. In the case of a request for a special exception use permit the following shall apply:

(i) Pursuant to Tennessee Code Annotated, §§ 13-7-206 and 207(2), the board of zoning appeals shall hear and decide applications for special exception use permits. A special exception use permit shall not be considered an entitlement, and shall be granted by the board of zoning appeals only after the applicant has demonstrated to the satisfaction of the board of zoning appeals that all of the required standards have been met.

(ii) In granting any special exception use permit, the board of zoning appeals may impose conditions, restrictions or time limits considered necessary to protect surrounding properties and better carry out the general intent of this zoning ordinance.

(iii) A special exception use permit may, consistent with Tennessee Code Annotated, §§ 13-7-206, be made to the parking requirements for specific uses of property upon a determination that the proposed specific parking facility is so designed, located and proposed to be operated such that the public health, safety and welfare will be protected and the special exception is the minimum necessary deviation from the requirements of this ordinance to accommodate the specific character of the proposed use.

(iv) An approval of a special exception use permit by the board of zoning appeals shall state the section of this code under which the permit was considered, and findings of fact relating to

the applicable approval standards. In the case of a denial, the findings shall specifically identify the standards not satisfied.

(v) In passing upon such applications, the board of zoning appeals shall consider all technical evaluations, all relevant factors, and:

(A) All standards specified in other sections of the zoning ordinance;

(B) The integrity of adjacent properties, such that the parking facilities are so designed, located and proposed to be operated that the public health, safety and welfare will be protected;

(C) The design and architectural compatibility of the parking facilities, such that the operational and physical characteristics of the parking facilities shall not adversely affect abutting properties, including those located across street frontages, and, have site design and architectural features which contribute to compatibility, including, but not limited to, landscape, drainage, access and circulation or building orientation;

(D) Natural site features shall be preserved to the greatest extent possible so as to minimize the intrusion of parking areas;

(E) Traffic impact, such that the applicant shall demonstrate how the proposed parking facility will not adversely affect the safety and convenience of vehicular and pedestrian circulation in the area;

(F) Hazard protection, such that the proposed parking facility shall reasonably protect persons and property from hazards;

(G) The need for special conditions such that notwithstanding a finding by the board of zoning appeals that an application satisfies the minimum parking standards, the board of zoning appeals may restrict the hours of operation, establish permit expiration, require extraordinary setbacks and impose other reasonable conditions necessary to protect the public health, safety and welfare;

(H) The safety of access to the property for ordinary and emergency vehicles;

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

(vi) Upon consideration of the factors listed above, and the purposes of this ordinance, the board of zoning appeals may attach such conditions to the granting of a special exception, as it deems necessary to effectuate the purposes of this section.

(vii) Conditions for special exceptions. (A) Special exceptions shall be issued upon a determination that the application is the minimum relief necessary, considering the factors listed herein.

(B) Special exceptions shall only be issued upon:

(1) A showing of good and sufficient cause, a determination that failure to grant the special exception would result in exceptional hardship;

(2) Or a determination that the granting of a special exception will not result in additional threats to public safety, extraordinary public expense, create nuisance, or irreconcilably conflict with other parts of the zoning ordinance.

(C) The secretary shall maintain the records of all appeal actions and report any special exception to the board of mayor and aldermen upon request. (Ord. #9-345, Jan. 2010, as replaced by Ord. #13-394, June 2013, and amended by Ord. #16-442, Aug. 2016, and Ord. #17-465, Dec. 2017)

14-611. Off-street loading and unloading space. On every lot on which business, trade, or industrial use is hereafter established, space with access to a public street or alley shall be provided as indicated below for the loading and unloading of vehicles on the public street or alley:

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

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

(3) 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. #292, July 2005, as replaced by Ord. #13-394, June 2013)

14-612. Ingress and egress. (1) Plan. (a) A plan for adequate and safe ingress and egress for all land use shall be required. A site plan showing ingress and egress shall be submitted to and approved by the building inspector.

(b) Where two (2) driveways are provided for one (1) lot frontage, the clear distance between driveways shall not be less than twenty-five feet (25').

(c) No point of access shall be allowed within thirty feet (30') of the right-of-way line of any public intersection. (Ord. #09-345, Jan. 2010, as replaced by Ord. #13-394, June 2013)

14-613. Communication facilities. Communication towers for mobile telephone services and other radio and television services which provide for the needs of the citizens of the municipality will use the following standards to minimize adverse visual and operational effects of towers through careful design, siting, and screening; to avoid potential damage to adjacent properties from tower failure and falling ice through engineering and careful siting of towers; and to maximize use of any new communication tower and/or existing structures to reduce the number of towers needed. Application for a building permit for such communication facility shall include:

(1) A report prepared by a professional engineer licensed by the State of Tennessee describing the height and design of the tower, demonstrates the tower's compliance with applicable structural standards, building codes, electrical codes, and fire codes; and describes the tower's capacity, including the number and type of antennas it can accommodate. In case of an antenna mounted on an existing structure, the report shall indicate the existing structure's suitability to accept the antenna and the proposed method of affixing the antenna to the structure. Complete details of all fixtures and couplings and the precise point of attachment shall be indicated.

(2) An adequate report inventorying existing towers and antenna sites within a reasonable distance from the proposed site, outlining the opportunities for shared use as an alternative to the proposed site. The applicant must demonstrate that the proposed tower or antenna cannot be accommodated on an existing approved tower or facility due to one (1) or more of the following reasons:

(a) Unwillingness of the owner to entertain a cellular telephone facility proposal;

(b) The equipment would exceed the structural capacity of the existing approved tower and facilities;

(c) The planned equipment would cause radio frequency interference with other existing or planned equipment, which cannot be reasonably prevented;

(d) Existing or approved towers or facilities do not have space on which proposed equipment can be placed so it can function effectively and reasonably;

(e) Other reasons make it impractical to place the equipment proposed by the applicant on existing and approved towers or facilities.

(3) A site plan shall be approved by the Mount Carmel Regional Planning Commission prior to the building inspector issuing a permit. The following standards shall be used in design of the facilities:

(a) Setback. Minimum setback shall be one hundred percent (100%) of the height of the tower. Setback shall be measured from the base of the tower, or guy-wire supports for lattice towers, to the property line. Ground structures shall not be located within required setbacks.

(b) Landscaping and screening. The visual impact of a telecommunication facility shall be mitigated from nearby views by an evergreen screen located outside the fence. This screen may consist of evergreen trees having a minimum height of six feet (6') at planting and a minimum height of fifteen feet (15') at maturity, or a continuous hedge with three feet (3') height at planting and six feet (6') height at maturity. Sites may be exempted from the landscaping requirement provided the building inspector finds the vegetation or the topography of the site provides a natural buffer.

(c) Fencing. A chain-link fence or solid wall not less than eight feet (8') in height from finished grade shall be provided around each communication facility. Access to the facility shall be through a locked gate.

(d) Lighting. The facility shall not be artificially lighted except to assure human safety or as required by the Federal Aviation Administration. All lighting shall be oriented inward so as not to project unto surrounding property.

(e) Radiation standards. All proposed communications facilities shall comply with standards of the Federal Communications Commission or American National Standards Institute for Non-Ionizing Electromagnetic Radiation (NEIR) and Electro-Magnetic Fields (EMF). Each request for a building permit shall be accompanied by certified documentation or statement from a registered engineer or other professional indicating compliance with these standards.

(f) Aircraft hazard. Communication facilities shall not encroach into or through any established public or private airport approach path as established by the Federal Aviation Administration.

(g) Equipment storage. Mobile or immobile equipment not used in direct support of a tower facility shall not be stored or parked on the site unless repairs are being made.

(h) Removal of obsolete or unused facilities. All obsolete or unused communications facilities shall be removed by the property owner within twelve (12) months of cessation of use. The applicant shall submit an executed removal agreement to ensure compliance with this requirement.

(i) Signs and advertising. The use of any portion of a tower for signs or advertising purposes, including banners, streamers, etc. is prohibited. Warning signs or identification signs will be permitted.

(j) Maintenance. Adequate inspection and maintenance shall be performed to insure the structural integrity of the facility and prevent dangerous conditions occurring on the site.

(k) Access and parking. All access roads and parking areas for facilities adjacent to platted subdivisions, or developed areas shall be paved as required by the zoning ordinance and subdivision regulations. The requirements may be waived by the building inspector for rural or undeveloped areas.

(l) Changes to communication facilities. Any changes to antennae, reception, or transmitting devices shall require review in the same manner as the existing facility was originally approved.

(m) The applicant shall submit this information over the seal of an engineer currently licensed in this state. If such engineer signs an unqualified statement that the changes requested will not exceed the structural design capacities of the tower, the planning commission will consider that application without further review.

(n) If an unqualified engineer statement is not included with the application, an engineer selected by the town will conduct an initial review of the application. The cost of such initial review will be paid by the applicant in an amount specified in the fee schedule and submitted with the application. If the initial review indicates the need for added information, the additional time required to obtain and review the added information will be paid by the applicant at the rate set in the FCC schedule-this will be paid prior to a building permit being issued. (Ord. #292, July 2005, as replaced by Ord. #13-394, June 2013, and amended by Ord. #17-454, July 2017)

CHAPTER 7

MOBILE HOME PARKS

SECTION

14-701. Restricted use of mobile homes.

14-702. Definitions.

14-703. Development standards.

14-704. Enforcement.

14-701. Restricted use of mobile homes. The use of mobile homes as dwellings are permitted only in mobile home parks. (Ord. #292, July 2005, as replaced by Ord. #13-394, June 2013)

14-702. Definitions. For the purpose of this chapter, the following definitions shall apply:

(1) "Health officer" shall mean the health officer of the Hawkins County, Tennessee, or his authorized representative.

(2) "Building inspector" shall mean the building inspector of the Town of Mount Carmel, Tennessee, or his authorized representative. (Ord. #292, July 2005, as replaced by Ord. #13-394, June 2013)

14-703. Development standards. The following property development standards shall apply for all mobile home parks:

(1) The owner of the land proposed for a mobile home park shall submit a plan for development to the Mount Carmel Planning Commission. The plan shall show:

(a) The park plan drawn to scale.

(b) The area and dimensions of the proposed park.

(c) The location and width of all roads.

(d) The location and dimensions of any proposed service buildings and structures.

(e) The location of all water and sewer lines.

(f) The location of all equipment and facilities for refuse disposal and other park improvements.

(g) A stormwater drainage plan of the park.

(h) Water mains shall be properly connected with the community water supply system or with an alternate supply approved by the county health officer. The water mains shall be constructed to serve all lots shown on the mobile home park plat for both domestic use and fire protection. Fire hydrants shall be within five hundred feet (500') of all lots with the location of all the fire hydrants approved by town's fire chief. All fire hydrants shall be served by six inch (6") water mains. The other sizes of water mains, the location and types of valves, the amount of soil

cover over the pipes, and other features of the installation shall be approved by the water system providing the water service, and shall conform with accepted standards of good practice for water systems.

(i) A certificate of accuracy signed by the surveyor and engineer certifying that the park will work as designed and that the park was built as designed by the surveyor and engineer.

(j) Certificate and signature of the health officer.

(k) Any other information deemed pertinent by the planning commission.

(2) Each mobile home park site shall meet the following minimum standards:

(a) Shall have a minimum twenty feet (20') between each mobile home.

(b) All mobile homes, structures, and pavement shall be setback thirty feet (30') from front, side, and rear property lines.

(c) The site shall be located in a flood free area with proper stormwater drainage.

(d) Entrances and exits to the mobile home park shall be designed for safe and convenient movement traffic into and out of the park, and shall be located and designed as prescribed by the planning commission.

(e) There shall be a planted buffer strip along the side and rear property lines. Any part of the park area not used for buildings or other structures, parking, or access ways shall be landscaped with grass, trees, and shrubs.

(f) The park shall be adequately lighted.

(g) Each mobile home park shall provide three (3) off-street parking spaces for each mobile home space. At least two (2) parking spaces shall be provided at the mobile home space with the other parking space may be provided at a convenient parking lot for overflow parking.

(h) Roadways shall have a minimum pavement width of twenty feet (20'). All streets shall be paved with a minimum of two inches (2") of asphaltic concrete, prepared with mineral aggregate laid hot as specified under Section 411, Asphaltic Concrete Surface (hot mix) Grade E, mixed with sand, standard specifications for road and bridge construction, Tennessee Department of Highways, January 2, 1968, and latest revisions thereto.

(i) Each mobile home shall be underpinned.

(j) The site shall not be exposed to objectionable smoke, noise, odors, insect or rodent harborage, or other adverse influences.

(k) Each mobile home space shall be a minimum of two thousand five hundred (2,500) square feet with a minimum of seventy-five feet (75') in depth, and shall abut on a driveway with unobstructed access to open approved public street. Each mobile home shall be set back

a minimum of ten feet (10') from property lines and space lines, and there shall be a minimum distance of twenty feet (20') between mobile homes.

(l) No service building shall be located less than twenty feet (20') from any mobile home space. Service buildings shall be of permanent construction, adequately ventilated and lighted, and built in conformity to all town codes and ordinances.

(m) The public water supply and sanitary sewer connections shall be provided to each mobile home space. Piping and connections shall be as specified and approved by the plumbing inspector.

(n) Each mobile home park shall provide a common area for playgrounds and leisure time pursuits totaling a minimum of five hundred (500) square feet for each mobile home space exclusive of roadways, mobile home spaces, and parking spaces.

(o) All service buildings shall be convenient to the spaces which they solely serve and shall be maintained in a clean and sanitary condition. (Ord. #292, July 2005, as replaced by Ord. #13-394, June 2013)

14-704. Enforcement. These regulations shall be enforced by the building inspector. (Ord. #292, July 2005, as replaced by Ord. #13-394, June 2013)

CHAPTER 8

GROUP HOUSING AND PLANNED UNIT DEVELOPMENT

SECTION

- 14-801. Group housing and planned unit developments.
- 14-802. Development standards.
- 14-803. [Deleted.]

14-801. Group housing and planned unit developments. A group housing or apartment project is defined as any group of two (2) or more buildings to be constructed on one (1) parcel of land. A planned unit development is one defined as a comprehensive residential, commercial, or industrial development where project design does not include standard street, lot, and subdivision arrangements, and where shares, property, or units are to be sold. (Ord. #292, July 2005, as replaced by Ord. #13-394, June 2013)

14-802. Development standards. Group housing or planned unit development projects may be allowed upon review and approval by the Mount Carmel Planning Commission provided that the following are met:

(1) A site plan showing the location of proposed buildings, roads, drives, parking, utilities, drainage, and any other information necessary for review must be presented to the planning commission. Water mains shall be properly connected with the community water supply system or with an alternate supply approved by the county health officer. The water mains shall be constructed to serve all lots shown on the site plat for both domestic use and fire protection. Fire hydrants shall be within five hundred feet (500') of all lots with the location of all the fire hydrants approved by the town's fire chief. If the existing water line is of insufficient size or pressure for a fire hydrant, rough-in connections for future fire hydrants are required. All fire hydrants shall be served by six inch (6") water mains. The other sizes of water mains, the location and types of valves, the amount of soil cover over the pipes, and other features of the installation shall be approved by the water system providing the water service, and shall conform with accepted standards of good practice for water systems.

(2) In no case shall the planning commission approve a use prohibited, a higher density, a greater height, or a larger lot coverage than permitted in the district where the project is located.

(3) A one (1) acre minimum lot size is required.

(4) When property is subdivided for the purpose of selling either proposed or existing townhouses, duplexes, or commercial shopping centers, side yard setbacks will not be required where the units connect.

(5) Public and private roads in all developments in which property is to be subdivided, must be constructed to standards set forth in the Mount

Carmel Subdivision Regulations. All common driveways and parking areas for group housing developments and planned unit developments must be paved with hot asphalt or concrete pavement prior to final approval.

(6) A plat for the conversion of rental units to condominiums must be approved by the Mount Carmel Planning Commission along with a mandatory maintenance agreement to maintain commonly owned land and structures.

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

(8) A certificate of accuracy signed by the surveyor and engineer certifying that the project will work as designed and that it was built as designed by the surveyor and engineer. (Ord. #292, July 2005, as replaced by Ord. #13-394, June 2013)

14-803. [Deleted.] (as added by Ord. #10-355, Oct. 2010, and deleted by Ord. #13-394, June 2013)

CHAPTER 9

PROVISIONS GOVERNING USE DISTRICTS

SECTION

- 14-901. Single Family Residential District R-1.
- 14-902. Multi-Family Residential District R-M.
- 14-903. Mobile Home Park District R-5.
- 14-904. Planned Development District.
- 19-905. Neighborhood Business District B-1.
- 14-906. Arterial Business District B-2.
- 14-907. General Business District B-3.
- 14-908. Shopping Center District B-4.
- 14-909. Mixed Use 1 (MX-1) District.
- 14-910. Mixed Use 2 (MX-2) District.
- 14-911. Industrial District M-1.
- 14-912. Communication facilities.
- 14-913. [Deleted.]
- 14-914. [Deleted.]
- 14-915. [Deleted.]
- 14-916. [Deleted.]

14-901. Single Family Residential District R-1. It is the intent of this district to establish low density residential areas along with open areas which appear likely to develop in a similar manner. The requirements for the district are designed to protect essential rural characteristics of the district, to promote and encourage an environment for family life and to prohibit business activities.

(1) Permitted uses. In order to achieve the intent of the Single Family Residential District R-1 as shown on the Zoning Map of the Town of Mount Carmel, Tennessee, the following uses are permitted:

- (a) Single family dwellings;
- (b) Customary general farming with adequate means of waste disposal;
- (c) Customary home occupations provided that:
 - (i) There is no external evidence of the occupation except an announcement sign not more than two (2) square feet in area;
 - (ii) That only one (1) person, not a resident of the dwelling is employed; and
 - (iii) Not more than thirty percent (30%) of the total floor area of the dwelling is used.
- (d) Publicly owned buildings and uses, schools offering general education, and churches and other semi-public uses provided that:
 - (i) The location of these uses shall first be reviewed and approved by the Mount Carmel Planning Commission;

(ii) The buildings are placed not less than thirty feet (30') from the front, side, and rear property lines;

(iii) There are buffer strips along the side and rear property lines.

(e) Cemeteries.

(2) Accessory uses. (a) Customary accessory buildings provided that they are located in rear yards, meet all setback requirements, and are not closer than three feet (3') to any property line.

(b) However, freestanding garages and carports are permitted in a side yard in accordance with the following provisions:

(i) Must be in the rear or side yard.

(ii) Maximum height of twenty feet (20').

(iii) Maximum floor area of one thousand (1000) square feet.

(iv) Must be constructed of new building materials or equivalent as approved by the building inspector

(v) If the light weight metal type, must be installed per manufacturer's instructions anchored to prevent wind lift and movement, and meet all applicable building codes.

(vi) May only be placed at the same time or after the principal structure is constructed.

(vii) Only one (1) free standing garage or carport may be placed in the side yard of a property, and is limited to one (1) side yard.

(3) Special exceptions. Special exceptions are permitted only with the board of zoning appeals and are allowed in the R-1 Single Family Residential District as follows:

(a) One (1) accessory unit (ADU) may be approved by the Board of Zoning Appeals (BOZA) as a special exception if it finds the use in harmony with the character of the district, and the proposed ADU meets the following conditions:

(i) ADUs may be in the principal building or be in a detached building, but the ADU is limited to eight hundred (800) square feet;

(ii) The owner must reside on the premise either in the principal building or the ADU, and the principal building must be at least one (1) year old;

(iii) The ADU residents will be limited to a family of three (3) or less persons;

(iv) The BOZA may grant a variance to the density and parking requirements if the proposed ADU will be approved by the board of zoning appeals (BOZA) as a special exception if it finds the use in harmony with the character of the district, and the proposed day care center meets the following conditions:

(A) They shall be limited to twenty (20) children or less, and be licensed by the state.

(B) Sites on arterial and collector streets will have to have off street loading and unloading, and parking facilities. Sites on minor residential streets will be evaluated on the basis of traffic volume, speed, and sight distance.

(C) Sites must be resident-occupied.

(D) Sites shall be reviewed by the planning commission.

(b) A freestanding garage or carport may be located in the front yard if approved as a special exception by the board of zoning appeals when found to be in harmony with the character of the district and surrounding land uses, and if it meets all the other conditions of this section.

(4) Prohibited uses. Communications facilities.

(5) Dimensional requirements. The minimum and maximum dimensional requirements for the R-1, Single Family Residential District are as follows:

(a) Minimum requirements. (i) Lot area for lots that are not served with public sanitary sewer, fifteen thousand (15,000) square feet:

(A) Lot frontage, fifty feet (50') on a public street unless the lot is on a cul-de-sac or is considered a flag lot then lot frontage is a minimum of forty feet (40');

(B) Front yard setback, thirty feet (30');

(C) Side yard setback, ten feet (10') except where the side yard fronts another street such as a corner lot then the setback for the street facing side will be twenty feet (20');

(D) Rear yard setback, twenty-five feet (25');

(ii) Lot area for lots served with public sanitary sewer, seven thousand five hundred (7,500) square feet:

(A) Lot frontage, fifty feet (50') on a public street unless the lot is on a cul-de-sac or is considered a flag lot then lot frontage is a minimum of forty feet (40');

(B) Front yard setback, thirty feet (30');

(C) Side yard setback, eight feet (8') except where the side yard fronts another street such as a corner lot then the setback for the street facing side will be twenty feet (20');

(D) Rear yard setback, twenty feet (20').

(b) Maximum permitted. (i) Lot coverage, thirty percent (30%) including accessory buildings;

- (ii) Maximum height, thirty-five feet (35'). (Ord. #292, July 2005, as replaced by Ord. #13-394, June 2013, and amended by Ord. #2014-422, Oct. 2014)

14-902. Multi-Family Residential District R-M. It is the intent of this district to provide areas for multi-family developments such as duplexes, condominiums, and apartments, to encourage development and continued use of the land for residential purposes, to prohibit business and industrial uses and other uses which would interfere with development residential dwellings.

- (1) Permitted uses. (a) Any use permitted in the R-1 Residential District;
- (b) Duplexes;
 - (c) Group housing and planned unit developments.
- (2) Accessory uses. Customary accessory buildings provided that they are located in rear yards, meet all setback requirements, and are not closer than three feet (3') to any property line.

However, freestanding garages and carports are permitted in a side yard in accordance with the following provisions:

- (a) Must be in the rear or side yard.
- (b) Maximum height of twenty feet (20').
- (c) Maximum floor area of one thousand (1000) square feet.
- (d) Must be constructed of new building materials or equivalent as approved by the building inspector.
- (e) If the light weight metal type, must be installed per manufacturer's instructions anchored to prevent wind lift and movement, and meet all applicable building codes.
- (f) May only be placed at the same time or after the principal structure is constructed.
- (g) Only one (1) free standing garage or carport may be placed in the side yard of a property, and is limited to one (1) side yard.

(3) Special exceptions. (a) Multiple family dwellings to include apartments are permitted on review and approval by the Mount Carmel Board of Zoning Appeals and subject to such conditions as the board of zoning appeals may require in order to preserve and protect the character of the district, and provided that no building permit shall be issued without written approval of the board of zoning appeals, and subject to the following minimum standards:

- (i) A complete site plan showing the location of all buildings, courts, recreational areas, drives and walkways, parking lots, refuse disposal containers, drainage system and easements, and landscaping details.
- (ii) There is a minimum twenty-five foot (25') landscaped and planted buffer strip along the side and rear lot line which may

be waived by the planning commission upon exigent circumstances, which shall be stated in the minutes.

(iii) High density multiple family dwellings with the requirement that thirty percent (30%) of the land area shall be covered with vegetation.

(b) A freestanding garage or carport may be located in the front yard if approved as a special exception by the board of zoning appeals when found to be in harmony with the character of the district and surrounding land uses, and if it meets all the other conditions of this section.

(4) Prohibited uses. Commercial and industrial uses.

(5) Dimensional requirements. The minimum and maximum dimensional requirements for the R-2, Multi-Family Residential District are as follows:

(a) Minimum requirements.

(i) Lot area, ten thousand (10,000) square feet;

(ii) Lot frontage, fifty feet (50') on a public street unless the lot is on a cul-de-sac or is considered a flag lot then lot frontage is a minimum of forty feet (40');

(iii) Front yard setback, thirty feet (30');

(iv) Side yard setback. Ten feet (10') except where the side yard fronts another street such as a corner lot then the setback for the street facing side will be twenty feet (20');

(v) Rear yard setback, twenty-five feet (25').

(b) Maximum permitted.

(i) Lot coverage, seventy percent (70%) including accessory buildings;

(ii) Maximum height, thirty-five feet (35'). (Ord. #292, July 2005, as amended by Ord. #10-349, Feb. 2010, replaced by Ord. #13-394, June 2013, and amended by Ord. #2014-422, Oct. 2014)

14-903. Mobile Home Park District R-5. It is the intent of this district to provide for areas for use of mobile homes as a residential use. It is the purpose of the district to provide exclusive areas for mobile homes which will be attractive and at a density which will prevent overcrowding, lessen traffic congestion, provide for adequate sunlight and open space. Within the R-5 residential district as shown on the zoning map of Mount Carmel, Tennessee, the following uses are permitted:

(1) Any use permitted in the R-4 Residential District.

(2) Mobile home parks provided that the park contains a minimum of one (1) acre, that there are no more than eight (8) individual spaces per acre, and provided that all provisions of the mobile home park standards of § 14-703 are met.

(3) Communication facilities are prohibited. (Ord. #292, July 2005, as replaced by Ord. #13-394, June 2013)

14-904. Planned development district. (1) Intent. The intent of this division is to allow flexibility and provide performance criteria for planned developments. This division permits design innovation, encourages a maximum choice of types of environment and living areas available to the public, provides open space and recreational areas, and optional methods of land development which encourage imaginative solutions to environmental design problems. The goal is a development in which building, land use, transportation facilities, utility systems and open spaces are integrated through an overall design. The total parcel, rather than a single lot, is the unit into which the public control is directed. Public regulation through a system of overall site plan review permits flexibility in building siting, a mixture of housing types and uses and the grouping of units to create more usable open spaces for the preservation of significant natural features. The planned development allows for placement of buildings on land without adherence to the conventional lot-by-lot approach common to traditional subdivisions. Such concerns as density are determined on a project basis utilizing the characteristics of the surrounding neighborhood and physical characteristics of the location allowing for the clustering of buildings which not only may create more useful open spaces but also may reduce public facility cost. Commercial entities may be included as part of an overall planned development. Industrial uses are forbidden in a planned development.

- (a) Establishment of districts. Planned development districts may be established prior to submission of development plans by a property owner.
- (b) Qualifying requirements for development.
 - (i) The planned development shall include at a minimum one (1) acre of land.
 - (ii) The planned development shall be harmonious with the area surrounding the development site, and demand on public facilities and services shall not exceed the capabilities of such facilities and services.
- (c) Application for development. A zoning application for a planned development shall include the following items:
 - (i) A statement that the applicant holds title to the entire parcel of land proposed for development or has legally recognized option to the entire parcel of land proposed for development.
 - (ii) A pre-application conference held by the staff to provide for a mutual understanding of the planned development regulations and to discuss the proposed plans of the applicant.

(iii) A written statement outlining the main features of the proposed enterprise, including goals and objectives.

(iv) A legal description of the total site requested for approval.

(d) Preliminary development plan.

(i) A preliminary development plan for a planned development shall contain the following:

(A) Location, size, and shape of the subject property with distances and bearings of the boundary of the site.

(B) Vehicular circulation patterns including common parking areas.

(C) Location of structures and open spaces for the district.

(D) Landscape drainage calculations and erosion control plans. The developer will be required to obtain approved stormwater permits from TDEC and the town. The TDEC permit application will be as specified by TDEC. The stormwater plan/application for the town will be as specified in title 14, chapter 16 of the municipal code, must be prepared and sealed by an appropriate design professional and approved by the planning commission prior to a grading permit being issued.

(E) A development schedule indicating the sequential order for stages of development within the district.

(ii) The following items shall be adequately explained in written or graphic form: relationship of the proposed development to the adjacent land uses, accesses to major streets, approximate locations and sizes of the existing and proposed on-site and off-site public utilities, density and housing characteristics of the project.

(e) Final development plan. A final development plan for a planned development shall:

(i) Be drawn to scale of not less than one inch equals fifty feet (1"=50') using black ink on Mylar-type material containing information as described for the preliminary development plan and including all revisions required by the planning commission. Property lines shall carry accurate bearings, distances and other pertinent physical features. Easements shall carry adequate dimensions.

(ii) Be prepared and signed (with seal) by the appropriate licensed professional.

(iii) Meet all the applicable federal, state, and town regulations.

(iv) Contain quantitative data for the total amount of open space, including materials and techniques utilized such as screens, fences, and walls.

(f) Development standards. (i) Height. The maximum height of buildings and structures in a planned development district shall be harmonious with adjoining districts.

(ii) Density. The intensity of land uses, bulk of buildings, concentration of population and amount of open space shall be generally harmonious to those requirements associated with neighboring districts.

(iii) Frontage. Every dwelling unit shall adjoin a public street or common open space providing access to a public street.

(iv) Periphery yards. The distance between structures and the nearest periphery boundary shall not be less than thirty feet (30') or a distance equal to the height of the building, whichever is greater. Periphery boundaries, yards and height restrictions shall be required as needed to provide for an appropriate transition from adjoining districts. Fences, walls, and vegetation may be required by the planning commission.

(v) Parking. Adequate parking spaces shall be provided at a minimum ratio of two (2) spaces per unit. All required parking shall be off the street. Parking located within the periphery yard of the development district shall be provided with screening from neighboring districts.

(vi) Open spaces. Open spaces shall be classified as public open space, common open space or private open space. At least twenty percent (20%) of the development shall be devoted to permanent, public, or common open space required for recreation. However, in no event shall the periphery yard be considered in meeting these requirements.

(vii) Commercial uses within a planned development. In a planned development of twenty (20) acres or more, commercial 14-29 uses may be permitted. Such commercial uses shall be governed by the following:

(A) Commercial facilities may be permitted in developments of two hundred (200) dwelling units or more. A ratio of one (1) acre of commercial use, including parking, drive, and landscaping, is required for each two hundred (200) residential units.

(B) All access to commercial facilities shall be from internal streets or drives.

(C) Construction of such facilities may begin after twenty-five percent (25%) of the residential units have been occupied.

(D) Commercial areas shall have architectural designs compatible with surrounding residential development as determined by the planning commission.

(viii) Screening. Screening (fencing, walls, or vegetation) shall be provided as required by the planning commission.

(ix) Responsibilities for utility access and open space. The following certificate shall be signed, dated, and placed on the final development plan:

(A) Government and utility access. The owners of this property hereby agree to grant full rights of access to this property over the designated street utilities, and other easements for governmental and utility agencies to perform their normal responsibilities. (Signed and dated by owners.)

(B) Maintenance of common open space. The owners of this property hereby agree to assume full liability and responsibility for the improvement, maintenance and operation of all common open space. (Signed and dated by owners.)

(g) Procedure for development plans. (i) Preliminary development plan. Approval of the preliminary plan of a planned development shall be for a period of twenty-four (24) months, during which time a final development plan shall be filed. If the development plan and zoning map amendment are disapproved by the planning commission and the zoning map amendment is subsequently approved by the board of mayor and aldermen, the commission shall take timely action to consider a preliminary development plan for the subject property.

(ii) Final development plan. The final development plan required in this division shall be submitted to the planning commission within two (2) years of the approval of the zoning map amendment by the board of mayor and aldermen, and the commission shall approve a final development plan for the subject 14-30 property with such conditions as are found necessary. If construction plans have not been submitted in accordance with requirements of this division, the planning commission may institute action for rezoning the property to its previous classification or any other appropriate classification.

(h) Development control following the approval of final development plan.

(i) No building permit shall be issued until the final development plan of the planned development has been approved by the planning commission and its approval and issuance of all building and occupancy permits and restrict the construction,

location, and continuing use of all land, structures and other facilities to the conditions as set forth in the plan.

(ii) The building official shall periodically inspect the site and review all building permits issued to ensure that the development schedule is followed.

(iii) The provision and construction of the common open space any recreational facilities shown on the final development plan must proceed at the same rate as the construction of the dwelling units. If the building official finds that the development schedule has not been followed, no additional permits shall be issued until the owner or developer complies with the development schedule. (Ord. #292, July 2005, as replaced by Ord. #13-394, June 2013)

14-905. Neighborhood Business District B-1. 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 achieve the intent of the district, as shown on the zoning map of the Town of Mount Carmel, Tennessee, the following uses are permitted:

(1) Funeral homes, churches, fraternal organizations and clubs, public and semi public uses;

(2) Grocery stores, drug stores, hardware stores, shoe repair shops, barber and beauty shops, laundromats and laundry pick-up stations, restaurants, large day care centers and similar uses;

(3) 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 the intersection of street lines. (Ord. #292, July 2005, as replaced by Ord. #13-394, June 2013)

14-906. Arterial Business District B-2. It is the intent of this district to establish business areas that encourage the groupings of compatible business activities in which parking and traffic congestion can be reduced to a minimum. In order to achieve the intent of this district, as shown on the zoning map of the Town of Mount Carmel, Tennessee, the following uses are permitted:

(1) Stores and shops conducting retail business can be located on any floor.

(2) Personal, business, and professional services shall be located on any floor other than the ground level.

(3) Public and semi-public buildings and uses provided that public and semi-public buildings uses shall first be reviewed and approved by the Mount Carmel Regional Planning Commission;

(4) Accessory uses. Accessory uses which are accessory, incidental and subordinate to principal uses are permitted in the B-2 district as follows:

(a) Parking when accessory and incidental to a permitted principal use.

(b) Business signs when accessory and incidental to a permitted principal use.

(c) Outside storage is permitted in the B-2 district by special exception pursuant to § 14-1404(2), upon application to the board of zoning appeals, and shall be granted by the board only after the applicant has demonstrated to the satisfaction of the board that the use is so designed, located and proposed to be operated that the public health, safety and welfare will be protected. The board shall determine from its review that approval of the permit will not adversely affect other property in the area to the extent that it will impair the reasonable long-term use of those properties and the operational and physical characteristics of the special exception shall not adversely impact abutting properties. Site design and architectural features which contribute to compatibility include, but are not limited to, landscaping, drainage, access and circulation, building style and height, bulk, scale, setbacks, open areas, roof slopes, building orientation, overhangs, porches, ornamental features, exterior materials and colors. The applicant shall demonstrate how the proposed use will not adversely affect the safety and convenience of vehicular and pedestrian circulation in the area. Notwithstanding a finding by the board that a special exception application satisfies the minimum development standards of this article, the board may restrict the hours of operation, establish permit expiration dates, require extraordinary setbacks and impose other reasonable conditions necessary to protect the public health, safety and welfare. (Ord. #292, July 2005, as replaced by Ord. #13-394, June 2013)

14-907. General Business District B-3. It is the intent of this district to provide for business uses which need some buffering from other business uses and have some aspects closely associated with manufacturing. In order to achieve the intent of this district, as shown on the zoning map of the Town of Mount Carmel, Tennessee, the following uses are permitted:

(1) Any use permitted in the B-2 District;

(2) Wholesale business, warehouses, storage yards and buildings and similar uses;

(3) Places of amusement and assembly;

(4) Public and semi-public buildings and uses. (Ord. #292, July 2005, as replaced by Ord. #13-394, June 2013)

14-908. Shopping Center District B-4. It is the intent of this district to establish areas for concentrated retail business development. Uses that do not

require a central location and create friction in the performance of this function will be discouraged from this district. The requirements are designed to protect the essential characteristics of the district by promotion of retail business which serve the general public, and to discourage industrial, wholesale development and similar land uses. In order to achieve the intent of the B-4 Shopping Center District, as shown on the zoning map of Mount Carmel, Tennessee, the following uses are permitted:

- (1) Business signs as permitted in the B-1 district;
- (2) Shopping centers, stores and shops conducting retail business, and restaurants;
- (3) Special exceptions, upon a finding by the board of zoning appeals that the land uses will be in harmony with the character of this district, and in support of the retail businesses in this district. The intensity of land use may be no higher, and the standard for open space no lower than generally permitted in this district. The following land uses may be considered for a special exception:
 - (a) Motels;
 - (b) Small professional offices;
 - (c) Service businesses; and
 - (d) Similar land uses. (Ord. #292, July 2005, as replaced by Ord. #13-394, June 2013)

14-909. Mixed Use 1 (MX-1) District. It is the intent of this district to establish business areas that encourage the groupings of compatible business activities in which parking and traffic congestion can be reduced to a minimum. In order to achieve the intent of this district, as shown on the zoning map of the Town of Mount Carmel, Tennessee, the following uses are permitted:

- (1) Retail business, personal, business, and professional services.
- (2) Public and semi-public buildings.
- (3) Permitted uses. Residential on any floor except the first (ground) level floor.
- (4) Accessory uses: Accessory uses which are accessory, incidental and subordinate to principal uses are permitted in the MX-1 district as follows:
 - (a) Parking when accessory and incidental to a permitted use.
 - (b) Signage when accessory and incidental to a permitted use.
 - (c) Outside storage is permitted in the MX-1 district by special exception pursuant to § 14-1404(2), upon application to the board of zoning appeals, and shall be granted by the board only after the applicant has demonstrated to the satisfaction of the board that the use is so designed, located and proposed to be operated such that the public health, safety, and welfare will be protected. The board shall determine from its review that approval of the permit will not adversely affect other property in the area to the extent that it will impair the reasonable long-term use of those properties and the operational and physical characteristics of the

special exception shall not adversely impact abutting properties. Site design and architectural feature which contribute to compatibility include, but are not limited to, landscaping, drainage, access and circulation, building style and height, bulk, scale, setbacks, open areas, roof slopes, building orientation, overhangs, porches, ornamental features, exterior materials and colors. The applicant shall demonstrate how the proposed use will not adversely affect the safety and convenience of vehicular and pedestrian circulation in the area. Notwithstanding a finding by the board that a special exception application satisfies the minimum development standards of this article, the board may restrict the hours of operation, establish permit expiration dates, require extraordinary setbacks and impose other reasonable conditions necessary to protect the public health, safety and welfare.

(5) Prohibited uses: Fortune tellers, clairvoyants, methadone and substance abuse clinics, communication facilities. (as added by Ord. #14-403, June 2014, and amended by Ord. #2014-422, Oct. 2014)

14-910. Mixed Use 2 (MX-2) District. It is the intent of this district to establish combined business and residential areas that encourage compatibility with surrounding land uses. In order to achieve the intent of this district, as shown on the zoning map of the town of Mount Carmel, Tennessee, the following uses are permitted:

- (1) Retail business, personal, business, and professional services.
- (2) Public and semi-public buildings and uses.
- (3) Permitted uses the same as the R-M district.
- (4) Accessory uses. Accessory uses which are accessory, incidental and subordinate to principal uses are permitted in MX-2 district as follows:
 - (a) Parking when accessory and incidental to a permitted use.
 - (b) Signage when accessory and incidental to a permitted use.
- (5) Prohibited uses. Fortune tellers, clairvoyants, methadone and substance abuse clinics, communication facilities, outdoor storage facilities. (as added by Ord. #14-403, June 2014)

14-911. Industrial District M-1. It is the intent of this district to establish industrial areas along with open areas which will likely develop in a similar manner. The requirements established in the district regulations are designed to protect the essential characteristics, to promote and encourage industrial, wholesaling and business uses.

In order to achieve the intent of the district as shown on the zoning map of the Town of Mount Carmel, Tennessee, the following uses are permitted:

- (1) Any use permitted in the B-3 business districts except residences;
- (2) Terminals;

(3) Any industry which does not cause injurious or obnoxious noise, fire hazards or other objectionable conditions as determined by the building inspector.

(4) Fortune tellers, clairvoyants.

(5) Uses permitted by special exception. (a) Methadone treatment clinic or facility, substance abuse treatment.

(i) The consideration for approval by the board of zoning appeals of a methadone treatment clinic or facility and substance abuse treatment facility shall be contingent upon the receipt of the appropriate license and certificate of need by the State of Tennessee.

(ii) Maps showing existing land use and zoning within one-quarter (1/4) mile of the proposed site should be submitted with an application for use of review approval along with the license of the applicant, certificate of need, site plan, survey, or other information deemed reasonable by the board of zoning appeals for use in making a thorough evaluation of the proposal.

(iii) The clinic or facility shall be located on and have access to a principal arterial street.

(iv) Measurement shall be made in a straight line on the zoning map from the nearest property line of the lot on which the methadone treatment clinic or facility and substance abuse treatment facility is situated to the nearest property line of the following uses:

(A) The clinic or facility shall not be located within one thousand feet (1,000') of a school, day care facility, park, church, synagogue, mosque, mortuary or hospital.

(B) The clinic or facility shall not be located within one thousand feet (1,000') of any establishment that sells alcoholic beverages for either on or off premises consumption.

(C) The clinic or facility shall not be located within one thousand feet (1,000') of any area devoted to public recreation activity.

(D) The clinic or facility shall not be located within one thousand feet (1,000') of any amusement catering to family entertainment.

(E) The site shall not be less than one thousand feet (1,000') of any residential dwelling at the time of approval.

(F) The site shall not be less than one-half (1/2) mile from any other methadone treatment clinic or facility and substance abuse treatment facility.

(v) In interpreting this subsection (4)(a), the following definitions shall apply:

(A) "Medical clinic." A licensed facility for examining and treating patients with medical problems on an outpatient basis other than a methadone treatment clinic or facility or substance abuse treatment facility.

(B) "Methadone treatment clinic or facility." A licensed facility for counseling of patients and the distribution of methadone for outpatient, nonresidential purposes only other than a medical clinic or substance abuse treatment facility.

(C) "Substance abuse treatment facility." A licensed facility with purpose of providing outpatient treatment, counseling or similar services to individuals who are dependent on legal and illegal drugs, opiates, alcohol or other similar substances other than a medical clinic or methadone treatment clinic or facility. (Ord. #292, July 2005, as replaced by Ord. #13-394, June 2013, and renumbered and amended by Ord. #14-403, June 2014)

14-912. Communication facilities. The following districts may include communications facilities as special exceptions permitted only with approval of the Mount Carmel Regional Planning Commission:

R-2 Medium Density Residential District

R-3 Medium Density Residential District

R-4 High Density Residential District

Professional Office and Service District 0-1

Neighborhood Business Districts B-1

Central Business District B-2

Shopping Center Districts B-4 (Ord. #340, May 2009, as replaced by Ord. #13-394, June 2013, and renumbered by Ord. #14-403, June 2014)

14-913. [Deleted.] (Ord. #292, July 2005, as deleted by Ord. #13-394, June 2013, and renumbered by Ord. #14-403, June 2014)

14-914. [Deleted.] (Ord. #292, July 2005, as deleted by Ord. #13-394, June 2013, and renumbered by Ord. #14-403, June 2014)

14-915. [Deleted.] (Ord. #292, July 2005, as amended by Ord. #10-348, Feb. 2010, and deleted by Ord. #13-394, June 2013, and renumbered by Ord. #14-403, June 2014)

14-916. [Deleted.] (Ord. #292, July 2005, as deleted by Ord. #13-394, June 2013, and renumbered by Ord. #14-403, June 2014)

CHAPTER 10

AREA, YARD AND HEIGHT REQUIREMENTS

SECTION

14-1001. Table 1.

14-1001. Table 1. Table 1 below establishes area, yard and height requirements.

Minimum Lot Size		Minimum Yard (Open Space) Requirements From Property Lines (feet)			Maximum Height of Structures (feet)
District	Square Feet	Front	Sides	Rear	
R-1	15,000	30	10	25	35
R-1	7,500	30	8	20 where water/sewer available	35
R-M	10,000	30	10	25	35
R-M	7,500	30	8	20 For single family residential only, where water/sewer available	35
R-5	8/acre	30	10	25	35
B-1		30	10	25	35
B-2		30	10	25	70
B-3		30	10	25	70
B-4		30	10	25	70
MX-1		30	10	25	70
MX-2		30	10	25	70
M-1		30	10	25	70

(Ord. #292, July 2005, as amended by Ord. #338, Feb. 2009, and Ord. #10-349, Feb. 2010, replaced by Ord. #13-394, June 2013, and amended by Ord. #14-403, June 2014)

CHAPTER 11

EXCEPTIONS AND MODIFICATIONS

SECTION

14-1101. Lot of record.

14-1102. Front yards.

14-1103. Areas bound by railroad and other barriers.

14-1101. Lot of record. Where the owner of a lot consisting of one (1) or more adjacent lots of official record at the time of the adoption of this title does not own sufficient land to enable him to conform to the yard or other requirements of this title, an application may be submitted to the board of zoning appeals for a variance from the terms of this title, in accordance with § 14-1304(b). Such lot may be approved as a building site by the BOZA, provided, however, that the yard and other requirements of the district are complied with as closely as is possible. (Ord. #292, July 2005, as replaced by Ord. #13-394, June 2013)

14-1102. Front yards. The front yard requirements of this title for dwellings shall not apply to any lot where the average depth of existing front yards on developed lots, located within one hundred feet (100') on each side of such lot and within the same block and zoning district and fronting on the same street as such lot, is less than the minimum required front yard depth. In such case, the minimum front yard shall be the average of the existing yard depths on the developed lots. (Ord. #292, July 2005, as replaced by Ord. #13-394, June 2013)

14-1103. Areas bound by railroad and other barriers. (1) These standards take precedence over any conflicting zoning regulations found within the corresponding zoning districts.

(2) Where a lot is bounded by the railroad to the north, Main Street to the south, Hammond Avenue to the east and the Church Hill Municipal Boundary to the west the setbacks are as follows:

(a) Rear setback: Zero feet (0') for a one (1) story structure and ten feet (10') for two (2) or more story structures;

(b) Side yard setback: Five feet (5'); and

(c) Front yard setback: Thirty feet (30').

(3) Where a parking lot is bounded by the railroad to the north, Main Street to the south, the corporate limits with the City of Kingsport to the east and the Church Hill Municipal Boundary to the west the setbacks are as follows:

(a) Front yard setback: Ten feet (10') from the edge of the pavement on Main Street for future sidewalk installation.

(4) Minimum depth of a structure located on an arterial street. The minimum setback for structures located on an arterial street is forty feet (40') from the established street right of way.

NOTE 1: The R-5 district minimum lot size shall be one (1) acre with no more than eight (8) mobile homes or units per acre.

NOTE 2: The R-4 density shall apply to all business and manufacturing zones for residential dwelling units. (as added by Ord. #13-394, June 2013)

CHAPTER 12

SIGN REGULATIONS

SECTION

- 14-1201. Purpose.
- 14-1202. Conformance.
- 14-1203. Permit.
- 14-1204. Prohibited signs.
- 14-1205. General provisions.
- 14-1206. District provisions.
- 14-1207. Administration.

14-1201. Purpose. The purpose of this chapter is to regulate the erection, location and maintenance of all exterior signs within the Town of Mount Carmel. These regulations are established as a reasonable and impartial method of controlling advertising structures so as to protect property values, the visual character of Mount Carmel development, and the public health, safety and welfare. Signs are deemed to be an accessory and incidental use to the land and building which they identify or advertise. It is intended that such signs will be appropriate and adequate, but not excessive, in performing their identification or advertising function. (Ord. #292, July 2005)

14-1202. Conformance. All signs erected, replaced, reconstructed, expanded, or relocated on any property shall conform with the provisions of this chapter and with all other pertinent laws or ordinances of the Town of Mount Carmel. All portable signs erected and in existence prior to the effective date of this title are deemed non-conforming. A grace period of ninety (90) days from the date of adoption of this title shall be granted for portable signs after which all such non-conforming signs shall be required to be removed. (Ord. #292, July 2005)

14-1203. Permit. (1) Permit. No signs, except as outlined below, shall be erected, remodeled, relocated, or expanded until an application containing information as required is made and a permit issued by the building inspector.

(2) Exceptions to permit requirements are: (a) Signs generally permanent in nature:

(i) Official signs. Traffic or other public signs, historical signs, legal notices, railroad crossing signs, danger signs, and such temporary, emergency or other non advertising signs as may be approved and/or erected by the city, county, state or federal government.

(ii) On-site directional or location signs. Small signs, not to exceed two (2) square feet in area, to identify underground

public utilities, public telephones and restrooms, parking areas, freight entrances, etc., or to direct traffic movement onto or within a premise.

(iii) Permanent subdivision signs. Indicating the name of the subdivision shall be permitted only after said sign has been approved by the planning commission.

(iv) Warning signs. Sign no larger than four (4) square feet in area warning the public against hunting, fishing, trespassing, swimming or the like or to advise of dangerous animals, hazardous wastes, unsafe conditions or the like on the applicable property.

(b) Signs which exist for only a limited time period:

(i) Official notices and campaigns. Official notices of government, political, civic, philanthropic, educational or religious campaign signs not to exceed fifteen (15) square feet and three (3) months time duration. Each of these signs is to be removed within ten (10) calendar days of notice action date. Political campaign advertising shall not be placed on highway rights-of-way or other publicly owned property and shall be removed from other properties within a reasonable period of time, not to exceed three (3) weeks, following the election.

(ii) Real estate signs. One (1) unlighted real estate sign on premises of property for sale, lease, or rental not to exceed four (4) square feet in residential or twenty-four (24) square feet in any other district. Such signs shall be removed within ten (10) calendar days of the sale, rental, or lease of said premises.

(iii) Yard sale signs. One (1) unlighted yard sale sign on premises of property that the sale takes place, not to exceed four (4) square feet. Such signs shall be removed within ten (10) calendar days of the sale. One (1) off-premises directional sign not to exceed four (4) square feet is permitted and shall be removed within two (2) calendar days of the sale.

(iv) Construction signs. No more than one (1) on site sign per street property frontage identifying the owner, financiers, professional design firms and contractors associated with construction, alteration, or removal or subdivision identifying the developer's purpose, excluding any product advertisement. Each permitted sign shall not exceed twenty-four (24) square feet. Construction signs in residential areas are limited to four (4) square feet in size. All signs shall be removed within ten (10) calendar days after completion of construction and be displayed no longer than one (1) year from the date of erection.

(v) Business announcements. Unlighted temporary signs not to exceed twenty four (24) square feet are permitted in a

commercial zone for a period of not more than thirty (30) days. If erected for greater than thirty (30) days a sign permit is required. (Ord. #292, July 2005)

14-1204. Prohibited signs. (1) Off premises signs. All off premises signs not specifically mentioned shall not be permitted.

(2) Portable signs. Portable signs, folding signs and similar moveable signs are prohibited. A portable sign is deemed as any sign which is or is intended to be affixed or mounted to a frame with wheels for the expressed purpose of easy mobility, and is intended ordinarily to be leased for short periods of time for promotional sales, grand openings, etc. Any sign which does not conform to the International Building Code shall be considered in violation of these regulations.

(3) Roof-mounted signs. Any signs attached to a building shall not be located upon the roof nor project above the building.

(4) Animated signs. Any sign which contains flashing or intermittent red, blue, green or amber illumination or contains any part which is in motion, flutters, rotates, except for the hands of a clock, is prohibited.

(5) Billboards. All signs which advertise or are intended to advertise a product, service or other business not located on the premises are not allowed.

(6) Other signs. Any sign not provided for in this ordinance shall be prohibited. (Ord. #292, July 2005)

14-1205. General provisions. The following shall apply in all zoning districts:

(1) Operations. The changing of copy on an approved sign specifically designed for use of replaceable copy, the painting, repainting, cleaning or other normal maintenance, unless a structural change is made, shall not require a building permit.

(2) Traffic hazards. Signs are prohibited which may interfere with, mislead or confuses traffic through use of improperly working graphics, location, size, shape or color and thereby interfere with traffic signals, control signs or other aspects of safe street conditions. No sign shall use the words "Stop," "Go," "Caution," "Yield," or other such words when such would be confused with traffic fifteen feet (15') to an intersection right-of-way.

(3) Lighting. Any lighting arrangement with exposed tubes or strings or lights that causes direct glare upon an unrelated building, driver or passerby are prohibited Any sign displaying flashing or intermittent lights or changing colors are prohibited. Signs indicating time, temperature, and barometric pressure are permitted if they do not interfere with public safety or create a traffic hazard.

(4) Trees and utility poles. No signs shall be attached to trees or utility poles.

(5) Height clearance. All signs shall have a minimum clearance of ten feet (10') above a walkway.

(6) Set back. Unless otherwise restricted no sign shall project beyond a property line, and no part of any sign shall be closer than five feet (5') to any street right-of-way. Those free-standing signs described in subsections B.5.c, B.5.d, and B.5.e and located along Main Street shall be located no closer than fifteen feet (15') from the edge of the street pavement. Wall signs shall not project more than eighteen inches (18") from the exterior of a building.

(7) Sign content. Signs which contain statements or words of obscene, pornographic, or immoral character, contain matter which is untruthful or emit audible sound, odor or visible matter are prohibited.

(8) Off premises directional signs. Signs shall be mounted on a single pole provided at the discretion of the Town of Mount Carmel at major street intersections. Each attached sign shall be approved by the building inspector and shall conform to a standard design. The maximum sign area is six (6) square feet.

(9) Electric message board signs. Except as provided in this section, electronic message boards are allowed on in the following zoning districts: B-1, B-2, MX1, MX2, M-1 as follows:

(a) Only one (1) freestanding electronic message board to convey information by works, letters, or still pictures shall be permitted for each development, provided that at least one (1) parcel within the development has minimum frontage of fifty feet (50') and the electronic message board sign is mounted along the parcel front.

(b) The electronic message board must be a part of the primary freestanding sign and must not exceed fifty percent (50%) of the total sign square footage permitted in the underlying zoning district.

(c) The maximum height of the sign is as permitted in the zoning district.

(d) Electronic message boards shall include an automatic dimmer. The maximum allowable brightness of an electronic message board shall not exceed four thousand (4,000) Nits during the hours between sunrise and sunset and one thousand (1,000) Nits after sunset and before sunrise.

(e) Electronic message board signs shall not interfere with traffic signal devices as determined by the police chief and public works director.

(f) Electronic message board signs shall not be used for off-premises advertising.

(7) Flashing text shall be prohibited.

(8) Any display on an electronic message board sign shall be for a minimum of five (5) seconds in duration. Any message change shall be completed within one (1) second, shall be simultaneous, and fixed in place

for a minimum five (5) seconds.(Ord. #292, July 2005, as amended by Ord. #17-451, May 2017)

14-1206. District provisions. (1) Low Density Residential District, R-1. (a) Home occupations. Conducted in a dwelling are permitted one (1) sign provided the area of one (1) side of the sign does not exceed three (3) square feet and the sign shall not be illuminated by any means.

(b) Yard sale signs. One (1) yard sale sign is permitted provided the area of one (1) side of the sign does not exceed four (4) square feet, the sign shall not be illuminated by any means and the sign shall be placed no more than two (2) days prior to the day the sale is to take place.

(2) Medium Density Residential District, R-2 and R-3. (a) Same as for low density residential districts, R-4.

(3) High Density Residential District, R-4. (a) As for medium density residential district, R-2 and R-3.

(b) Multi-family development. One (1) permanent identification sign is permitted at each major street access provided that such signs do not exceed twenty-four (24) square feet in area per side with a maximum number of two sides, height of sign shall not exceed twelve feet (12'), signs shall be set back a minimum of twenty feet (20') from any property line, and the sign shall be indirectly illuminated.

(4) Mobile Home District, R-5. (a) Same as for high density residential district, R-4.

(5) Neighborhood Business District, B-1. (a) As for high density residential district, R-3.

(b) Single tenant business and multi-tenant center permitted one freestanding sign provided that sign area shall not exceed twenty-four (24) square feet in area per side of sign and height of sign shall not exceed twelve feet (12'). Wall signs are permitted provided the aggregate sign surface area does not exceed twenty percent (20%) of the facade on which the signs are to be displayed.

(6) Arterial Business District, B-2. (a) As for Neighborhood Business District, B-1, with the exception that maximum sign height shall be forty feet (40') and the freestanding sign area shall not exceed one hundred twenty-five (125) square feet.

(7) General Business District, B-3. (a) As for Arterial Business District, B-2.

(8) Industrial District, M-1. (a) Upon review and approval of the planning commission.

(9) Shopping District, B-4. (a) Upon review and approval of the planning commission. (Ord. #292, July 2005)

14-1207. Administration. (1) Permits. A schedule of fees for permits shall be set by resolution of the board of mayor and aldermen from time to time

as circumstances require. Permits for signs shall become null and void if the sign is not installed within six (6) months after the date of issuance of the permit.

(2) Inspection. The building inspector shall inspect at any time that he deems necessary each sign regulated by this article to insure that such sign conforms to this article and all other city ordinances.

(3) Permit revocation. The building inspector is hereby authorized and empowered to revoke any permit upon failure of the holder thereof to comply with any provision of this code.

(4) Unsafe and unlawful signs. If the building inspector finds that any sign is unsafe or not secure or is a menace to the public or has been constructed or erected or is being maintained in violation to the provisions of this article, he shall give written notice to the owner of the sign and/or the property and/or the architect, builder, contractor, or agent for both or either requiring the sign to be made safe and secure or to be removed. If the sign is not removed or altered so as to render it safe and secure, the building inspector shall proceed with action to remove or secure it as provided by law. The building inspector may cause any sign which is an immediate danger to persons or property to be removed immediately and without notice. The written notice is not required for sign allowed in § 14-1203(2)(b).

(5) Abandoned signs. Signs which advertise a discontinued use of a building shall be removed within forty-five (45) days from the date the use was terminated. If such signs are not removed with this time period, they shall be removed at the direction of the building inspector. The cost of removal shall be placed as a lien against the property until such cost is paid.

(6) Appeals. Disputes on questions of conformity to the regulations shall be resolved by the board of zoning appeals. (Ord. #292, July 2005)

CHAPTER 13

ENFORCEMENT

SECTION

14-1301. Enforcing officer.

14-1302. Building permits and certificates of occupancy.

14-1303. Remedies.

14-1301. Enforcing officer. The provisions of this ordinance shall be administered and enforced by a building inspector appointed by the mayor and approved by the board of mayor and aldermen, who shall have the power to make inspection of buildings or premises necessary to carry out his duties in the enforcement of this ordinance. (Ord. #292, July 2005)

14-1302. Building permits and certificates of occupancy.

(1) Building permit required. It shall be unlawful to commence excavation for 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 a building permit for such work.

(2) Issuance of a building permit. In applying to the building inspector for a building permit, the applicant shall submit a dimensional sketch or a scale plan indicating the shape, size, height, location on the lot 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 this ordinance are being observed. If the proposed excavation or construction as set forth in the application is in conformity with the provision of this ordinance and other ordinances then in force, and the use is for one (1) or two (2) family residential in a residential zone, the building inspector shall issue a building permit for such excavation or construction; if the use is other than for one (1) or two (2) family residential in a residential zone, the building inspector shall forward the application to the planning commission for its consideration along with the recommendation of the building inspector and the reasons therefore. The planning commission shall determine whether the application conforms with the provisions of this ordinance and other ordinances then in force and if so shall issue a building permit for such excavation or construction; if not, the planning commission may direct the applicant on what must be done to comply or deny the application. The building inspector shall not issue a building permit for other than one (1) or two (2) family residential in a residential zone without the approval of the planning commission. If a building permit is refused, the building inspector shall state such refusal in writing with the cause therefore.

(a) The issuance of a permit shall in no case be construed as waiving any provision of this ordinance.

(b) A building permit shall become void six (6) months from the date of issuance unless substantial progress has been made by that date on the project described therein.

(3) Certificate of occupancy. No land or building or part thereof hereafter erected or altered in its use or structure shall be used until the building inspector shall have issued a certificate of occupancy stating that such land, building, or part thereof, and the proposed use thereof are found to be in conformity with the provisions of this ordinance and other ordinances of the town.

(4) Records. A complete record of such application, sketches and plans shall be maintained in the office of the building inspector. (Ord. #292, July 2005, as amended by Ord. #09-345, Jan. 2011)

14-1303. Remedies. In case any building, structure, or sign is erected, reconstructed, constructed, repaired, converted, or maintained, or any building, structure, or land is used in violation 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 illegal occupancy or use of such building, sign, structure or land. (Ord. #292, July 2005)

CHAPTER 14

BOARD OF ZONING APPEALS

SECTION

14-1401. Creation and appointment.

14-1402. Procedure.

14-1403. Appeals.

14-1404. Powers.

14-1401. Creation and appointment. A board of zoning appeals is hereby established in accordance with Tennessee Code Annotated, § 13-7-205. The Mount Carmel Planning Commission is hereby designated as the board of zoning appeals. It shall be appointed by the mayor of the town and confirmed by the majority vote of the board of mayor and aldermen. The term of individual membership shall be concurrent with the member's term on the Mount Carmel Planning Commission. (Ord. #292, July 2005)

14-1402. Procedure. Meetings of the board of zoning appeals shall be held at the call of the chairman, and at such other times as the board may determine. All meetings of the board of zoning appeals shall be open to the public. The board shall adopt rules of procedure and shall keep records of applications and actions thereon which shall be a public record. (Ord. #292, July 2005)

14-1403. Appeals. An appeal to the board of zoning appeals may be taken by any person, firm or corporation aggrieved, or by any governmental office, or department, board or bureau affected by a decision of the building inspector based in whole or in part upon the provision of this ordinance. Such appeal shall be taken by filing with the board of zoning appeals a notice of appeal, specifying the grounds thereof. The building inspector shall transmit 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 person or party may appear and be heard in person or by agent or by attorney. (Ord. #292, July 2005)

14-1404. 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 this ordinance.

(2) Special exception. The board of zoning appeals may, in appropriate cases and subject to the principles, standards, rules, conditions and safeguards set forth in the zoning title make special exceptions to the terms of the zoning title in harmony with their general purpose and intent. The board of zoning appeals may also interpret the zoning maps and pass upon disputed questions of lot lines or district boundaries or similar questions as they arise in the administration of the zoning regulations.

(3) Variance. To hear and decide applications for variance from the terms of this ordinance but only where, by reason of exceptional narrowness, shallowness or shape of a specific piece of property at the time of the adoption of this ordinance was a lot of record; or where by reason of exceptional topographic conditions or other extraordinary or exceptional situations or conditions or a piece of property the strict application of the provisions of this ordinance 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 this ordinance as specifically authorized in §§ 14-1001 and 14-1002.

(a) 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 ordinance.

(b) 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. #292, July 2005, as amended by Ord. #2014-422, Oct. 2014)

CHAPTER 15

AMENDMENT

SECTION

14-1501. Procedure.

14-1502. Approval by planning commission.

14-1503. Introduction of amendment.

14-1501. Procedure. Such regulations, restrictions and boundaries as are provided for in the zoning ordinance may be amended, supplemented, changed, modified or repealed. All changes and amendments shall be effective only after official notice and public hearings as herein provided. An application for an amendment to this chapter that has been denied shall not be reinstated sooner than twelve (12) months from the date of the denial, unless in the opinion of the planning commission substantial changes in conditions or circumstances have occurred. (Ord. #292, July 2005)

14-1502. Approval by planning commission. No amendment shall become effective unless it is first submitted to and approved by the planning commission or, if disapproved, unless it shall receive a majority vote of the entire membership of the board of mayor and aldermen. Prior to planning commission action on any proposed zoning map revision or amendment, the planning commission may give public notice of such proposed revision or amendment by erecting an appropriate sign on the property that would be affected by the proposed change, and it may send a notice of the time and place for a public hearing by the planning commission on the proposed amendment to owners fronting or abutting the property in question. (Ord. #292, July 2005, as amended by Ord. #19-482, March 2019 *Ch7_10-24-19*)

14-1503. Introduction of amendment. Applications for amendments to this chapter shall be filed with the recording secretary of the planning commission and shall contain information and shall follow the procedures established by the planning commission. The planning commission also may establish a schedule of fee payments for such amendments and may require such fees to accompany the filing of an application in order to defray administrative costs of application processing. Upon the introduction of an amendment to the zoning ordinance or upon the receipt of a petition to amend the zoning ordinance, the board of mayor and aldermen shall publish a notice of such request for an amendment, together with the notice of time set for a public hearing by the board of mayor and aldermen on the requested change. Said notice shall be published in a newspaper of general circulation. 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. #292, July 2005)

CHAPTER 16**STORMWATER MANAGEMENT, EROSION
AND SEDIMENTATION CONTROL****SECTION**

- 14-1601. Short title.
- 14-1602. Purpose.
- 14-1603. Definitions.
- 14-1604. Regulated land disturbing activities.
- 14-1605. Permit required for any land disturbing activity.
- 14-1606. Grading, vegetation, drainage, and erosion and sedimentation control plans required.
- 14-1607. Plan requirements.
- 14-1608. Stormwater system design and management standards.
- 14-1609. Plan must contain measures to meet approved standards.
- 14-1610. Priority construction sites.
- 14-1611. Buffers.
- 14-1612. Permanent stormwater management facilities.
- 14-1613. Plan development at owner's/developer's expense.
- 14-1614. Plan submitted to building inspector.
- 14-1615. Speedy review of plan.
- 14-1616. Grading permit and bond.
- 14-1617. Building inspector and/or town designee may require additional protective measures.
- 14-1618. Retention/detention facilities and drainage structures maintained.
- 14-1619. Improperly maintained retention/detention facilities and drainage structures a violation.
- 14-1620. Town may take ownership of retention facilities and drainage structures.
- 14-1621. Technical assistance.
- 14-1622. Building inspector and/or designee responsible for providing safeguards in projects of less than one (1) acre or utilizing less than three (3) lots.
- 14-1623. Grading permit also required for any project on less than one (1) acre involving grading, filling, or excavation.
- 14-1624. Existing developed properties with drainage, erosion and sediment concerns.
- 14-1625. Improvements required in existing development normally at owner's expense.
- 14-1626. Town may take responsibility for existing retention facilities and drainage structures.
- 14-1627. Improvements needed at existing locations determined by the building inspector and/or town designee.

- 14-1628. Improvements required with existing developments subject to appeal.
- 14-1629. Post construction.
- 14-1630. Illicit discharges.
- 14-1631. Monitoring, reports, and inspections.
- 14-1632. Mud/silt debris/other pollutants in street/stream,
- 14-1633. Certificate of occupancy not issued until compliance with plan verified.
- 14-1634. Plan construction acceptance and bond release. Drainage and sedimentation control plan activities must be inspected and accepted by the building inspector and/or the town designee.
- 14-1635. Appeal of administrative action.
- 14-1636. Town clean up resulting from violations at developer/owner's expense.
- 14-1637. Penalties enforcement.

14-1601. Short title. This chapter shall be known as the Stormwater Management, Erosion and Sedimentation Control Ordinance of the Town of Mount Carmel, Tennessee. (Ord. #334, June 2008)

14-1602. Purpose. The purpose of this chapter is to conserve the land, water and other natural resources of the Town of Mount Carmel and Hawkins County; and promote the public health and welfare of the people by establishing requirements for the control of stormwater, erosion and sedimentation 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 stormwater and associated pollutants, 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. #334, June 2008)

14-1603. Definitions. For the purpose of this chapter, the following definitions shall apply: Words used in the singular shall include the plural, and the plural shall include the singular; words used in the present tense shall include the future tense. The word "shall" is mandatory and not discretionary. The word "may" is permissive. Words not defined in this section shall be construed to have the meaning given by first as defined in the TDEC NPDES Permit for Discharges from Small Municipal Storm Sewer Systems Permit No. TNS000000 issued August 31, 2010 and second the common and ordinary use as defined in the latest edition of Webster's Dictionary.

(1) "As-built plans." Drawings depicting conditions as they were actually constructed.

(2) "Best Management Practices or BMPs." Any physical, structural, and/or managerial practices that, when used singly or in combination, prevent

or reduce pollution of water, that have been approved by the Town of Mount Carmel, Tennessee.

(3) "Channel." A natural or artificial watercourse with a definite bed and banks that conducts flowing water continuously or periodically.

(4) "Community water." Any and all rivers, streams, creeks, branches, lakes, reservoirs, ponds, drainage systems, springs, wetlands, wells and other bodies of surface or subsurface water, natural or artificial, lying within or forming a part of the boundaries of the Town of Mount Carmel, Tennessee.

(5) "Contaminant." Any physical, chemical, biological, or radiological substance or matter in water.

(6) "Denuded area." Areas disturbed by grading, filling, 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.

(7) "Design storm event." A hypothetical storm event, of a given frequency interval and duration, used in the analysis and design of a stormwater facility.

(8) "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.

(9) "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.

(10) "Discharge." To dispose, deposit, spill, pour, inject, seep, dump, leak or place by any means, or that which is disposed, deposited, spilled, poured, injected, seeped, dumped, leaked, or placed by any means including any direct or indirect entry of any solid or liquid matter into the municipal separate storm sewer system.

(11) "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.

(12) "Drainage area." The geographic area or region that contributes surface runoff to a common outlet or outlets.

(13) "Drainage and sedimentation control plan." For the purpose of this chapter, a drainage and sedimentation control plan refers to a formal written document addressing grading, vegetation, drainage, and stormwater flows, erosion and sedimentation controls, as specified in §§ 14-1605 through 14-1608, that is reviewed by the public works director and/or building inspector with the technical assistance of the Hawkins County Soil Conservationist and Extension Agents, reviewed by the Mount Carmel 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.

(14) "Drainage ways and local waters." Any and all streams, creeks, branches, ponds, reservoirs, springs, wetlands, sinkholes, wells, drainage ways and wet weather ditches, or other bodies of surface or subsurface water, natural or artificial including Mount Carmel's stormwater system, lying within or forming a part of the boundaries of the Town of Mount Carmel, or the area under the regulatory responsibility of the Mount Carmel Planning Commission.

(15) "Easement." An acquired privilege or right of use or enjoyment that a person, party, firm, corporation, municipality or other legal entity has in the land of another.

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

(17) "Erosion and sediment control plan." A written plan (including drawings or other graphic representations) that is designed to minimize the accelerated erosion and sediment runoff at a site during construction activities.

(18) "Exceptional Tennessee Waters" are 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 designated by the Water Quality Board as Outstanding National Resource Waters (ONRW), waters that provide habitat for ecologically significant populations of certain aquatic or semi-aquatic plants or animals; waters that provide specialized recreational opportunities; waters that possess outstanding scenic or geologic values; or waters where existing conditions are better than water quality standards. (NOTE: None of these waters exist in the town at this writing Dec. 7, 2011.)

(19) "Grading permit." The permit that must be issued by the building inspector, or in his/her absence, the town's designee, before any land disturbing activity is undertaken by a developer, or when grading, filling, or excavating is proposed on a project.

(20) "Hotspot (priority area)." An area where land use or activities generate highly contaminated runoff with concentrations of pollutants in excess of those typically found in stormwater. Examples might include operations producing concrete or asphalt, auto repair shops, auto supply shops, large commercial parking area, restaurants.

(21) "Illicit connections." Illegal and/or unauthorized connections to the municipal separate stormwater system whether or not such connections result in discharges into that system.

(22) "Illicit discharge." Any discharge to the municipal separate storm sewer system that is not composed entirely of stormwater and not specifically exempted under § 14-1604.

(23) "Impaired waters" means any segment of surface waters that has been identified by TDEC as failing to support one (1) or more classified users. For construction permits, pollutants of concern include, but are not limited to: siltation (silt/sediment) and habitat alterations. Based on the most recent

assessment information available to staff, the town will notify applicants and Permittee if their discharge is into, or is affecting impaired waters. TDEC periodically compiles a list of such waters known as the 303(d) List. (NOTE: None of these waters exist in the town at this writing, Dec. 7, 2011.)

(24) "Land disturbing activity." Any activity which may result in soil erosion from water or wind and the movement of sediments into drainage ways, or local water, 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 and gardens and individual home landscaping, repairs and maintenance work.

(b) Construction, installation or maintenance of individual service connections, or septic lines and drainage fields. Utility line construction of 1.65 miles for a five foot (5') wide disturbed area will require a permit. If the Town of Mount Carmel is the permittee, the permit will be obtained from the Tennessee Department of Environment and Conservation.

(c) Preparation for single family residences separately built, unless disturbing an acre or more or in conjunction with multiple [three (3) or more] adjacent construction sites in subdivision developments.

(d) Emergency work to protect life, limb or property.

(25) "Maintenance." Any activity that is necessary to keep a stormwater facility in good working order so as to function as designed. Maintenance shall include complete reconstruction of a stormwater facility if reconstruction is needed in order to restore the facility to its original operational design parameters. Maintenance shall also include the correction of any problem on the site property that may directly impair the functions of the stormwater facility.

(26) "Maintenance agreement." A document recorded in the land records that acts as a property deed restriction, and which provides for long-term maintenance of stormwater management practices.

(27) "Municipal Separate Storm Sewer System (MS4) (Municipal Separate Stormwater System)." The conveyances owned or operated by the municipality for the collection and transportation of stormwater, including the roads and streets and their drainage systems, catch basins, curbs, gutters, ditches, man-made channels, and storm drains.

(28) "National Pollutant Discharge Elimination System permit or NPDES permit." A permit issued pursuant to 33 U.S.C. 1342.

(29) "Off-site facility." A structural BMP located outside the subject property boundary described in the permit application for land development activity.

(30) "On-site facility." A structural BMP located within the subject property boundary described in the permit application for land development activity.

(31) "Owner's authorized representative." The person who has "in-writing" authorization from the owner of record of the property or facility. A written notarized option to lease and/or purchase the property/facility is acceptable.

(32) "Peak flow." The maximum instantaneous rate of flow of water at a particular point resulting from a storm event.

(33) "Permanent stormwater management facility." A permanent basin or pond (and in some cases a ditch or swale) designed to control the amount of stormwater leaving the developed site so that the volume and velocity does not exceed the pre-development flow.

(34) "Person." Any and all persons, natural or artificial, including any individual, firm or association and any municipal or private corporation organized or existing under the laws of this or any other state or country.

(35) "Pollutant" as used in this section means:

(a) Anything that causes or contributes to pollution. Pollutants may include, but are not limited to, oil based paints, varnishes and solvents; rubbish, garbage, litter or other discarded or abandoned objects and accumulations, so that same may cause and fertilizers; hazardous substances and wastes; sewage, fecal e-coli and pathogens; dissolved and particulate metals; animal waste; wastes and residues that result from constructing a building or structure; noxious or offensive matter of any kind; or other harmful items that may enter the storm system of the town.

(b) Dumping of unlawful items within the town.

(36) "Priority area." Hot spot as defined above.

(37) "Priority construction activity." Those construction activities discharging directly into, or immediately upstream of waters the state recognizes as impaired (for siltation) or high quality waters.

(38) "Runoff." That portion of the precipitation on a drainage area that is discharged from the area into the municipal separate stormwater system.

(39) "Sediment." Solid material, both mineral and organic, that is in suspension, is being transported, or has been moved from its site of origin by air, water, gravity, or ice and has come to rest on the earth's surface either above or below sea level.

(40) "Sedimentation." Soil particles suspended in stormwater that can settle in streambeds and disrupt the natural flow of the stream.

(41) "Soils report." A study of soils on a subject property with the primary purpose of characterizing and describing the soils. The soils report shall be prepared by a qualified soils engineer, who shall be directly involved in the soil characterization either by performing the investigation or by directly supervising employees.

(42) "Stabilization." Providing adequate measures, vegetative and/or structural, that will prevent erosion from occurring.

(43) "Stormwater." Stormwater runoff, snow melt runoff, surface runoff, street wash waters related to street cleaning or maintenance, infiltration and drainage.

(44) "Stormwater management." The programs to maintain quality and quantity of stormwater runoff to pre-development levels.

(45) "Stormwater management facilities." The drainage structures, conduits, ditches, combined sewers, sewers, and all device appurtenances by means of which stormwater is collected, transported, pumped, treated or disposed of.

(46) "Stormwater management plan." The set of drawings and other documents that comprise all the information and specifications for the programs, drainage systems, structures, BMPs, concepts and techniques intended to maintain or restore quality and quantity of stormwater runoff to pre-development levels.

(47) "Stormwater runoff." Flow on the surface of the ground, resulting from precipitation.

(48) "Structural BMPs." Devices that are constructed to provide control of stormwater runoff.

(49) "Surface water." Includes waters upon the surface of the earth in bounds created naturally or artificially including, but not limited to, streams, other watercourses, lakes and reservoirs.

(50) "Temporary sediment basin." A temporary basin or pond constructed across a drainage way, or of an excavation that creates a basin, or by a combination of both to slow the flow of water and/or prevent sediment from moving further downstream. The size of the structure will depend upon the location, size of the drainage area, soil type, land cover/use, rainfall amount, and any unique site conditions favorable to producing high runoff volume, velocity, or sediment.

(51) "Water quality buffer." Undisturbed vegetation, including trees, shrubs, and herbaceous vegetation, enhanced or restored vegetation or the re-establishment of vegetation bordering streams, ponds, wetlands, reservoirs or lakes which exists or is established to protect those waterbodies.

(52) "Watercourse." A permanent or intermittent stream or other body of water, either natural or man-made, which gathers or carries surface water.

(53) "Watershed." All the land area that contributes runoff to a particular point along a waterway. (Ord. #334, June 2008, as amended by Ord. #12-370, Feb. 2012)

14-1604. Regulated land disturbing activities. (1) Except as provided in §§ 14-1604(2) and (3), it shall be unlawful for any person to engage in any land disturbing activity on any commercial development, or any development, construction, or renovation activity involving at least one (1) acre or three (3) adjacent lots or more (unless such lots are part of a subdivision or other project that has a current approved drainage and sediment control plan)

or less than one (1) acre if that construction activity is part of a larger common plan of development or sale that would disturb one (1) acre or more without submitting and obtaining approval of a drainage and sedimentation plan as detailed in §§ 14-1606 through 14-1611 of this chapter, and being issued a grading permit by the building inspector.

(2) Any person who owns, occupies and operates private agriculture or forestlands 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 building inspector has the authority to require best practices erosion and sedimentation 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 Mount Carmel for stormwater management, erosion and sedimentation control. (Ord. #334, June 2008)

14-1605. Permit required for any land disturbing activity. Any land disturbing activity, as defined, shall require a grading permit, in addition to any building permit that must be issued by the building inspector prior to the commencement of any work. Grading permits for land disturbing activities will be issued by the building inspector only upon the developer meeting requirements outlined in §§ 14-1604 through 14-1612 of this chapter, which includes obtaining approval of a drainage and sedimentation control plan, by the Mount Carmel Planning Commission. (Ord. #334, June 2008)

14-1606. Grading, vegetation, drainage, and erosion and sedimentation control plans required. A grading, vegetation, drainage, and erosion and sedimentation control plan, for convenience defined in § 14-1603 as a Drainage and Sedimentation Control Plan (DSCP), shall be required for all:

(1) Developments, subdivisions, or construction activities involving one (1) or more acres; or

(2) Three (3) adjacent lots or more (unless such lots are part of a subdivision with an approved DSCP); or

(3) Less than one (1) acre if that construction activity is part of a larger common plan of development or sale that would disturb one (1) acre or more, except as exempted in §§ 14-1604(2) and (3) of this chapter.

A DSCP or BMP shall be required for all commercial construction or renovation, or any multi-family residential facility involving three (3) or more units that includes earth moving activity. If necessary to protect the health and safety of the people, the building inspector and/or planning commission may, at its discretion, require a drainage and sedimentation control plan for any development or renovation under one (1) acre, or subdivision with less than three (3) adjacent lots, or multi-family residential development under three (3) units. (Ord. #334, June 2008)

14-1607. Plan requirements. The drainage and sediment control plan shall be prepared and designed and certified by an engineer and/or surveyor licensed in the State of Tennessee. 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. The plan shall be a 1 = 100 or smaller scale, topographic base map of the site which extends a minimum of five hundred feet (500') beyond the limits of the proposed development and includes 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 (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) Existing land cover.

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

(6) Delineation of all existing drainage areas contributing runoff to the site. Amount of existing stormwater discharged by each of the contributing areas. Amount of existing stormwater entering and leaving any portion of the site and location that stormwater enters or leaves the site. The appropriate calculations for making these determinations shall be included with the plan submission.

(7) Description of existing soil types and characteristics and any anticipated soil erosion and sedimentation problems resulting from existing characteristics.

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

(9) Proposed drainage network. The plan shall illustrate the proposed means for transporting all stormwater from its point of origin, through the site and to an adequate outfall.

(10) Proposed drain tile or waterway sizes and plan and profile views of all proposed drainage structures, including ditches and swales.

(11) Approximate flows leaving site after construction and incorporating water runoff mitigation measures. The evaluation must include projected effects on property adjoining and down stream of the site and on existing drainage facilities and systems. The hydraulic calculations necessary to ensure adequately sized stormwater management structures and BMPs used must also be included.

(12) The projected sequence of work represented by the grading, drainage and erosion and sedimentation control plans as related to other major items of construction.

(13) Specific remediation measures to prevent erosion and sedimentation runoff, contamination by other pollutants and to meet approved

standards as outlined in § 14-1609 of this chapter. Plans shall include detailed drawings for 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.

(14) Specific details for the construction of the entrance to the site for controlling erosion and road access points and for eliminating or keeping mud, sediment, and debris on Mount Carmel streets and public ways at a level acceptable to the 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 building inspector and/or Mount Carmel law enforcement officer. Failure to remove said sediment, mud or debris shall be deemed a violation of this chapter.

(15) Proposed stormwater management facilities. The location, size and layout of all proposed stormwater and layout of all stormwater management structures, including retention/detention facilities shall be illustrated on the plan. These facilities must be designed to meet or exceed the standards set forth in § 14-1609 and as required by § 14-1608. Engineering calculations for sizing each facility must be provided. A qualified engineer registered in the State of Tennessee must seal the plans and calculations pertaining to permanent stormwater management facilities.

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

(17) Design storm. The plan must be designed to control storm runoff from a two (2) year twenty-four (24) hour event except for discharges to Exceptional Tennessee Waters and/or impaired water which must be designed for the five (5) year twenty-four (24) hour event.

(a) Additional plan requirements for discharges into impaired or exceptional Tennessee waters. At this writing, Dec. 7, 2011, none of these waters are in or immediately downstream of the town. If such waters are designated in the future, the applicant must include the information required by section 5.3 of the current Tennessee Construction General Permit (TN CGP). (Ord. #334, June 2008, as amended by Ord. #12-370, Feb. 2012)

14-1608. Stormwater system design and management standards.

(1) Stormwater design or BMP manual. (a) Adoption. The Town of Mount Carmel, Tennessee adopts as its stormwater design and Best Management Practices (BMP) manual the latest edition of the following publications, which are incorporated by reference in this chapter as is fully set out herein:

(i) TDEC Erosion and Sediment Control Manual.

(ii) Standard Specifications for Road and Bridge Construction, Tennessee Department of Highways and Public Works.

(iii) TDEC Manual for Post Construction.

These manuals include lists of acceptable BMPs including the specific design performance criteria and operation and maintenance requirements for each stormwater practice. As these manuals are updated, such updates are incorporated into the town's BMP manual unless expressly rejected by a majority vote of a duly constituted meeting of the planning commission. The Town of Mount Carmel, Tennessee stormwater facilities that are designed, constructed and maintained in accordance with these BMP criteria will be presumed to meet the minimum water quality performance standards. Other BMPs may be added or deleted upon approval of the planning commission. Site-specific BMP(s) may be approved by the building inspector.

(2) General performance criteria for stormwater management. Unless granted a waiver or judged by the building inspector to be exempt, the following performance criteria shall be addressed for stormwater management at all sites: All site designs shall control the peak flow rates of stormwater discharge associated with design storms specified in this chapter or in the BMP manual and reduce the generation of post construction stormwater runoff to pre-construction levels. These practices should seek to utilize pervious areas for stormwater treatment and to infiltrate stormwater runoff from driveways, sidewalks, rooftops, parking lots, and landscaped areas to the maximum extent practical to provide treatment for both water quality and quantity. To protect stream channels from degradation, specific channel protection criteria shall be provided as prescribed in the BMP manual. Stormwater discharges to critical areas with sensitive resources (i.e., cold water fisheries, shellfish beds, swimming beaches, recharge areas, water supply reservoirs) may be subject to additional performance criteria, or may need to utilize or restrict certain stormwater management practices. Stormwater discharges from hot spots may require the application of specific structural BMPs and pollution prevention practices. Prior to or during the site design process, applicants for land disturbance permits shall consult with the building inspector and/or engineer to determine if they are subject to additional stormwater design requirements. The calculations for determining peak flows using sound engineering practices shall be used for sizing all stormwater facilities.

(3) Minimum control requirements. Stormwater designs shall meet the multi-stage storm frequency storage requirements as identified in this chapter and the BMP manual unless the planning commission has granted the applicant a full or partial waiver for a particular BMP. If hydrologic or topographic conditions warrant greater control than that provided by the minimum control requirements, the planning commission may impose any and

all additional requirements deemed necessary to control the volume, timing, and rate of runoff.

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

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

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

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

(c) Maintenance and repair plan. The design and planning of all stormwater management facilities shall include detailed maintenance and repair procedures to ensure their continued performance. These plans will identify the parts or components of a stormwater management facility that need to be maintained and the equipment and skills or training necessary. Provisions for the periodic review and evaluation of

the effectiveness of the maintenance program and the need for revisions or additional maintenance procedures shall be included in the plan. A permanent elevation benchmark shall be identified in the plans to assist in the periodic inspection of the facility.

(d) Landscaping plan. The applicant must present a detailed plan for management of vegetation at the site after construction is finished, including who will be responsible for the maintenance of vegetation at the site and what practices will be employed to ensure that adequate vegetative cover is preserved. Where it is required by the BMP, this plan must be prepared by a registered engineer or architect licensed in Tennessee.

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

(f) Maintenance agreement. (i) Maintenance agreements will apply to all stormwater drainage facilities including but not limited to ditches, swales, ponds, rip-rap and the like. Permanent stormwater management facilities must be clearly marked on the plat of record including a notation that these stormwater facilities are permanent, that they must be maintained and may not be filled, altered or otherwise changed.

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

(iii) The maintenance agreement shall: (A) Assign responsibility for the maintenance and repair of the stormwater facility to the owner of the property upon which the facility is located (in the case of subdivisions, permanent stormwater maintenance facilities shall be jointly owned by all owners of lots in the subdivision) and be recorded as such on the plat for the property by appropriate notation.

(B) Provide for an inspection by the property owner at the property owner's expense upon direction of the town for the purpose of documenting maintenance and repair needs and ensure compliance with the purpose and requirements of this chapter. The property owner will arrange for this inspection to be conducted by a registered professional engineer licensed to practice in the State of Tennessee who will submit a sealed report of the inspection to the Town of Mount Carmel, Tennessee. The maintenance

agreement shall also grant permission to the town to enter the property at reasonable times and to inspect the stormwater facility to ensure that it is being properly maintained.

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

(D) Provide that maintenance needs must be addressed in a timely manner, on a schedule to be determined by the Town of Mount Carmel, Tennessee.

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

(iv) The municipality shall have the discretion to accept the dedication of any existing or future stormwater management facility, provided such facility meets the requirements of this chapter and includes adequate and perpetual access and sufficient areas, by easement or otherwise, for inspection and regular maintenance. Any stormwater facility accepted by the municipality must also meet the municipality's construction standards and any other standards and specifications that apply to the particular stormwater facility in question. (Ord. #334, June 2008)

14-1609. Plan must contain measures to meet approved standards. The drainage and sedimentation control 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 sedimentation control measures to be implemented in a manner satisfactory to the Mount Carmel 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 minimize cut and fill operations. Construction and development plans calling for excessive cutting and filling may be refused a permit by the Mount Carmel Planning Commission if it is determined that the land use permitted by the applicable zoning district could be supported with less alteration of the natural terrain.

(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 watercourses, 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 more than twenty (20) days prior to grading or earth moving. No work shall occur until perimeter sedimentation and erosion control devices are in place to the building inspector's satisfaction.

(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 grades should not exceed a 2 to 1 slope without use of a retaining wall and must be properly covered with mulch and vegetation. Regardless of the method used, the objective is to leave the site as erosion and maintenance-free as is practical.

(6) Stormwater management facilities shall be designed and constructed to mitigate the increase in stormwater runoff resulting from the development. The facilities shall reduce the post-construction runoff rate to the pre-construction runoff rate for the 2-year and 10-year storm frequencies. The planning commission may require designs based on larger storm events on a case-by-case. The facilities shall also be equipped with an emergency spillway or other such device capable of accommodating the 100-year storm event and preventing failure of the facility. A staged outlet box structure is a preferred method for controlling the rate of stormwater discharge (see § 14-1608).

(7) Discharges from sedimentation basins or traps must be through piping, liners, rip-rap or properly grassed channels so that the discharge does not cause erosion.

(8) All grading, vegetation, drainage, stormwater, erosion and sedimentation control mitigation measures shall conform to any or all best management practices unless otherwise directed by the building inspector.

(9) Sedimentation basins (debris basins, desalting basins, or silt traps) and other drainage and sedimentation 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 silt traps may be temporary, but shall not be removed without the approval of building inspector.

(10) Damage to vegetation on stream banks or waterways (those not regulated in other chapters of this code) shall be minimized within five feet (5')

of each bank, except as necessary for the installation of utilities, development of roads, or construction of retention ponds and related drainage improvements.

(11) Land shall be developed to the extent possible in increments of workable size that can be completed in a single construction season. Erosion and sedimentation control measures shall be coordinated with the sequence of grading 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 other stage of development.

(12) The permanent vegetation shall be installed on the construction site as soon as utilities are in place and final grades are achieved. However, without prior approval of an alternate plan by the Mount Carmel Planning Commission, permanent or temporary soil stabilization must be applied to disturbed areas within seven (7) days from substantial completion of grading and where disturbed areas will remain unfinished for more than thirty (30) calendar days.

(13) Retention 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. Plant varieties shall be those sustainable in a drainage way environment or as may be outlined in best management practices. Woody material, such as trees, shall be kept from encroaching on the dam. Utilities shall not be constructed through the stormwater control device and must be accessible without disturbing the device.

(14) In many situations, retention facilities and drainage structures need to be fenced in order to protect public safety. The Mount Carmel Planning Commission may require fencing for any basin or structure. When the planning commission requires fencing, the following specifications apply. Alternate fencing plans may be considered when requested by the developer, residents, or if the planning commission feels some other form of fencing is more appropriate for the site:

- (a) A minimum height of six feet (6');
- (b) Line post must be one and seven-eighths (1 7/8) diameter, sixteen (16) gauge;
- (c) Fence must be chained link of a minimum of nine (9) gauge, or approved alternative;
- (d) 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.

(15) Drainage and sedimentation control plans must meet minimum requirements established in Tennessee Code Annotated as follows:

- (a) Name of applicant;
- (b) Business or residence address of applicant;
- (c) Name and address of owners of property involved in activity;

(d) Address and legal description of property and names of adjoining property owners;

(e) Name(s) and address(es) of contractor(s), if different from applicant, and any subcontractor(s) who shall undertake the land disturbing activity and who shall implement the drainage and sedimentation control plan;

(f) A brief description of the nature, extent, and purpose of the land disturbing activity;

(g) Proposed schedule for starting and completing project.

(16) For an outfall in a drainage area of a total of ten (10) or more acres, a temporary (or permanent) sediment basin that provides storage for a calculated volume of runoff from a two (2) year, twenty-four (24) hour storm and runoff from each acre drained, or equivalent control measures, shall be provided until final stabilization of the site. Where equivalent control measure is substituted for a sediment retention basin, the equivalency must be justified to the town and TDEC. Runoff from any undisturbed acreage should be diverted around the disturbed area and the sediment basin. Diverted runoff can be omitted from the volume calculation. Sediment storage expected from the disturbed areas must be included and a marker installed signifying the need for cleanout of the basin.

(17) Requirements for construction site operators to control waste such as discarded building materials, concrete truck washout, chemicals, litter, and sanitary waste at the construction site that may cause adverse impacts to water quality. (Ord. #334, June 2008)

14-1610. Priority construction sites. Priority construction sites are those adjacent to, around, or immediately upstream of waters the state recognizes as impaired (for siltation) or as high quality waters. Prior to any grading or other construction activity at such sites, a preconstruction meeting between the construction site owner/operators and town staff will be required at the site.

These sites, if any, will be inspected at least once monthly by town staff. (Ord. #334, June 2008)

14-1611. Buffers. Buffers will be required as described below:

(1) For discharges into impaired or high quality waters. As required by the TDEC construction site permit, a sixty foot (60') natural riparian buffer zone adjacent to the receiving stream shall be preserved to the maximum extent possible during construction activities at the site. This buffer shall be designed and maintained as prescribed by TDEC.

(2) A thirty foot (30') natural riparian buffer zone adjacent to all streams at the construction site shall be preserved, to the maximum extent practicable, during construction activities at the site. The riparian buffer zone should be preserved between the top of stream bank and the disturbed

construction area. The thirty foot (30') criterion for the width of the buffer zone can be established on an average width basis at a project as long as the minimum width of the buffer zone is more than fifteen feet (15') at any measured point.

(3) Property line buffer. Detention basin and culvert outlets on level ground will terminate no less than ten feet (10') from the property line into a level spreader and be lined with rip-rap, heavy vegetation, or other approved methods to slow discharged waters. Outlets terminating on sloping ground will terminate as follows:

<u>From property line minimum feet</u>	<u>Slope</u>
15	10% or less
25	11-20%
35	21-30%
Not permitted	Greater than 30%

(Ord. #334, June 2008, as amended by Ord. #12370, Feb. 2012)

14-1612. Permanent stormwater management facilities. Installation of permanent stormwater management facilities shall occur after the site has been adequately stabilized with permanent vegetation. Permanent stormwater management facilities must be clearly marked on the plat of record including a notation that these stormwater facilities must be maintained, as specified in the maintenance agreement (§ 14-1608(4)(f)) above and that they are permanent and may not be filled, altered or otherwise changed. The development will not be granted final approval (bond will not be released) until:

- (1) As-built plans for each individual facility, sealed by the engineer of record, have been submitted;
 - (2) Each facility has been inspected by the building inspector.
- (Ord. #334, June 2008)

14-1613. Plan development at owner's/developer's expense. Unless specifically approved by the board of mayor and aldermen, all drainage and sedimentation control plans shall be developed and presented at the expense of the owner/developer. (Ord. #334, June 2008)

14-1614. Plan submitted to building inspector. Six (6) copies of the drainage and sedimentation control plan shall be submitted directly to the building inspector at least fifteen (15) days prior to consideration. Any insufficiencies, violations noted or comments will be directed back to the applicant/developer. The plan will then be revised as required prior to being presented to the Mount Carmel Planning Commission.

- (1) Re-submittal of DSCP. The owner/developer shall be required to re-submit pertinent sections of the DSCP under the following circumstances:

(a) Whenever there is a change in the scope of the project, which would be expected to have a significant effect on the discharge of pollutants to the waters of the state and which have not been otherwise addressed in the DSCP information previously submitted (e.g. The size of the project changes to include grading of acreage not previously shown).

(b) Whenever inspections or investigations by site operators, local, state, or federal officials/inspectors indicate the control(s) designed/constructed is/are proving ineffective in eliminating or significantly minimizing pollutants.

(c) Whenever the owner/developer change the design of the project to include adding or reducing the number, changing the size of or of introducing new control devices. (Note: minor changes as determined by the town engineer and/or building inspector may be exempt from this requirement.

(2) The town engineer and/or building inspector will determine how much of the DCSP needs to be re-submitted. The planning commission will consider appeals based on information submitted at least three (3) working days before regular or called meetings.

(3) Re-Submittal will be IAW paragraphs 14-1613 and 14-1614 of this section. (Ord. #334, June 2008, as amended by Ord. #12-370, Feb. 2012)

14-1615. Speedy review of plan. (1) The Mount Carmel Planning Commission shall review drainage and sedimentation control plans as soon as possible while still allowing for a thorough evaluation of the problems and mitigation measures identified and addressed. The planning commission will take final action on plans submitted no later than sixty (60) days after the initial consideration date by the planning commission. The sixty (60) days may be extended when there is a holiday or an unexpected interceding event that would close municipal offices and thus affect the normal computation of the sixty (60) day period, in which case the plan shall be approved or disapproved after the interrupted sixty (60) day period at the next regularly scheduled meeting of the commission.

(2) The applicant may waive the time requirement in this section and consent to an extension or extensions of the applicable time period.

(3) In this regard, road frontage and similar plans which do not require or minimally require excavation or underground utility construction submitted fifteen (15) or more days prior to a regular planning commission meeting, shall be placed on the planning commission agenda for the next scheduled meeting for initial consideration. Plans which require new streets and/or major underground utility construction shall be submitted at least thirty (30) days prior to a planning commission date to be considered at the next meeting and shall complete, the plan may be returned with an explanation and not considered until resubmitted with correction(s) at least thirty (30) days

before a regular planning commission meeting date. Complete plans submitted/resubmitted with correction(s) less than thirty (30) days before a regular planning commission meeting date, will be placed on the planning commission agenda at the second following regular meeting date for initial consideration (if staff review is completed in time for the next meeting, the plan may be placed on the agenda for that meeting). Note that the planning commission meets regularly once a month. (Ord. #334, June 2008, as replaced by Ord. #12-370, Feb. 2012)

14-1616. Grading permit and bond. Following approval of the drainage and sedimentation control plan by the planning commission, a limited grading permit for the erosion and sediment control devices only shall be obtained from the building inspector. After these devices are installed, inspected and approved, an unlimited grading permit must be obtained for other site work.

(1) Prior to issuing the permit, the Town of Mount Carmel, Tennessee may, at its discretion, require the submittal of a performance security or performance bond in order to ensure that the stormwater practices are installed by the permit holder as required by the approved stormwater drainage and sediment control plan. The amount of the installation performance security or performance bond shall be the total estimated construction cost of the structural BMPs approved under the permit plus five percent (5%). The performance security shall contain forfeiture provisions for failure to complete work specified in the stormwater management plan. The applicant shall provide an itemized construction cost estimate complete with unit prices, which shall be subject to acceptance, amendment or rejection by the Town of Mount Carmel, Tennessee. Alternatively, the Town of Mount Carmel, Tennessee shall have the right to calculate the cost of construction cost estimates.

(2) The performance security or performance bond shall be released in full only upon submission of as-built plans and written certification by a registered professional engineer licensed to practice in Tennessee that the structural BMP has been installed in accordance with the approved plan and other applicable provisions of this chapter. The Town of Mount Carmel, Tennessee will make a final inspection of the structural BMP to ensure that it is in compliance with the approved plan and the provisions of this chapter. Provisions for a partial pro-rata release of the performance security or performance bond based on the completion of various development stages may be made at the discretion of the Town of Mount Carmel, Tennessee. (Ord. #334, June 2008)

14-1617. Building inspector and/or town designee may require additional protective measures. The building inspector and/or the town's designee 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 ordinance comprising this chapter and in the approval issued by the commission. Additional protective measures required by the building inspector and/or the town designee that fall under the authority of the planning commission are subject to appeal under the procedures outlined in § 14-1635 of this chapter. (Ord. #334, June 2008)

14-1618. Retention/detention facilities and drainage structures maintained. All on-site retention basins 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 runoff and overflow; stagnant water with concomitant algae growth, insect breeding, and odors; discarded debris; and safety hazards created by the facilities operation. The Mount Carmel Planning Commission has the responsibility to see that the retention basin is properly maintained and operational. The developer shall provide the necessary permanent easements to provide town personnel access to the retention facilities and drainage structures for periodic inspection. A right-of-way to conduct such inspections shall be expressly reserved in the permit. (Ord. #334, June 2008)

14-1619. Improperly maintained retention/detention facilities and drainage structures a violation. The building inspector and/or town designee shall periodically monitor and inspect the care, maintenance and operation of retention facilities and drainage structures during and after construction and development. Facilities found to be a nuisance as defined in the Mount Carmel Municipal Code are in violation of the ordinance comprising this chapter and are subject to fines of fifty dollars (\$50.00) per day with each additional day considered a separate violation. (Ord. #334, June 2008)

14-1620. Town may take ownership of retention facilities and drainage structures. The Mount Carmel Board of Mayor and Aldermen shall have the authority to accept or take ownership of retention facilities and drainage structures on behalf of the town provided that the board and commission feel the public interest is best served by the town providing on-going responsibility for maintenance and upkeep. In such cases, approval of the transfer of ownership shall only occur after the planning commission and the BMA have received an inspection report from the building inspector, with the possible technical assistance of the Hawkins County extension agent and/or soil conservationist, that certifies said devices have been properly constructed and landscaped, are operating effectively, and appropriate safety and protective measures have been implemented or constructed. 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 retention/detention basin or drainage structure is located and/or any necessary easements allowing the Town of Mount Carmel access to the facilities for routine maintenance and care. (Ord. #334, June 2008)

14-1621. Technical assistance. Through a memorandum of understanding with the Town of Mount Carmel, the Hawkins County Soil Conservation District staff and the Hawkins County extension agent are available for consultation and advice concerning stormwater management and erosion and sedimentation problems to all persons planning to develop land within the town or under the subdivision jurisdiction of the Mount Carmel Planning Commission. Tennessee Department of Environment and Conservation (TDEC) staff may also be consulted. The planning commission and building inspector will use these consultants as needed to review drainage and sedimentation control plans prior to approval and provide assistance to the building inspector with inspections. (Ord. #334, June 2008)

14-1622. Building inspector and/or designee responsible for providing safeguards in projects less than one (1) acre or utilizing less than three (3) lots. Projects undertaken within the city limits of Mount Carmel that are not subject to review and approval of the Mount Carmel Planning Commission shall fall under the responsibility of the Mount Carmel Building Inspector and/or the town designee 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 waters are carried out as needed. The building inspector shall require reasonable drainage, erosion and sedimentation control measures as part of the grading permit process outlined in § 14-1605. Under no conditions shall the building inspector or town designee allow silt or sedimentation to enter drainage ways or adjoining properties or allow stormwater flows to adversely impact adjoining properties. Denuded areas, cuts and slopes shall be properly covered within the same schedule as directed in § 14-1607(14) of this chapter. (Ord. #334, June 2008)

14-1623. Grading permit also required for any project on less than one (1) acre involving grading, filling, or excavation. A grading permit is also required for any development or construction activity, except as exempted in § 14-1604 and those activities exempted from the definition of land disturbing activity, on property one (1) acre or less. However, said development and construction activities do not require a formal drainage and sedimentation control plan unless specifically requested by the planning commission. The building inspector shall require that all grading, vegetation, drainage, stormwater, erosion and sedimentation 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 § 14-1607 of this chapter avoiding mud, sediment, rock and debris on public ways, streets, and/or streams. These measures must be addressed prior to the building inspector issuing a grading permit. Measures preventing excess runoff and erosion must be in place prior to the commencement of grading and/or excavation. (Ord. #334, June 2008)

14-1624. Existing developed properties with drainage, erosion and sediment concerns. Properties of any size within the city limits of the Town of Mount Carmel 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 must be covered as specified in best management practices with appropriate vegetation and/or mulch;
- (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 help minimize possible contamination of stormwater runoff;
- (5) Stormwater runoff in commercial areas, office or medical facilities, and multi-family residences of three (3) or more units shall be controlled to the extent reasonable to prevent pollution of local waters. Such control measures shall include, but not be limited to, the following:
 - (a) Oil skimmer/grit collector structure. 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) Retention basins;
 - (c) Planting and/or sowing of vegetation;
 - (d) Rip-rapping, mulching, and other similar erosion control measures associated with local drainage ways. (Ord. #334, June 2008)

14-1625. Improvements required in existing development 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. 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 Mount Carmel's drainage ways, may approve cost sharing needed drainage and sedimentation control measures. (Ord. #334, June 2008)

14-1626. Town may take responsibility for existing retention facilities and drainage structures. The Mount Carmel Board of Mayor and Aldermen may, on behalf of the town, take responsibility for existing retention facilities and drainage structures if the Mount Carmel Planning Commission so determines that the general public is better served when said facilities are under the long-term maintenance responsibility of the town. Facilities considered shall be accepted as outlined in § 14-1620 of this chapter. The Mount Carmel 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. (Ord. #334, June 2008)

14-1627. Improvements needed at existing locations determined by the building inspector and/or town designee. Recommendations may come from the building inspector, soil conservation service, the agricultural extension office or other qualified personnel. 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.
- (Ord. #334, June 2008)

14-1628. Improvements required with existing developments subject to appeal. (1) Alteration of drainage ways. Drainage ways including wet weather conveyances may not be filled, altered, diverted or otherwise changed unless approved by the building inspector. Requests will include information on the size of the area being drained, the impact of the change--where the changed water will go, and why the change is necessary.

(2) Improvements required by the building inspector and/or town designee as outlined in § 14-1626 of this chapter are subject to appeal by the property/business owners to the Mount Carmel Planning Commission as specified in § 14-1635. (Ord. #334, June 2008, as amended by Ord. #12-375, June 2012)

14-1629. Post construction. (1) As-built plans. All applicants are required to submit actual as-built plans for any structures located on-site after final construction is completed. The plan must show the final design specifications for all stormwater management facilities and must be sealed by a registered professional engineer licensed to practice in Tennessee. A final inspection by the Town of Mount Carmel, Tennessee is required before any performance security or performance bond will be released. The Town of Mount Carmel, Tennessee shall have the discretion to adopt provisions for a partial pro-rata release of the performance security or performance bond on the

completion of various stages of development. In addition, occupation permits shall not be granted until corrections to all BMPs have been made and accepted by the Town of Mount Carmel, Tennessee.

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

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

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

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

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

(3) Inspection of stormwater management facilities. Periodic inspections of facilities shall be performed as provided for throughout this document.

(4) Records of installation and maintenance activities. Parties responsible for the operation and maintenance of a stormwater management facility shall make records of the installation of the stormwater facility, and of all maintenance and repairs to the facility, and shall retain the records for at least two (2) years. These records shall be made available to the Town of Mount Carmel, Tennessee during inspection of the facility and at other reasonable times upon request.

(5) Failure to meet or maintain design or maintenance standards. If a responsible party fails or refuses to meet the design or maintenance standards required for stormwater facilities under this chapter, the Town of Mount Carmel, Tennessee, after reasonable notice, may correct a violation of the design

standards or maintenance needs by performing all necessary work to place the facility in proper working condition. In the event that the stormwater management facility becomes a danger to public safety or public health, the Town of Mount Carmel, Tennessee shall notify, in writing, the party responsible for maintenance of the stormwater management facility. Upon receipt of that notice, the responsible person shall have three (3) days to effect maintenance and repair of the facility in an approved manner. In the event that corrective action is not undertaken within that time, the Town of Mount Carmel, Tennessee may take necessary corrective action. However, in emergency situations as determined by the building inspector or his designee (washout of facilities, excessive mud and/or silt on streets, adjacent properties or streams), time will be of the essence. If the responsible person does not provide immediate corrective action, the Town of Mount Carmel, Tennessee may initiate necessary action and charge the responsible person for same plus administrative/overhead charges. The cost of any action by the Town of Mount Carmel, Tennessee under this section plus an administrative/overhead charge of no less than two hundred dollars (\$200.00) nor more than five hundred dollars (\$500.00) for each incident shall be charged to the responsible party. (Ord. #334, June 2008)

14-1630. Illicit discharges. (1) Scope. This section shall apply to any illegal disposal including dumping and all water generated on developed or undeveloped land entering the municipality's separate storm sewer system.

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

- (a) Uncontaminated discharges from the following sources:
 - (i) Water line flushing or other potable water sources;
 - (ii) Landscape irrigation or lawn watering with potable water;
 - (iii) Diverted stream flows;
 - (iv) Rising ground water;
 - (v) Groundwater infiltration to storm drains;
 - (vi) Pumped groundwater;
 - (vii) Foundation or footing drains;
 - (viii) Crawl space pumps;
 - (ix) Air conditioning condensation;
 - (x) Springs;
 - (xi) Individual residential car washing;
 - (xii) Natural riparian habitat or wet-land flows;
 - (xiii) Swimming pools (if de-chlorinated typically less than one (1) PPM chlorine);

(xiv) Fire fighting activities; and

(xv) Any other uncontaminated water source.

(b) Discharges specified in writing by the Town of Mount Carmel, Tennessee as being necessary to protect public health and safety;

(c) Dye testing is an allowable discharge if the Town of Mount Carmel, Tennessee has so specified in writing.

(3) Prohibition of illicit connections. (a) The construction, use, maintenance or continued existence of illicit connections to the separate municipal storm sewer system is prohibited. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

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

(4) Notification of spills. Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation, has information of any known or suspected release of materials which are resulting in, or may result in, illicit discharges or pollutants discharging into stormwater, the municipal separate storm sewer system, the person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials, the person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, the person shall notify the Town of Mount Carmel, Tennessee in person or by telephone or facsimile no later than the next business day. Notifications in person or by telephone shall be confirmed by written notice addressed and mailed to the Town of Mount Carmel, Tennessee within three (3) business days of the telephone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least five (5) years. (Ord. #334, June 2008, as amended by Ord. #12-370, Feb. 2012)

14-1631. Monitoring, reports, and inspections. The building inspector and/or town designee, with the possible assistance of the soil conservationist and/or the county extension agent, shall make periodic

inspections of the land disturbing activities, the stormwater management system installations and/or other area for illicit discharges, and other activities requiring a grading permit to ensure compliance with the approved plan and Mount Carmel's best management practices. Inspections will evaluate whether the measures required in the drainage and sedimentation control 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. If the building inspector and/or town designee determines that the permit holder has failed to comply with plan approval, the following procedures shall apply:

(1) A notice from the building inspector and/or town designee 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 permitted 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 building inspector and/or town designee 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 building inspector and/or town designee that health and safety factors or the damage resulting from non-compliance is extremely severe, immediate action may be required.

(3) If the permit holder fails to comply within the time specified, the permit may be subject to revocation. In addition, the permittee shall be deemed to be in violation of this chapter and thus shall be subject to the penalties provided in the ordinance comprising 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 town 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 § 14-1628(1). (Ord. #334, June 2008)

14-1632. Mud/silt debris/other pollutants in street/stream. The fact that mud, silt, debris or other pollutants has moved from the job site or existing developed/undeveloped properties to the street, stream or adjoining property either by man, mechanical means, or acts of God is prima facie evidence that the provisions of this chapter have been violated. If such occurs from separate, distinct places at least one hundred feet (100') apart, each will be a separate violation even though the property is owned by the same individual. Such violations may be cited into the municipal court by the building inspector, police or others designated to enforce this chapter. (Ord. #334, June 2008, as amended by Ord. #12-370, Feb. 2012)

14-1633. Certificate of occupancy not issued until compliance with plan verified. The building inspector will not issue a certificate of occupancy necessary to occupy any commercial or residential establishment until all aspects of the drainage and sedimentation control plan have been completed, control devices constructed have been approved and accepted, and, if within a subdivision or commercial development, all paving, landscaping, and utilities, including street lighting if decorative lights are used, are approved and accepted. (Ord. #334, June 2008)

14-1634. Plan construction acceptance and bond release. Drainage and sedimentation control plan activities must be inspected and accepted by the building inspector and/or the town designee. If within a commercial or subdivision development, streets, sidewalks, curbs and alleys, landscaping, street lighting, water, sewer, and any installation of power, telephone, cable, and gas utilities must be approved and accepted by the appropriate official. All monitoring and regulatory authorities shall complete an approval and acceptance form before the building inspector releases the associated performance bond. The building inspector and/or town designee will sign a release on the approval and acceptance form as soon as all of the project criteria have been satisfied and approved. (Ord. #334, June 2008)

14-1635. Appeal of administrative action. Actions taken by the building inspector and/or town designee as authorized in this chapter are subject to review by the Mount Carmel 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/or town designee with existing properties or developments are also subject to appeal to the Mount Carmel Planning Commission provided that appeals are made in writing, within thirty (30) days of receiving formal notification to the commission chairman citing the specific reasons(s) the activity or activities required present a hardship and cannot be implemented. (Ord. #334, June 2008)

14-1636. Town clean up resulting from violations at developer/owner's expense. Town staff is authorized 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 rights-of-way resulting from violations of this chapter where necessary drainage, erosion and sedimentation 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 and an administrative/overhead charge of not less than two hundred dollars (\$200.00) nor more than five hundred dollars (\$500.00) per incident. 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. (Ord. #334, June 2008)

14-1637. Penalties enforcement. (1) Remedies nonexclusive. The remedies provided for in this chapter are not exclusive and the designated enforcement officer may take any, all or any combination of these actions against a noncompliant owner. The designated enforcement officer is empowered to take more than one (1) enforcement action against any noncompliant owner that is in violation.

(2) Adoption of enforcement response plan. An enforcement response plan, including a schedule of civil penalties which may be assessed for certain specific violations or categories of violations, shall be established by resolution of the board of mayor and aldermen. Any civil penalty assessed to a violator pursuant to this section may be in addition to any other penalty assessed by a state or federal authority.

(3) Show cause hearing. An owner that has been issued an assessment or order under this chapter may submit a written request to appear before the designated enforcement officer and show cause why the proposed enforcement action should not be taken. Notice of hearing shall be served by the designated enforcement officer specifying the time and place for the hearing. The notice of hearing shall be served personally or by certified mail, return receipt requested, at least ten (10) days prior to the hearing. A show cause hearing shall not be a bar against or prerequisite for taking any other action against the owner, but shall be a prerequisite for issuing any administrative order or assessment of civil penalties, except as provided by subsection (7) of this section relating to emergency suspensions.

(4) Appeals process. (a) Except in emergency suspensions pursuant to subsection (7) of this section relating to emergency suspensions, any owner against whom a penalty has been assessed for a violation of this chapter, a permit denied, revoked, suspended, against whom the designated enforcement officer has issued an order or who is otherwise aggrieved by an act of the designated enforcement officer shall have thirty (30) days after having been served with the assessment or order, or after a permit has been denied, revoked or suspended, or such person has been aggrieved to appeal the action by filing with the recorder a written petition for appeal setting forth the grounds and reasons for the appeal. The failure to serve the Mount Carmel Planning Commission sitting as the administrative appeals board pursuant to § 14-1635 within thirty (30) days with the written petition for appeal is jurisdictional, and

if an appeal is not taken within the thirty (30) days the matter shall be final.

(b) Upon receipt of a written petition from an aggrieved owner under this chapter but not less than fifteen (15) days after notice of a matter to be appealed, the recorder shall give the petitioner thirty (30) days' written notice of the time and place of the hearing, but in no case shall such hearing be held more than sixty (60) days from the receipt of the written petition unless the designated enforcement officer and the petitioner agree to a postponement.

(c) An appeal to the Mount Carmel Planning Commission sitting as the administrative appeals board pursuant to § 14-1635 shall be a de novo review.

(d) Hearings before the Mount Carmel Planning Commission sitting as the administrative appeals board pursuant to § 14-1635 shall be conducted in accordance with the following:

(i) The presence of at least three (3) members of the Mount Carmel Planning Commission sitting as the administrative appeals board pursuant to § 14-1635 shall be necessary to conduct a hearing.

(ii) A verbatim record of the proceedings shall be taken, together with the findings of fact and conclusions of law. The transcript so recorded shall be made available to any party upon prepayment of a charge adequate to cover the costs of preparation.

(iii) In connection with the hearing, subpoenas shall be issued in response to any reasonable request by any party to the hearing requiring the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in the hearing. In case of contumacy or refusal to obey a notice of hearing or subpoena issued under this section, the chancery court shall have jurisdiction, upon application of the Mount Carmel Planning Commission sitting as the administrative appeals board pursuant to § 14-1635 or the designated enforcement officer, to issue an order requiring such person to appear and testify or produce evidence as the case may require, and any failure to obey such order of the court may be punished as contempt under law.

(iv) On the basis of the evidence produced at the hearing, the Mount Carmel Planning Commission sitting as the administrative appeals board pursuant to § 14-1635 shall make findings of fact and conclusions of law and enter such decisions and orders as in its opinion will best further the purposes of this chapter and shall give written notice of such decisions and orders to the petitioner. The order so issued shall be issued no later than thirty (30) days following the close of the hearing.

(v) The decision of the Mount Carmel Planning Commission sitting as the administrative appeals board pursuant to § 14-1635 shall become final and binding on all parties unless appealed as provided in subsection (11) of this section relating to judicial review.

(vi) Any person to whom an emergency order is directed pursuant to subsection (7) of this section relating to emergency suspensions shall comply therewith immediately but on petition to the Mount Carmel Planning Commission sitting as the administrative appeals board pursuant to § 14-1635 shall be afforded a hearing not later than three (3) working days from the receipt of such petition.

(e) The following shall not be applicable to emergency suspensions pursuant to subsection (7) of this section relating to emergency suspensions:

(i) If a written petition of appeal is filed by an owner, the effective date of the matter properly appealed shall be stayed until a decision is announced by the Mount Carmel Planning Commission sitting as the administrative appeals board pursuant to § 14-1635; provided, however, that in no case shall such a stay exceed a period of ninety (90) days, except as provided in subsection (10) of this section relating to additional stay, from the date of receipt of a written petition to the designated enforcement officer to appeal as set out in this section.

(ii) If a continuance of a hearing before the Mount Carmel Planning Commission sitting as the administrative appeals board pursuant to § 14-1635 is requested by an owner, no additional time shall be added to the limitations of subsection (i) of this subsection.

(iii) If the Mount Carmel Planning Commission sitting as the administrative appeals board pursuant to § 14-1635 is not able, for good cause, to hold a hearing within the sixty (60) day limit, the stay shall be extended by the number of days such period is exceeded.

(iv) If a continuance is requested by the designated enforcement officer, the time of the stay shall be extended by the same number of days as the continuance.

(5) Civil penalties. (a) The designated enforcement officer may recover reasonable attorney's fees, court costs and other expenses associated with enforcement of this chapter and the cost of any actual damages incurred by the town.

(b) Civil penalties assessed hereunder are intended to be remedial to protect the public health, safety and welfare of the public by protecting the waters of the state and adjoining properties. When a civil

penalty is assessed to disgorge undeserved profits, or reimburse the town or a private party for fixing damages caused by the noncompliance by the owner, such penalty may be imposed without regard to whether the owner corrects or remedies the violation. Otherwise, when a civil penalty is assessed against an owner found in violation such assessment should be conditioned on providing the owner time to correct or remedy the violation in which event the penalty shall be suspended pending future compliance. If the owner fails or refuses to remedy the violation, the penalty may be imposed per diem until the violation is corrected or remedied. In determining the amount of the penalty to assess, the designated enforcement officer shall consider the factors listed in enforcement response plan and may consider all relevant circumstances, including but not limited to the extent of harm caused by the violation, the magnitude and duration of the violation, the compliance history of the owner and any other factor provided by law.

(6) Method of assessment for non-compliance. Civil penalties shall be assessed in the following manner:

(a) The designated enforcement officer may issue an assessment against any owner responsible for the violation;

(b) Any person against whom an assessment has been issued may secure a review of said assessment by filing with the designated enforcement officer a written petition setting forth the grounds and reasons for their objections and asking for a hearing on the matter before the Mount Carmel Planning Commission sitting as the administrative appeals board pursuant to § 14-1635. If a petition for review of the assessment is not filed within thirty (30) days after the date the assessment is served, the owner shall be deemed to have consented to the assessment and it shall become final;

(c) If any assessment becomes final because of an owner's failure to appeal the municipality's assessment, the designated enforcement officer may apply to the appropriate court for a judgment and seek execution of said judgment, and the court in such proceedings shall treat a failure to appeal such assessment as a confession of judgment in the amount of the assessment. Upon final order, if payment is not made, the designated enforcement officer may issue a cease and desist order.

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

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

(ii) Whether the civil penalty imposed will be substantial economic deterrent to the illegal activity;

(iii) The economic benefit gained by the violator;

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

(v) Any unusual or extraordinary enforcement costs incurred by the municipality;

(vi) The amount of penalty established by ordinance or resolution for specific categories of violations; and

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

(e) Damages may also include any expenses incurred in investigating and enforcing the requirements of this chapter; removing, correcting and terminating any discharge or connection; and also compensation for any actual damages to the property or personnel of the town caused by the violation, and any reasonable expenses incurred in investigating and enforcing violations of this chapter.

(7) Emergency suspensions. (a) Under this chapter, if the designated enforcement officer finds that an emergency exists imperatively requiring immediate action to protect the public health, safety or welfare; the health of animals, fish or aquatic life, or a public water supply; the designated enforcement officer may, without prior notice, issue an order reciting the existence of such an emergency and requiring that such action be taken as the designated enforcement officer deems necessary to meet the emergency, including suspension of a permit issued under this chapter.

(b) Any owner notified of a suspension shall immediately eliminate the violation. If an owner fails to immediately comply voluntarily with the suspension order, the designated enforcement officer may take such steps as deemed necessary to remedy the endangerment. The designated enforcement officer may allow the owner to recommence when the owner has demonstrated to the satisfaction of the designated enforcement officer that the period of endangerment has passed.

(c) An owner that is responsible, in whole or in part, for any discharge or connection presenting imminent danger to the public health, safety or welfare; the health of animals, fish or aquatic life, or a public water supply; shall submit a detailed written statement, describing the causes of the harmful discharge or connection and the measures taken to prevent any future occurrence, to the designated enforcement officer prior to the date of any show cause hearing under subsection (3) of this section relating to show cause hearing.

(d) Nothing in this chapter shall be interpreted as requiring a hearing prior to any emergency suspension under this section.

(e) Any owner whose permit or operation is suspended pursuant to this section, on petition to the Mount Carmel Planning Commission sitting as the administrative appeals board pursuant to § 14-1635, shall be afforded a hearing as soon as possible, but in no case shall such

hearing be held later than three (3) working days from the receipt of such a petition by the designated enforcement officer.

(8) Financial assurance. (a) A performance bond which guarantees satisfactory completion of construction work related to stormwater management facilities, channel protection, vegetative buffers and any best management practices shall be required.

(b) Performance bonds shall name the Town of Mount Carmel as beneficiary and shall be guaranteed in the form of a surety bond, cashier's check or letter of credit from an approved financial institution or insurance carrier. The surety bond, cashier's check or letter of credit shall be provided in a form and in an amount to be determined by the designated enforcement officer. The actual amount shall be based on submission of plans and estimated construction, installation or potential maintenance and/or remediation expenses.

(c) The recorder may refuse brokers or financial institutions the right to provide a surety bond, cashier's check or letter of credit based on past performance, ratings of the financial institution or other appropriate sources of reference information.

(d) The designated enforcement officer may decline to approve a plan or issue or reissue a permit to any owner who has failed to comply with any section of this chapter, a permit or order issued under this chapter unless such owner first files a satisfactory bond, payable to the recorder or town, or in a sum not to exceed a value determined by the designated enforcement officer to be necessary to achieve consistent compliance.

(9) Injunctive relief. When the designated enforcement officer finds that an owner has violated or continues to violate any section of this chapter, or a permit or order issued under this chapter, the designated enforcement officer may petition the appropriate court, through the town's attorney, for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the permit, order or other requirement imposed by this chapter on activities of the owner. The designated enforcement officer may also seek such other action as is appropriate for legal and equitable relief, including a requirement for the owner to conduct environmental remediation. A petition for injunctive relief shall not be a bar against or a prerequisite for taking any other action against an owner.

(10) Additional stay. The Mount Carmel Planning Commission sitting as the administrative appeals board pursuant to § 14-1635 may grant an additional continuance and stay beyond that set out in subsection (4) of this section relating to appeals process upon the request of an owner/operator and upon the posting of an appeal bond payable to the recorder or town in a sum to be determined by the designated enforcement officer as necessary to protect the interests of the town.

(11) Judicial review. The alleged violator may appeal a decision of the Mount Carmel Planning Commission sitting as the administrative appeals board pursuant to § 14-1635 pursuant to the provisions of Tennessee Code Annotated, title 27, chapter 8.

The violation of any provision of this chapter shall be punishable by a penalty pursuant to Tennessee law, and more particularly part 11 relating to stormwater management of Tennessee Code Annotated, title 68, chapter 221, § 68-221-1106(a), of not less than fifty dollars (\$50.00) or more than five thousand dollars (\$5,000.00) per day for each day of violations. Each day of violation may constitute a separate violation. This penalty may be determined by application of the enforcement response plan as defined in subsection (2) of this section relating to adoption of enforcement response plan and costs for each separate violation. (Ord. #334, June 2008, as replaced by Ord. #10-339, April 2010)

CHAPTER 17

FLOOD CONTROL

SECTION

- 14-1701. Statutory authorization, findings of fact, purpose and objectives.
- 14-1702. Definitions.
- 14-1703. General provisions.
- 14-1704. Administration.
- 14-1705. Provisions for flood hazard reduction.
- 14-1706. Variance procedures.

14-1701. 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 through 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.

(2) Findings of fact. (a) It is desired that eligibility in the National Flood Insurance Program (NFIP) be maintained and in order to do so, NFIP regulations found in title 44 of the Code of Federal Regulations (CFR), ch. 1, section 60.3 must be met.

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

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

(3) Statement of purpose. It is the purpose of this 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 flooding or erosion hazards, or which result in damaging increases in erosion, flood heights, or velocities;

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

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

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

(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, safety and property;

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

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

(d) To minimize prolonged business interruptions;

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

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

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

(h) To maintain eligibility for participation in the NFIP.
(Ord. #09-346, Jan. 2010)

14-1702. Definitions. (1) 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.

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

(i) Accessory structures shall only be used for parking of vehicles and storage.

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

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

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

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

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

(c) "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.

(d) "Area of shallow flooding" means a designated AO or AH Zone on a community's Flood Insurance Rate Map (FIRM) with one percent (1%) or greater annual chance of flooding to an average depth of one to three feet (1'-3') where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate; and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

(e) "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.

(f) "Area of special flood hazard" see "Special flood hazard area."

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

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

(i) "Building" see "structure."

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

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

(l) "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.

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

(n) "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.

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

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

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

(r) "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).

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

(i) The overflow of inland or tidal waters.

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

(t) "Flood elevation determination" means a determination by the Federal Emergency Management Agency (FEMA) of the water surface elevations of the base flood, that is, the flood level that has a one percent (1%) or greater chance of occurrence in any given year.

(u) "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.

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

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

(x) "Flood insurance study" is the official report provided by FEMA, evaluating flood hazards and containing flood profiles and water surface elevation of the base flood.

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

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

(aa) "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.

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

(cc) "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.

(dd) "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.

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

(ff) "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.

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

(hh) "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.

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

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

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

(ii) 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;

(iii) 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

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

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

(2) Directly by the Secretary of the Interior.

(kk) "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.

(ll) "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.

(mm) "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.

(nn) "Manufactured home" means a structure, transportable in one (1) or more sections, which is built on a permanent chassis and designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle."

(oo) "Manufactured home park or subdivision" means a parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale.

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

(qq) "Mean sea level" means the average height of the sea for all stages of the tide. It is used as a reference for establishing various elevations within the floodplain. For the purposes of this ordinance, the term is synonymous with the National Geodetic Vertical Datum (NGVD) of 1929, the North American Vertical Datum (NAVD) of 1988, or other datum, to which base flood elevations shown on a community's flood insurance rate map are referenced.

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

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

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

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

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

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

(xx) "Reasonably safe from flooding" means base flood waters will not inundate the land or damage structures to be removed from the special flood hazard area and that any subsurface waters related to the base flood will not damage existing or proposed structures.

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

(i) Built on a single chassis;

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

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

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

(zz) "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.

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

(bbb) "Special flood hazard area" is the land in the floodplain within a community subject to a one percent (1%) or greater chance of flooding in any given year. The area may be designated as Zone A on the FHBM. After detailed ratemaking has been completed in preparation for publication of the FIRM, Zone A usually is refined into Zones A, AO, AH, AI-30, AE or A99.

(ccc) "Special hazard area" means an area having special flood, mudslide (i.e., mudflow) and/or floodrelated erosion hazards, and shown on an FHBM or FIRM as Zone A, AO, AI-30, AB, A99, or AB.

(ddd) "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.

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

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

(ggg) "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.

(hhh) "Substantial improvement" means any reconstruction, rehabilitation, addition, alteration or other improvement of a structure in which the cost equals or exceeds fifty percent (50%) of the market value of the structure before the "start of construction" of the initial improvement. This term includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The market value of the structure should be:

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

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

The term does not, however, include either:

(i) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been preidentified by the local code enforcement official and which are the minimum necessary to assure safe living conditions and not solely triggered by an improvement or repair project; or

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

(iii) "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.

(jjj) "Variance" is a grant of relief from the requirements of this ordinance.

(kkk) "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.

(lll) "Water surface elevation" means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, the North American Vertical Datum (NAVD) of 1988, or other datum, where specified, of floods of various magnitudes and frequencies in the floodplains of riverine areas. (Ord. #09-346, Jan. 2010)

14-1703. General provisions. (1) Application. This ordinance shall apply to all areas within the town.

(2) Basis for establishing the areas of special flood hazard. The areas of special flood hazard identified in the town, as identified by FEMA, and in its Flood Insurance Study (FIS) and Flood Insurance Rate Map (FIRM), Community Panel Number(s) 47073C0110D, 47073C0115D and 47073C0120D, dated July 3, 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 town 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. Any person who violates this ordinance or fails to comply with any of its requirements shall, upon adjudication therefore, be fined as prescribed by Tennessee statutes, and in addition, shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the town from taking such other lawful actions to prevent or remedy any violation. (Ord. #09-346, Jan. 2010)

14-1704. Administration. (1) Designation of ordinance administrator. The building inspector 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 base flood elevations are available, or to certain height above the highest adjacent grade when applicable under this ordinance.

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

(iii) A FEMA floodproofing certificate from a Tennessee registered professional engineer or architect that the proposed non-residential floodproofed building will meet the floodproofing criteria in § 14-1705, subsections (1) and (2).

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

(b) Construction stage. (i) Within AE Zones, where base flood elevation data is available, any lowest floor certification made relative to mean sea level shall be prepared by or under the direct supervision of, a Tennessee registered land surveyor and certified by same. The administrator shall record the elevation of the lowest floor on the development permit. When floodproofing is utilized for a non-residential building, said certification shall be prepared by, or under the direct supervision of, a Tennessee registered professional engineer or architect and certified by same.

(ii) Within approximate A Zones, where base flood elevation data is not available, the elevation of the lowest floor shall be determined as the measurement of the lowest floor of the building relative to the highest adjacent grade. The administrator shall record the elevation of the lowest floor on the development permit. When floodproofing is utilized for a non-residential building, said certification shall be prepared by, or under the direct supervision of, a Tennessee registered professional engineer or architect and certified by same.

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

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

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

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

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

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

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

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

(f) Record the elevation, in relation to mean sea level or the highest adjacent grade, where applicable, of the lowest floor (including basement) of all new and substantially improved buildings, in accordance with § 14-1704, subsection (2).

(g) Record the actual elevation, in relation to mean sea level or the highest adjacent grade, where applicable to which the new and substantially improved buildings have been floodproofed, in accordance with § 14-1704, subsection (2).

(h) When floodproofing is utilized for a nonresidential structure, obtain certification of design criteria from a Tennessee registered professional engineer or architect, in accordance with § 14-1704, subsection (2).

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

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

(k) Maintain all records pertaining to the provisions of this ordinance in the office of the administrator and shall be open for public inspection. Permits issued under the provisions of this ordinance shall be maintained in a separate file or marked for expedited retrieval within combined files. (Ord. #09-346, Jan. 2010)

14-1705. Provisions for flood hazard reduction. (1) General standards. In all areas of special flood hazard, the following provisions are required:

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

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

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

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

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

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

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

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

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

(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;

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

(l) All subdivision proposals and other proposed new development proposals shall meet the standards of § 14-1705, subsection (2);

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

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

(2) Specific standards. In all areas of special flood hazard, the following provisions, in addition to those set forth in § 14-1705, subsection (1), are required:

(a) Residential structures. (i) In AE Zones where base flood elevation data is available, new construction and substantial improvement of any residential building (or manufactured home) shall have the lowest floor, including basement, elevated to no lower than one foot (1') above the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with the standards of this section: "Enclosures."

(ii) Within approximate A Zones where base flood elevations have not been established and where alternative data is not available, the administrator shall require the lowest floor of a building to be elevated to a level of at least three feet (3') above the highest adjacent grade (as defined in § 14-1702). Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with the standards of this section: "Enclosures."

(b) Non-residential structures. (i) In AE Zones, where base flood elevation data is available, new construction and substantial improvement of any commercial, industrial, or nonresidential building, shall have the lowest floor, including basement, elevated or floodproofed to no lower than one foot (1') above the level of the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with the standards of this section: "Enclosures."

(ii) In approximate A Zones, where base flood elevations have not been established and where alternative data is not available, new construction and substantial improvement of any commercial, industrial, or non-residential building, shall have the lowest floor, including basement, elevated or floodproofed to no

lower than three feet (3') above the highest adjacent grade (as defined in § 14-1702). Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with the standards of this section: "Enclosures."

(iii) Non-residential buildings located in all A Zones may be floodproofed, in lieu of being elevated, provided that all areas of the building below the required elevation are watertight, with walls substantially impermeable to the passage of water, and are built with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. A Tennessee registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions above, and shall provide such certification to the administrator as set forth in § 14-1704, subsection (2).

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

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

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

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

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

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

(iii) The interior portion of such enclosed area shall not be finished or partitioned into separate rooms in such a way as to impede the movement of floodwaters and all such partitions shall comply with the provisions of § 14-1705, subsection (2).

(iv) Standards for manufactured homes and recreational vehicles. (A) All manufactured homes placed, or substantially improved, on:

(1) Individual lots or parcels;

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

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

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

(a) In AE Zones, with base flood elevations, the lowest floor of the manufactured home is elevated on a permanent foundation to no lower than one foot (1') above the level of the base flood elevation; or

(b) In approximate A Zones, without base flood elevations, the manufactured home chassis is elevated and supported by reinforced piers (or other foundation elements of at least equivalent strength) that are at least three feet (3') in height above the highest adjacent grade (as defined in § 14-1702).

(3) Any manufactured home, which has incurred "substantial damage" as the result of a flood, must meet the standards of § 14-1705, subsections (1) and (2).

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

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

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

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

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

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

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

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

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

(iv) In all approximate A Zones require that all new subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than fifty (50) lots or five (5) acres, whichever is the lesser, include within such proposals base flood elevation data (See § 14-1705, subsection (5)).

(3) Standards for special flood hazard areas with established base flood elevations and with floodways designated. (a) Located within the special flood hazard areas established in § 14-1703, subsection (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:

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

(c) New construction and substantial improvements of buildings, where permitted, shall comply with all applicable flood hazard reduction provisions of § 14-1705, subsections (1) and (2).

(4) Standards for areas of special flood hazard Zones AE with established base flood elevations but without floodways designated.

(a) Located within the special flood hazard areas established in § 14-1703, subsection (2), where streams exist with base flood data

provided but where no floodways have been designated (Zones AE), the following provisions apply:

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

(c) New construction and substantial improvements of buildings, where permitted, shall comply with all applicable flood hazard reduction provisions of § 14-1705, subsections (1) and (2).

(5) Standards for streams without established base flood elevations and floodways (A Zones). (a) Located within the special flood hazard areas established in § 14-1703, subsection (2), where streams exist, but no base flood data has been provided and where a floodway has not been delineated, the following provisions shall apply:

(i) The administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from any federal, state, or other sources, including data developed as a result of these regulations (see (ii) below), as criteria for requiring that new construction, substantial improvements, or other development in approximate A Zones meet the requirements of § 14-1705, subsections (1) and (2).

(ii) Require that all new subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than fifty (50) lots or five (5) acres, whichever is the lesser, include within such proposals base flood elevation data. No such subdivision or other development shall be approved, nor shall construction - including clearing or grading - commence, until a Letter of Map Revision (LOMR) is received from FEMA.

(iii) Within approximate A Zones, where base flood elevations have not been established and where such data is not available from other sources, require the lowest floor of a building to be elevated or floodproofed to a level of at least three feet (3') above the highest adjacent grade (as defined in § 14-1702). All applicable data including elevations or floodproofing certifications shall be recorded as set forth in § 14-1704, subsection (2). Openings sufficient to facilitate automatic equalization of hydrostatic flood forces on exterior walls shall be provided in accordance with the standards of § 14-1705, subsection (2).

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

(v) New construction and substantial improvements of buildings, where permitted, shall comply with all applicable flood hazard reduction provisions of § 14-1705, subsections (1) and (2). Within approximate A Zones, require that those subsections of § 14-1705, subsection (2) dealing with the alteration or relocation of a watercourse, assuring watercourse carrying capacities are maintained and manufactured homes provisions are complied with as required.

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

(a) Located within the special flood hazard areas established in § 14-1703, subsection (2), are areas designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one to three feet (1'-3') where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate; therefore, the following provisions, in addition to those set forth in § 14-1705, subsections (1) and (2), apply.

(b) All new construction and substantial improvements of residential and non-residential buildings shall have the lowest floor, including basement, elevated to at least one foot (1') above as many feet as the depth number specified on the FIRM's, in feet, above the highest adjacent grade. If no flood depth number is specified on the FIRM, the lowest floor, including basement, shall be elevated to at least three feet (3') above the highest adjacent grade. Openings sufficient to facilitate automatic equalization of hydrostatic flood forces on exterior walls shall be provided in accordance with standards of § 14-1705, subsection (2).

(c) All new construction and substantial improvements of non-residential buildings may be floodproofed in lieu of elevation. The structure together with attendant utility and sanitary facilities must be floodproofed and designed watertight to be completely floodproofed to at least one foot (1') above the flood depth number specified on the FIRM,

with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. If no depth number is specified on the FIRM, the structure shall be floodproofed to at least three feet (3') above the highest adjacent grade. A Tennessee registered professional engineer or architect shall certify that the design and methods of construction are in accordance with § 14-1704, subsection (2).

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

(7) Standards for areas protected by flood protection system (A-99 Zones). (a) Located within the areas of special flood hazard established in § 14-1703, subsection (2), are areas of the 100-year floodplain protected by a flood protection system but where base flood elevations have not been determined. Within these areas (A-99 Zones) all provisions of § 14-1704 and § 14-1705 shall apply.

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

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

(c) When a new flood hazard risk zone, and base flood elevation and floodway data is available, new construction and substantial improvements shall meet the standards established in accordance with § 14-1704 and § 14-1705. (Ord. #09-346, Jan. 2010)

14-1706. Variance procedures. (1) Board of zoning appeals.

(a) Authority. The board of zoning appeals shall hear and decide appeals and requests for variances from the requirements of this ordinance.

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

(c) 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, or bureau affected by any decision of the administrator based in whole or in part upon the provisions of this ordinance. Such appeal shall be taken by filing with the board of zoning appeals a notice of appeal, specifying the grounds thereof. In all cases where an appeal is made by a property owner or other interested party, a fee of fifty dollars (\$50.00) for the cost of publishing a notice of such hearings shall be paid by the appellant. The administrator shall transmit to the board of zoning appeals all papers constituting the record upon which the appeal action was taken. The board of zoning appeals shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to parties in interest and decide the same within a reasonable time which shall not be more than sixty (60) days from the date of the hearing. At the hearing, any person or party may appear and be heard in person or by agent or by attorney.

(d) Powers. The board of zoning appeals shall have the following powers:

(i) Administrative review. To hear and decide appeals where it is alleged by the applicant that there is error in any order, requirement, permit, decision, determination, or refusal made by the administrator or other administrative official in carrying out or enforcement of any provisions of this ordinance.

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

(A) The board of zoning appeals shall hear and decide appeals and requests for variances from the requirements of this ordinance.

(B) Variances may be issued for the repair or rehabilitation of historic structures as defined, herein, upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary deviation from the requirements of this ordinance to preserve the historic character and design of the structure.

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) Conditions for variances. (a) Variances shall be issued upon a determination that the variance is the minimum relief necessary, considering the flood hazard and the factors listed in § 14-1706, subsection (1).

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

(c) Any applicant to whom a variance is granted shall be given written notice that the issuance of a variance to construct a structure below the base flood elevation will result in increased premium rates for flood insurance (as high as twenty-five dollars (\$25.00) for one hundred dollars (\$100.00) coverage, and that such construction below the base flood elevation increases risks to life and property.

(d) The administrator shall maintain the records of all appeal actions and report any variances to FEMA upon request. (Ord. #09-346, Jan. 2010)

CHAPTER 18

OUTDOOR LIGHTING

SECTION

- 14-1801. Purpose.
- 14-1802. Applicability.
- 14-1803. Temporary exemptions.
- 14-1804. General standards.
- 14-1805. Site plan review.
- 14-1806. Compliance.

14-1801. Purpose. That outdoor lighting enables people to see essential detail for work or recreation, facilitates the safety or security of persons or property, emphasizes features of architectural or historical significance, lights parks and gardens, promotes products or services, or calls attention to commercial premises. But with the benefits of lighting also comes the need to protect travelers or adjacent properties from the use of inappropriate lighting practices and system. The reduction of glare, light trespass and excess illumination can maximize the effectiveness of site lighting, and conserve energy and resources. Through the regulation of the placement, orientation, distribution patterns and fixture types of electronically-powered illuminating devices, it is the intent of this ordinance to encourage better lighting practices and systems to reduce visual glare and conserve energy without decreasing safety or utility. (Ord. #303, Sept. 2005)

14-1802. Applicability. That these regulations shall apply to all exterior lighting fixtures including but not limited to, boundary, parking lot, landscape, building (architectural), product display area, and driving lane lighting. It shall also apply to externally-lighted advertising signs. The following lighting applications are specifically exempted from these regulations:

- (1) Communication towers or motion sensor devices controlling not more than three hundred (300) watts total connected load;
- (2) Temporary construction or emergency lighting provided it is discontinued immediately upon completion of the required work;
- (3) Special event lighting including circus, fair, carnival or civic uses, and fireworks displays;
- (4) Permanent emergency or security lighting for buildings or uses, provided it is required by building or electrical codes, or government regulation;
- (5) Exterior lighting for public monuments;
- (6) Exterior lighting fixtures for single-family and duplex residential dwelling units, provided that the maximum intensity of directional lighting (the center of the light beam) is not directed off-site;

(7) Incandescent lighting fixtures of one hundred sixty (160) watts or less, or any other light fixture (metal halide, HPS, fluorescent, etc.) of fifty (50) watts or less;

(8) Internally-illuminated signs where the bare bulb cannot be seen directly;

(9) Transportation lighting, including street lighting, automobiles, traffic signals, aircraft, trains and railroad signals;

(10) State, federal, or municipal facilities. However, voluntary compliance with the intent of this ordinance is encouraged; and

(11) Temporary exemptions that may be approved by the building inspector, as outlined below.

(12) Free-standing, antique or ornamental-style parking lot or private street lighting fixtures, using HPS or LPS lamps having no more than one hundred fifty (150) watts output per lamp, or any fixtures using BPS or LPS lamps with no more than one hundred (100) watts output per lamp, provided that the light emitted above the horizontal plane be restricted to no more than twenty-five percent (25%) of the lamp's total output, that no more than two (2) such lamps shall be located within fifty feet (50') of each other, and that all illumination standards from § 14-1804 are met. (Ord. #303, Sept. 2005)

14-1803. Temporary exemptions. That any person may submit a written request to the building inspector for a temporary exemption to these regulations. A temporary exemption request shall contain the following information:

- (1) The specific exemption requested;
- (2) The type and use of outdoor fixture involved;
- (3) The duration of the requested exemption;
- (4) The type and wattage of the luminaries, calculated lumens and/or estimated foot-candle levels;
- (5) The proposed location and mounting height;
- (6) The type of baffling or shielding to be provided; and
- (7) Any other data or information that may be deemed necessary by the building inspector.

A temporary exemption, if approved shall be valid for not more than thirty (30) days from the date of issuance. The approval may be renewable at the discretion of the building inspector, and any renewed exemption shall also be valid for not more than thirty (30) days. (Ord. #303, Sept. 2005)

14-1804. General standards. (1) That all non-exempt exterior lighting and illuminated signs shall be designed, installed, and directed in such a manner to prevent glare, beyond the property line. The horizontal and vertical illuminance standards established by this ordinance shall be observed during the design, construction, and subsequent modification of any fixture.

Maximum illumination levels in footcandles (fc)¹

Horizontal illuminance

General site lighting, open parking facilities 15 fc

Building entrances, security areas, drive-throughs, fuel pump islands, active storage areas such as lumber yards and automobile sales displays, and general advertising signs 40 fc

Vertical illuminance

Light trespass along a residentially-zoned property or a street (excluding the possible contribution of off-site sources such as street lighting) 1.5 fc

(2) That exterior lighting fixtures, except as otherwise allowed, shall be recessed or flush-mounted, or otherwise properly shielded to reduce glare on-premises and eliminate glare off-site.

(3) That all exterior lighting shall, as a minimum, be full cut-off fixtures, not allowing any distribution of light above the horizontal plane. Excepted is floodlighting, if it is properly shielded to prevent glare or light trespass.

(4) That a minimum uniformity ratio of ten to one (10:1) between the maximum level of illumination and the minimum level is recommended for open parking facilities, to reduce eye adaptation difficulty between lighter and darker areas.

(5) That it is recommended all non-essential lighting be turned off after business hours excluding lighting for security purposes.

(6) That single-family or duplex residential directional lighting, such as floodlighting, that has the center of its light beam directed off-site is prohibited.

(7) That luminaries shall not have a mounting height in excess of forty feet (40').

(8) That except as allowed in § 14-1804(6), the cut-off angle for exterior lighting fixtures shall not extend beyond the property line, unless proper shielding, baffling, or buffering techniques are employed. When buffering techniques are employed, allowances are not to be made for potential buffer growth and the ordinance requirements must be immediately met. (Ord. #303, Sept. 2005)

¹Based on initial footcandle values. The use of initial footcandle levels usually results in field measurements that are less intense over the life of a lamp, sometimes as much as thirty percent (30%) lower.

14-1805. Site plan review. That an exterior lighting plan, drawn to scale, shall be submitted for review and approval for all developments using non-exempted exterior lighting. That included in the plan shall be, as a minimum:

- (1) The location, mounting height, and orientation of all exterior light fixtures;
- (2) The make, model, lamp type, and wattage of each lighting fixture;
- (3) Initial foot-candle data calculated by the point method (using horizontal illuminance calculations) for all lighted area, using isofotcandle calculations on a thirty foot (30') or less grid spacing or isofotcandle lines; and
- (4) Any baffles, shielding or other light protection measures to be employed. (Ord. #303, Sept. 2005)

14-1806. Compliance. (1) That modifications to exterior lighting fixtures shall not be made without the approval of the building inspector. The upgrading of a fixture to a higher wattage or higher illumination lamp shall be considered a modification.

(2) That approval of a lighting plan does not relieve the property owner or developer of responsibility should any lighting fixture fail to perform as approved. The building inspector may require modifications to installed lighting if a violation is determined to exist. The town reserves the right to conduct post-installation inspections and/or illuminance measurements to verify compliance, and to require timely remedial action at the expense of the landowner or other responsible person.

(3) That the town shall retain the right to modify the implementation of the lighting ordinance upon approval of the planning commission.

(4) That any use existing on the effective date of this ordinance that does not fully comply with the requirements pertaining to lighting then in effect shall be abated forthwith. (Ord. #303, Sept. 2005)