

## TITLE 14

### ZONING AND LAND USE CONTROL

#### CHAPTER

1. MUNICIPAL PLANNING COMMISSION.
2. FLOOD DAMAGE PREVENTION ORDINANCE.
3. HISTORIC ZONING REGULATIONS.
4. SIGN REGULATIONS.
5. AIRPORT ZONING ORDINANCE.

#### CHAPTER 1

### MUNICIPAL PLANNING COMMISSION<sup>1</sup>

#### SECTION

- 14-101. Membership.  
 14-102. Organization, rules, staff and finances.  
 14-103. Powers and duties.

**14-101. Membership.** The municipal planning commission shall consist of five (5) members. One (1) of the members shall be the Mayor of Clifton or his designee. One (1) shall be a member of the board of commissioners selected by the board, and the three (3) remaining members shall be citizens appointed by the mayor. The terms of the appointive members shall be for three (3) years, excepting that, in the appointment of the first municipal planning commission under the terms of this ordinance, the terms of the three (3) appointive members shall be for one (1), two (2), and three (3) years, respectively, so that the terms of one (1) member shall expire each year. Any vacancy in an appointive membership shall be filled for the unexpired term by the mayor. The terms of the mayor and the member selected from the board of commissioners shall run concurrently with their terms of office. All members of the commission shall serve without compensation. (1999 Code, § 14-101)

**14-102. Organization, rules, staff and finances.** The municipal planning commission shall elect its chairman from among its appointive members. The term of the chairman shall be for one (1) year with eligibility for reelection. The commission shall adopt rules for its transactions, findings and

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<sup>1</sup>Ord. #196, May 2004, § 1 provides:

"That pursuant to Tennessee Code Annotated, § 13-4-101 the City of Clifton opts out of any and all annual training for its Planning Commission members."

determinations, which record shall be a public record. The commission may appoint such employees and staff as it may deem necessary for its work and may contract with city planners and other consultants for such services as it may require. The expenditures of the commission, exclusive of gifts, shall be within the amounts appropriated for the purpose by the board of commissioners. (1999 Code, § 14-102)

**14-103. Powers and duties.** From and after the time when the municipal planning commission shall have organized and selected its officers, together with the adoption of its rules of procedure, then said commission shall have all the powers, duties and responsibilities as set forth in Tennessee Code Annotated, title 13. (1999 Code, § 14-103)

## CHAPTER 2

### FLOOD DAMAGE PREVENTION ORDINANCE

#### SECTION

- 14-201. Statutory authorization, findings of fact, and objectives.
- 14-202. Definitions.
- 14-203. General provisions.
- 14-204. Administration.
- 14-205. Provisions for flood hazard reduction.
- 14-206. Variance procedures.
- 14-207. Legal status provisions.

#### **14-201. Statutory authorization, findings of fact, and objectives.**

(1) Statutory authorization. The General Assembly of the State of Tennessee has in Private Act 1961, Chapter 36, delegated the responsibility to units of local government to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the Clifton, Tennessee Board of Commissioners does ordain the following.

(2) Findings of fact. (a) The Clifton mayor and legislative body wishes to maintain eligibility in the National Flood Insurance Program and in order to do so must meet the requirements of 60.3 of the Federal Insurance Administration Regulations found at 44 CFR ch. 1 (10-1-04 edition).

(b) Areas of Clifton 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, flood-proofed, or otherwise unprotected from flood damages.

(2) 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 floodwaters;

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

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

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

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

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

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

(d) To minimize prolonged business interruptions;

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

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

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

(h) To maintain eligibility for participation in the National Flood Insurance Program.

**14-202. Definitions.** Unless specifically defined below, words or phrases used in this ordinance shall be interpreted as to give them the meaning they have in common usage and to give this ordinance its most reasonable application given its stated purpose and objectives.

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

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

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

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

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

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

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

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

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

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

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

(7) "Area of special flood hazard" is the land in the floodplain within a community subject to a one percent (1%) or greater chance of flooding in any given year. The area may be designated as Zone A on the FHBM. After detailed ratemaking has been completed in preparation for publication of the FIRM, Zone A usually is refined into Zones A, AO, AH, A1-30, AE or A99.

(8) "Base flood" means the flood having a one percent (1%) chance of being equaled or exceeded in any given year.

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) The overflow of inland or tidal waters;

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

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

(23) "Flood elevation study" means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) or flood-related erosion hazards.

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

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

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

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

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

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

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

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

a flash flood, or by some similarly unusual and unforeseeable event which results in flooding.

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

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

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

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

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

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

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

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

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

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



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

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

(i) By an approved state program as determined by the Secretary of the Interior; or

(ii) Directly by the Secretary of the Interior.

(40) "Levee" means a man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding.

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

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

(43) "Manufacture 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," unless such transportable structures are placed on a site for one hundred eighty (180) consecutive days or longer.

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

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

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

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

(48) "New construction" means any structure for which the "start of construction" commenced after the effective date of this ordinance or the

effective date of the first floodplain management ordinance and includes any subsequent improvements to such structure.

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

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

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

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

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

(a) Built on a single chassis;

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

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

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

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

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

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

(57) "Start of construction" includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within one hundred eighty (180) days of the permit date. The actual start means either the first placement of permanent construction of a structure (including a manufactured home) on a site, such as the pouring of slabs or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; and includes the placement of a manufactured home on a foundation. (Permanent construction does not include

initial land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds, not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

(58) "State coordinating agency" the Tennessee Department of Economic and Community Development, Local Planning Assistance Office as designated by the Governor of the State of Tennessee at the request of the administrator to assist in the implementation of the National Flood Insurance Program for the state.

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

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

(61) "Substantial repairs" means any repairs, reconstructions, rehabilitations, additions, alterations or other improvements to a structure, taking place during a five (5) year period, in which the cumulative cost equals or exceeds fifty percent (50%) of the market value of the structure before the "start of construction" of the improvement. The market value of the structure should be:

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

(b) In the case of damage, the value of the structure prior to the damage occurring. This term includes structures which have incurred "substantial damage," regardless of the actual repair work performed.

For the purpose of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the building. The term does not, however, include either:

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

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

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

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

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

(65) "Water surface elevation" means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, (or other datum, where specified) of floods of various magnitudes and frequencies in the floodplains of riverine areas.

**14-203. General provisions.** (1) Application. This ordinance shall apply to all areas within the incorporated area of Clifton, Tennessee.

(2) Basis for establishing the areas of special flood hazard. The areas of special flood hazard identified on the Clifton, Tennessee, Federal Management Agency, Flood Insurance Study (FIS) and Flood Insurance Rate Map (FIRM), Community Panel Numbers 47117C0135D, 47117C0154D, 47117C0155D, 47117C0156D, 47117C0157D, 47117C0158D, 47117C0159D, 47117C0165D, 47117C0166D, 47117C0167D, 47117C0178D, and 47117C0186D, dated September 28, 2007, 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 City of Clifton, Tennessee or by any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

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

(9) Repeal. Any existing ordinance, titled "The Clifton Municipal Flood Damage Prevention Ordinance," is hereby repealed in its entirety and replaced with this new ordinance of the same title.

**14-204. 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 BFEs are available, or to the highest adjacent grade when applicable under this ordinance.

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

(iii) Design certificate from a registered professional engineer or architect that the proposed non-residential flood-proofed building will meet the flood-proofing criteria in § 14-204(2).

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

(b) Construction stage. Within unnumbered A zones, where flood elevation data are not available, the administrator shall record the elevation of the lowest floor on the development permit.

The elevation of the lowest floor shall be determined as the measurement of the lowest floor of the building relative to the highest adjacent grade.

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

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

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

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

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

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

(c) Notification to adjacent communities and the Tennessee Department of Economic and Community Development, Local Planning

Assistance Office, prior to any alteration or relocation of a watercourse, and submission of evidence of such notification to the Federal Emergency Management Agency.

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

(e) Record the elevation, in relation to mean sea level or the highest adjacent grade, where applicable of the lowest floor including basement of all new or substantially improved buildings, in accordance with § 14-204(2).

(f) Record the actual elevation; in relation to mean sea level or the highest adjacent grade, where applicable to which the new or substantially improved buildings have been flood-proofed, in accordance with § 14-204(2).

(g) When flood proofing is utilized for a structure, the administrator shall obtain certification of design criteria from a registered professional engineer or architect, in accordance with § 14-204(2).

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

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

Within unnumbered A zones, where base flood elevations have not been established and where alternative data is not available, the administrator shall require the lowest floor of a building to be elevated or floodproofed to a level of at least three feet (3') above the highest adjacent grade (lowest floor and highest adjacent grade being defined in § 14-202 of this chapter). All applicable data including elevations or flood proofing certifications shall be recorded as set forth in § 14-204(2).

(j) All records pertaining to the provisions of this ordinance shall be maintained in the office of the administrator and shall be open for public inspection. Permits issued under the provisions of this ordinance shall be maintained in a separate file or marked for expedited retrieval within combined files.

**14-205. Provisions for flood hazard reduction.** (1) General standards. In all flood prone areas the following provisions are required:

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

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

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

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

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

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

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

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

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

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



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

(a) Residential construction. Where base flood elevation data is available, new construction or substantial improvement of any residential building (or manufactured home) shall have the lowest floor, including basement, elevated no lower than one 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 and to ensure unimpeded movement of floodwater shall be provided in accordance with the standards of § 14-205(2).

Within unnumbered A zones, where base flood elevations have not been established and where alternative data is not available, the administrator shall require the lowest floor of a building to be elevated or floodproofed to a level of at least three feet (3') above the highest adjacent grade (lowest floor and highest adjacent grade being defined in § 14-202 of this chapter). All applicable data including elevations or flood proofing certifications shall be recorded as set forth in § 14-204(2).

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

Within unnumbered A zones, where base flood elevations have not been established and where alternative data is not available, the administrator shall require the lowest floor of a building to be elevated or floodproofed to a level of at least three feet (3') above the highest adjacent grade (lowest floor and highest adjacent grade being defined in § 14-202 of this chapter). All applicable data including elevations or flood proofing certifications shall be recorded as set forth in § 14-204(2).

Buildings located in all A-zones may be flood-proofed, in lieu of being elevated, provided that all areas of the building below the required elevation are watertight, with walls substantially impermeable to the passage of water, and are built with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. A registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions above, and shall provide such certification to the administrator as set forth in § 14-204(2).

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

entry and exit of flood waters to automatically equalize hydrostatic flood forces on exterior walls.

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

(A) Provide a minimum of two (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 finish grade; and

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

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

(iii) The interior portion of such enclosed area shall not be partitioned or finished into separate rooms in such a way as to impede the movement of floodwaters and all such petitions shall comply with the provisions of § 14-205(2) of this chapter.

(d) Standards for manufactured homes and recreational vehicles.

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

(A) Individual lots or parcels;

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

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

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

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

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

(iii) Any manufactured home, which has incurred "substantial damage" as the result of a flood or that has substantially improved, must meet the standards of § 14-205(2)(d) of this chapter.

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

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

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

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

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

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

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

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

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

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

(3) Standards for areas of special flood hazard with established base flood elevations and with floodways designated. Located within the areas of special flood hazard established in § 14-203(2), are areas designated as floodways. A floodway may be an extremely hazardous area due to the velocity of floodwaters, debris or erosion potential. In addition, the area must remain

free of encroachment in order to allow for the discharge of the base flood without increased flood heights and velocities. Therefore, the following provisions shall apply:

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

(b) New construction or substantial improvements of buildings shall comply with all applicable flood hazard reduction provisions of § 14-205.

(4) Standards for areas of special flood hazard Zones AE with established base flood elevations but without floodways designated. Located within the areas of special flood hazard established in § 14-203(2), where streams exist with base flood data provided but where no floodways have been designated, (Zones AE) the following provisions apply:

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

(b) New construction or substantial improvements of buildings shall be elevated or flood-proofed to elevations established in accordance with § 14-205(2).

(5) Standards for streams without established base flood elevations or floodways (A Zones). Located within the areas of special flood hazard established in § 14-203, where streams exist, but no base flood data has been provided (A Zones), or where a floodway has not been delineated, the following provisions shall apply:

(a) When base flood elevation data or floodway data have not been provided in accordance with § 14-203, then the administrator shall obtain, review and reasonably utilize any scientific or historic base flood elevation and floodway data available from a federal, state or other

source, in order to administer the provisions of § 14-205. Only if data is not available from these sources, then the following provisions (b) and (c) shall apply.

(b) No encroachments, including structures or fill material, shall be located within an area equal to the width of the stream or twenty feet (20'), whichever is greater, measured from the top of the stream bank, unless certification by registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one 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) In special flood hazard areas without base flood elevation data, new construction or substantial improvements of existing shall have the lowest floor of the lowest enclosed area (including basement) elevated no less than three feet (3') above the highest adjacent grade at the building site. Openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with the standards of § 14-205(2), and "elevated buildings."

(6) Standards for areas of shallow flooding (AO and AH Zones). Located within the areas of special flood hazard established in § 14-203(2), are areas designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one to three feet (1' - 3') where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate; therefore, the following provisions apply:

(a) All new construction and substantial improvements of residential and non-residential buildings shall have the lowest floor, including basement, elevated to at least one foot (1') above the flood depth number specified on the Flood Insurance Rate Map (FIRM), in feet, above the highest adjacent grade. If no flood depth number is specified, the lowest floor, including basement, shall be elevated, at least three feet (3') above the highest adjacent grade. Openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with standards of § 14-205(2), and "elevated buildings."

(b) All new construction and substantial improvements of nonresidential buildings may be flood-proofed in lieu of elevation. The structure together with attendant utility and sanitary facilities must be flood proofed and designed watertight to be completely flood-proofed to at least one foot (1') above the specified FIRM flood level, with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. If no depth number is specified, the lowest floor, including basement, shall be flood proofed to

at least three feet (3') above the highest adjacent grade. A registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this ordinance and shall provide such certification to the administrator as set forth above and as required in § 14-204(2).

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

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

(7) Standards for areas protected by flood protection system (A-99 Zones). Located within the areas of special flood hazard established in § 14-203 are areas of the 100-year floodplain protected by a flood protection system but where base flood elevations and flood hazard factors have not been determined. Within these areas (A-99 Zones) all provisions of §§ 14-204 and 14-205(1) shall apply.

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

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

(b) When new elevation data is available, new construction or substantial improvements of buildings shall be elevated or flood proofed to elevations established in accordance with § 14-204.

**14-206. Variance procedures.** (1) Board of floodplain review.

(a) Creation and appointment. A board of floodplain review is hereby established to hear and decide appeals and requests for variances from the requirements of this ordinance. The membership of the Clifton Board of Zoning Appeals shall serve as the board of floodplain review.

(b) Procedure. Meetings of the board of floodplain review shall be held at such times as the board shall determine. All meetings of the board of floodplain review shall be open to the public. The board of floodplain review shall adopt rules of procedure and shall keep records of applications and actions thereon, which shall be a public record.

Compensation of the members of the board of floodplain review shall be set by the city/town council.

(c) Appeals; how taken. An appeal to the board of floodplain review 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 floodplain review 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 floodplain review all papers constituting the record upon which the appeal action was taken. The board of floodplain review 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. 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 floodplain review 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 the 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 Clifton Board of Floodplain Review shall hear and decide appeals and requests for variances from the requirements of this ordinance.

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

(C) In passing upon such applications, the board of floodplain review 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 facility;

(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, and;

(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, and water systems, and streets and bridges.

(A) Upon consideration of the factors listed above, and the purposes of this ordinance, the board of floodplain review may attach such conditions to the granting of variances, as it deems necessary to effectuate the purposes of this ordinance.

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

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

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



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

(d) The administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency upon request.

**14-207. Legal status provisions.** (1) Conflict with other ordinances. In case of conflict between this ordinance or any part thereof, and the whole or part of any existing or future ordinance of Clifton, Tennessee, the most restrictive shall in all cases apply.

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

## CHAPTER 3

### HISTORIC ZONING REGULATIONS<sup>1</sup>

#### SECTION

- 14-301. General description.
- 14-302. Administration.
- 14-303. Historic district zoning commission.
- 14-304. Current historical districts.

**14-301. General description.** It is the intent of this district to preserve the historic sites and structures of the City of Clifton. The requirements of the district are designed to protect and preserve historic and/or architectural value; create an aesthetic atmosphere; strengthen the economy; protect and enhance the city's attractions to tourists and visitors; strengthen the support and stimulus to business and industry thereby provided; and promote education and patriotic heritage of the present and future citizens of the community. In order to achieve the intent of the H-1 District(s) as shown on the Official Corporate Limits Map of The City of Clifton, Tennessee, the following regulations shall apply:

The H-1 District classification may be created where the following criteria shall be determined to exist by the historic district zoning commission. The quality of significance in American history, architecture, archaeology, and culture is present in district(s), sites, buildings, and structures that possess integrity of location, design, setting, materials, workmanship, feeling, and association, and:

- (1) That are associated with events that have made a significant contribution to the broad patterns of our history; or
  - (2) That are associated with the lives of persons significant in or past;
- or
- (3) That embody the distinctive characteristics of late 19th- early 20th century period, or method of construction or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or
  - (4) That have yielded, or may be likely to yield archaeological information; or
  - (5) That is listed in the National Register of Historic Places. (Ord. #231, April 2011)

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<sup>1</sup>Municipal code reference

Historic district zoning commission: Title 2.

Sign regulations: Title 14.

**14-302. Administration.** (1) No construction, major alteration or rehabilitation, moving, or demolition is to be carried on within the H-1 District until it is submitted to and receives approval in writing by the historic district zoning commission.

(2) Administration shall be by the chairman of the historic district zoning commission and all items regulated within the H-1 District shall be submitted to the historic district zoning commission for its review.

(3) Application procedures. Upon receiving an application the historic district zoning commission shall, within thirty (30) days following the availability of sufficient data, issue to the applicant a letter stating its approval with or without attached conditions or disapproval with the grounds for disapproval stated in writing. This shall be carried out by the issuance of a certificate of appropriateness signed by the secretary of the historic district zoning commission. All applications and certificates of appropriateness shall be numbered and filed in the city files at city hall. (Ord. #231, April 2011)

**14-303. Historic district zoning commission.** (1) Creation and appointment. In accordance with the Tennessee Code Annotated, § 13-7-401, a historic district zoning commission is hereby established: The City of Clifton's Board of Commissioners shall create a five (5) member historic district zoning commission which shall consist of a representative of a local patriotic or historic organization; an architect, if available; a member of the planning commission, at the time of this appointment; and the remaining members shall be appointed from the community in general. Historic district zoning commission shall be appointed by the mayor, subject to confirmation by the city board of commissioners. Appointments to membership on the historic district zoning commission shall be arranged so that the term of one (1) member shall expire each year and his/her successor shall be appointed in like manner in terms of five (5) years. All members shall elect a chairman from among themselves to preside over meetings and a secretary who shall record and transcribe the proceedings of each meeting (see the official By-Laws of the Historic District Zoning Commission, 1997 and Amended (December, 1997).

(2) Procedure. Meetings of the historic district zoning commission shall be held at the call of the chairman or by the majority of membership three out of five (3 out of 5). All meetings of the commission shall be open to the public. The commission shall give notice of the place, date, and time of any public hearings which they hold under the provisions of this chapter at least three (3) days immediately prior thereto. At least three (3) members of the commission shall constitute a quorum for the transaction of its business. The concurring vote of three (3) members of the commission shall constitute final action of the commission on any matter before it. The commission shall keep minutes of its procedures showing the vote of each member upon each question; or if absent or failing to vote, indicating such fact. The minutes shall be prepared

by the secretary of the commission and filed with the city recorder and kept for public reading.

(3) Authority and duties. The historic district zoning commission shall have the following authorities:

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

(b) The historic district zoning commission shall within thirty (30) days following availability of sufficient data, direct the granting of an application with or without conditions (by the issuance of the certificate of appropriateness) or direct the refusal of an application providing the grounds for refusal are stated in writing.

(c) Upon review of the application for approval of an application, the commission shall give prime consideration to:

(i) Historic and/or architectural value of present structure;

(ii) The relationship of exterior architectural features of such structures to the rest of the structures of the surrounding area;

(iii) The general compatibility of exterior design, arrangement texture and materials proposed to be used; and

(iv) To any other factor, including aesthetics, which is deemed pertinent.

(4) Additional authorities and duties. The general compatibility of exterior design, arrangement, texture, and material of the building or other structure in question and the relation of such factors to similar features of buildings in the immediate surroundings. However, the historic district zoning commission shall not consider interior arrangement or design, nor shall it make any requirements except for the purpose of preventing extensions incongruous to the historic aspects of the surroundings.

(5) Liability of historic district zoning commission members. Any commission member acting within the authorities granted by this chapter is relieved from all personal liability for any damage and shall be held harmless by the city government. Any suit brought against any member of the commission shall be defended by a legal representative furnished by the city government until the termination of the procedure.

(6) Jurisdiction. The commission shall have exclusive jurisdiction relating to historic matters. Anyone who may be aggrieved by a final order or judgment may have review by the courts by the procedures of statutory certiorari as provided for in Tennessee Code Annotated, §§ 27-9-102 and 27-9-103.

(7) Conflict of interest. Any member of the commission who shall have a direct or indirect interest in any property which is the subject matter of, or affected by, a decision of said commission shall be disqualified from

participating in the discussion, decision, or proceedings of the commission therewith.

(8) Maintenance and repair of improvements. Every person in charge of an improvement in a historic district shall keep in good repair all of the exterior portions of such improvements and all interior thereof which, if not so maintained, may cause or tend to cause or tend to cause the exterior portions of such improvements to deteriorate, decay or become damaged or otherwise to fall into a state of disrepair.

(9) Injunction authorities and penalties. Where it appears that the owner or person in charge of an improvement on a landmark site or preservation site threatens or is about to do or is doing any work in violation of this chapter, the city attorney for the City of Clifton shall, when directed by the mayor and the city board of commissioners, forthwith apply to an appropriate court for an injunction against such violation of this chapter. If an order of the court enjoining or restraining such violation does not receive immediate compliance, the city attorney shall forthwith apply to an appropriate court to punish said violation pursuant to the law. Any person violating this chapter shall be guilty of a misdemeanor, punishable as other misdemeanors as provided by law. (Ord. #231, April 2011)

**14-304. Current historical districts.** The official boundary of the H-1 overlay district is amended to include only the Main Street district following parcel lines on both sides of the street from the Water Street intersection to Stockade Street on the East and including Frank Hughes School on the West. Other districts, such as the Water Street district, the Pillow Street district and other residential districts will be included in the future. The Main Street Historical District (H-1) and all future historical districts will have official design guidelines developed for administrative review. Each applicant shall be served with a copy of the appropriate guidelines upon request.

All citizens requesting property to be included in the H-1 overlay district must submit a map and written request to the historic district zoning commission for recommendation. Said recommendation will be further reviewed by the city board of commissioners with two (2) readings and one (1) public hearing. Said property shall be added to the H-1 district following such official adoption by the city board of commissioners. (Ord. #231, April 2011)

## CHAPTER 4

### SIGN REGULATIONS

#### SECTION

- 14-401. Purpose and intent.
- 14-402. General requirements.
- 14-403. Definitions.
- 14-404. Computations.
- 14-405. Exempt signs.
- 14-406. Nonconforming signs.
- 14-407. Prohibited signs.
- 14-408. Illumination.
- 14-409. Inspection and safety.
- 14-410. Administration.
- 14-411. Severable nature of chapter.
- 14-412. Protection of first amendment rights.
- 14-413. Special provisions for service stations.
- 14-414. Historic district design guidelines.

**14-401. Purpose and intent.** Signs constitute a separate and distinct use of the land upon which they are placed and affect the use of adjacent streets, sidewalks and property. These provisions are intended for the following purposes:

- (1) To establish reasonable and impartial regulations for all signs for the City of Clifton, Tennessee.
- (2) To protect the general public health, safety, convenience, and welfare.
- (3) To reduce traffic hazards caused by unregulated signs that may distract, confuse and impair the visibility of motorists and pedestrians.
- (4) To ensure the effectiveness of public traffic signs and signals.
- (5) To protect the public investment in streets, highways and other public properties.
- (6) To facilitate the creation of an attractive and harmonious community.
- (7) To protect property values. (1999 Code, § 14-401)

**14-402. General requirements.** The regulations in this chapter specify the number, type, sizes, heights, and locations of signs that are permitted within the City of Clifton. Any sign regulation incorporated into a separate development plan approved by the city commission may supercede all or part of this chapter.

- (1) No permanent sign affixed to the ground shall be erected within fifty feet (50') of another like sign.

(2) All existing permanent signs may remain provided they are maintained and in good repair. (See § 14-406 for additional regulations regarding nonconforming signs.)

(3) No sign shall be permitted where in the opinion of the administrator a traffic hazard would be created.

(4) All new signs within the historic zoning overlay district must comply with design guidelines or seek further approval through the certificate of appropriateness, from the historic zoning commission.

(5) Where a commercial use abuts a residential use, no sign shall be within fifteen feet (15') of the side lot line. (1999 Code, § 14-402)

**14-403. Definitions.** The following words, terms and phrases are hereby defined as follows and shall be interpreted as such throughout this sign ordinance except where definitions are specifically included in various articles and sections. Where words have not been defined, the standard dictionary definition shall prevail or such as the context may imply. In any case, the city manager, or his designee, shall have the right to interpret the definition of any word.

(1) "A-frame sign." A temporary signboard consisting of two (2) hinged boards attached at the top and that rests on the ground, but is not permanently affixed to the ground.

(2) "Abandoned sign." A sign that no longer correctly directs or exhorts any person, advertises a bona fide business, lessor, owner, project or activity conducted or product available in the city or on the premises where such sign is displayed.

(3) "Administrator." The designated government official whose responsibility it is to administer the provisions of this chapter. This shall be the city manager for the City of Clifton or his designee.

(4) "Building frontage." The length of the single face of a building or that portion of a building occupied by a single office, business or enterprise, commonly referred to as "store-front," which is abutting a street, parking area, or other means of customer access such as an arcade, a mall or a walkway.

(5) "Changeable copy sign." A sign on which copy is changed in the field, i.e., reader boards with changeable letters or changeable pictorial panels.

(6) "Civic sign." A sign that identifies a nonprofit institution or organization on whose premises it is located, and that contains

(a) The name of the institution or organization;

(b) The name or names of the persons connected with the institution or organization; and

(c) Greetings, announcements of events or activities occurring at the institution or similar messages.

(7) "Copy." The characters, letters, or illustrations displayed on a sign face.

(8) "Directional sign." A sign that provides on-site directional assistance for the convenience of the public such as locations of exits, entrances and parking lots.

(9) "Election sign." A temporary yard sign not exceeding six (6) square feet erected or displayed for the purpose of expressing support for or opposition to a candidate or stating a position regarding an issue upon which the voters of the city shall vote.

(10) "Illegal sign." A sign that was erected in violation of regulations that existed at the time it was constructed. An illegal sign is not the same as a nonconforming sign.

(11) "Nonconforming sign." A sign that met all legal requirements when constructed but that is not in compliance with this chapter. An illegal sign is not a nonconforming sign.

(12) "Off-premise/off-site sign." Any sign that is not located on the premises that it identifies or advertises.

(13) "Product advertisement." Any sign that references an item, product, or line of products sold by a business.

(14) "Portable sign." A sign that is designed to be moved easily and not permanently affixed to the ground or to a structure or building.

(15) "Roof sign." Any sign erected and constructed wholly on or over the roof of a building, and that is supported by the roof structure, or any sign that extends in whole or in part above the roofline of a building. (A roof sign is an illegal sign)

(16) "Roofline." On a sloping roof, the roofline is the lower edge or eave of the roof. On a flat roof, the roofline is the lowest continuous line of a roof or parapet, whichever is lower, on the side of the building upon which the sign is to be located.

(17) "Show window sign." Any temporary sign advertising sales or specials attached to the inside or outside of the glass surface of any window (glazing).

(18) "Sign." Any identification, description, illustration or device, that is attached to the inside or outside of a building face, door, or window; and that directs attention to a product, service, place, activity, person, institution, business or solicitation, except the following:

(a) Merchandise temporarily displayed in show windows that is available for sale on the premises;

(b) National, state or city flags not exceeding thirty-two (32) square feet; and

(c) Decorative devices or emblems as may be displayed on a mailbox.

(19) "Sign structure" Any structure that supports, has supported or is capable of supporting a sign, including decorative cover.

(20) "Temporary sign." A sign that is not permanent and is allowed for a specific time period.



(21) "Traffic directional sign." Any sign that aids the flow of traffic.

(22) "Waterside identification sign." A sign identifying retail, commercial or recreational property, and that can be viewed only from the waters of the Tennessee River. (1999 Code, § 14-403)

**14-404. Computations.** The following principles shall control the computation of sign area: Computation of area of individual signs. The area of a sign shall be computed by means of the smallest box that will encompass the limits of the sign, but not including any supporting framework or bracing. Only one (1) side shall be used to compute the size of a two (2) sided sign. (1999 Code, § 14-404)

**14-405. Exempt signs.** The following types of signs are exempted from all the provisions of this chapter.

(1) Public signs: Signs erected by government agencies or utilities including traffic, utility, safety, railroad crossing, and identification signs for public facilities, and any signs erected by the board of zoning appeals or under the direction of the board.

(2) Historical markers: Historical markers as recognized by local, state or federal authorities.

(3) Signs indicating address and/or name of residential occupants of the premises. Not more than one (1) such sign shall be allowed for each street frontage of each principal use on a lot.

(4) Civic signs: One (1) civic sign of not more than sixteen (16) square feet is allowed.

(5) Construction sign: One (1) temporary sign not to exceed thirty-two (32) square feet in area indicating the name of the contractors, engineers, and/or architects of a project during a construction period.

(6) Handicapped parking space sign: Signs not exceeding two (2) square feet in area reserving parking spaces for handicapped motorists.

(7) Home-occupation signs: On-premise identification signs for home-occupations shall not exceed one sign per street frontage not to exceed a total of sixteen (16) square feet in area and shall contain only the name of the business and/or business owner.

(8) Memorial signs: Plaques, cornerstones, and the like.

(9) Security and warning signs: On-premise signs regulating the use of the premises such as "no trespassing," "no hunting," and "no soliciting" or signs indicating security systems used on premises that do not exceed two (2) square feet in area on residential lots and five (5) square feet in area on commercial and industrial lots.

(10) Temporary real estate or auction signs: Temporary signs indicating the availability of real property for sale or lease, located on the premises being sold or leased. Display of such sign shall be limited to one (1) per property street frontage not exceeding a total of sixteen (16) square feet in area.

Such signs shall be removed within seven (7) days of the settlement or lease of the property.

(11) Special event signs: Signs announcing special events to be used on a temporary basis. Any business, individual, or organization may display one (1) sign per street frontage not to exceed a total of sixteen (16) square feet of area for up to fourteen (14) days prior to a special event. Such signs shall be attached to buildings, or existing private sign structures, or sign poles with the permission of the owner.

(12) Farm product signs: Temporary on-premise signs announcing the availability of seasonal farm produce or nursery products. The number of signs shall not exceed one (1) per street frontage and total area of all such signs shall not exceed sixteen (16) square feet.

(13) Any signage required by federal law pertaining to wireless transmission facilities.

(14) Any signage required by the Federal Aviation Administration.

(15) A changeable copy sign not exceeding thirty-two (32) square feet will be allowed when included as part of another authorized sign.

(16) Subdivision entrance signs for a duly recorded subdivision plat located at the entrance to subdivisions, but not including driveway entrances, that includes information about the subdivision and do not exceed thirty-two (32) square feet of sign face area per sign.

(17) One (1) waterside sign per development along the Tennessee River provided that the sign is visible only from the Tennessee River and does not exceed one (1) square foot per one foot (1') of river frontage, not to exceed a total of two hundred (200) square feet.

(18) Show window signs announcing special events or products may be displayed up to a total of sixteen (16) square feet of area for up to fourteen (14) days. Such signs must be located on the interior of the building.

(19) Signs totaling one (1) square foot of area for each one (1) square foot of building linear street frontage, not to exceed one hundred (100) square feet.

(20) Seasonal decorations that do not reference a business or product.

(21) Off-premise signs indicating the location or direction to a non-profit organization located within the City of Clifton, which do not exceed six (6) square feet of sign area per sign. Each organization is allowed a maximum of three (3) such signs. These signs may be located within the public rights-of-way if they do not interfere with traffic safety.

(22) Signs erected by the City of Clifton on public rights-of-way that serve as a directory of businesses within the City of Clifton and are uniform in size and design. (1999 Code, § 14-405)

**14-406. Nonconforming signs.** (1) Any permanent identification sign that lawfully exists at the time of enactment of this chapter shall be allowed to remain until such time as the sign is substantially altered or changed, or until

such time as another sign is proposed in lieu of the existing sign, or until such time as the ownership of the business changes. Such sign shall be in conformance to all other provisions of this chapter.

(2) No nonconforming sign shall be enlarged, extended, structurally reconstructed or altered in any manner.

(3) Nonconforming signs shall not be considered the same as an illegal sign: one that is constructed after this chapter was enacted and that does not comply with this chapter. (1999 Code, § 14-406)

**14-407. Prohibited signs.** The following signs are prohibited under this chapter.

(1) Signs painted on or attached to fence posts, trees, rocks, canopy posts, utility poles, in any river, stream or creek, in the Federal Emergency Management Agency determined floodway area, or any other designated USGS natural water body (blue-line stream). Signs may be located within the 100-year floodway fringe or the 500-year flood limit areas subject to further review.

(2) Any sign that may be confused with or obstruct the view of any authorized traffic sign or signal, or extend into the public right-of-way.

(3) Signs that advertise an activity, business, product or service not conducted on the premises upon which the sign is located.

(4) Signs displayed as, pennants, flags with commercial messages, banners, streamers, propellers, discs, and searchlights that are intended for permanent use.

(5) Signs that include lights that flash, blink, or turn on and off intermittently, not including time and temperature signs that are intended for permanent use.

(6) Glaring signs with light sources or reflectivity of such brightness that constitute a hazard or nuisance.

(7) Inflatable signs and objects including, but not limited to, balloons that are intended for permanent use.

(8) Portable signs that are not permanently affixed to the building, structure, or the ground. This shall not apply to authorized, temporary signs.

(9) Roof signs, i.e., signs that are erected on a roof or that extend in height above the roofline of the building on which the sign is erected.

(10) Signs that extend in height above the roofline of the building on the premises upon which the sign is erected.

(11) Signs attached to, suspended from, or painted on any vehicle that is regularly parked on any street or private property when one (1) of the purposes of so locating such vehicle is to display, demonstrate, and advertise or attract the attention of the public for a duration of more than fourteen (14) days.

(a) It is not a violation of this chapter merely to have a common logo or business sign attached to, suspended from, or painted on a company vehicle regularly engaged in the business of the owner.

(b) When it is determined by appropriate authorities that a vehicle is being regularly parked in a manner that violates this chapter, the city will issue a single notice of warning to the owner of the vehicle, who will be provided an opportunity for an informal hearing by representatives of the city prior to the institution of formal judicial proceedings.

(12) Election signs exceeding one per candidate or issue per property.

(13) Permanent signs exceeding one (1) square foot of sign per one (1) linear foot of building frontage.

(14) Total permanent signs exceeding one hundred (100) square feet of surface area per property.

(15) A single permanent sign exceeding thirty-two (32) square feet of surface area.

(16) Signs located within public rights-of-way.

(17) Signs located over pedestrian areas that do not have a minimum of eight feet (8') of clearance from ground to base.

(18) Signs extending to within eighteen inches (18") of a street curb or parking area.

(19) Product advertisement signs: No product advertisement signs shall be located on the exterior of a building. A product advertisement advertises a particular product or line of products being sold, rather than the business located on the premises.

(20) A-frame signs left on the exterior of the building when business is not open for business. (1999 Code, § 14-407, modified)

**14-408. Illumination.** Illuminated signs shall adhere to the following provisions and restrictions:

(1) The light from any illuminated sign shall be so shaded, shielded or directed that the light intensity will not be objectionable to surrounding areas.

(2) Beacon lights are not permitted unless required by the Federal Aviation Administration.

(3) No colored lights shall be used at any location in any manner so as to be confused with or construed as traffic control devices or emergency vehicle lights.

(4) Neither the direct nor reflected light from primary light sources shall create a traffic hazard to operators of motor vehicles on public thoroughfares. (1999 Code, § 14-408)

**14-409. Inspection and safety.** (1) Inspection. All signs shall be inspected periodically for compliance with this chapter.

(2) Maintenance. All signs and sign components shall be kept in good repair and in safe, neat, clean and attractive condition.

(3) Removal of signs. The city manager shall remove any sign immediately and without notice if the sign presents an immediate threat to the

safety of the public or if the sign is located within a public right-of-way or on public property. Any sign removal shall be at the expense of the property owner or lessor.

(4) Abandoned signs. A sign shall be removed by the property owner when the business that it advertises is no longer conducted on the premises. (1999 Code, § 14-409)

**14-410. Administration.** (1) Enforcement. The city manager, or his designee, is hereby authorized and directed to enforce all of the provisions of this chapter.

(2) Violations. Any person violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor. The owner of any sign, building or premises, or part thereof, where anything in violation of this chapter shall be placed, or shall exist, and any person who may have knowingly assisted in the commission of any such violation, shall be guilty of a separate offense.

(3) Appeals. Any person which disagrees with the decision of the administrator may appear in municipal court before the judge to state their appeal of the administrator's decision. (1999 Code, § 14-410)

**14-411. Severable nature of chapter.** The various sections, subsections, paragraphs and clauses of this chapter are severable and in the event that any section, subsection, paragraph or clause is judged to be invalid, the remainder of the chapter shall remain in full force and effect. (1999 Code, § 14-411)

**14-412. Protection of first amendment rights.** Any sign, display, or device allowed under this chapter may contain, in lieu of any other copy, any otherwise lawful, non-commercial message that does not direct attention to a business operated for profit or to a commodity or service for sale, and that complies with all other requirements of this chapter. (1999 Code, § 14-412)

**14-413. Special provisions for service stations.** A service station or convenience store that is engaged in the retail distribution of petroleum and petroleum products shall be further entitled to the following signs.

(1) One (1) non-illuminated permanent price sign is allowed to be located on the pump island. This sign counts toward the total square footage allocated for the property upon which it is displayed.

(2) Signs displaying the federal and state stamps, octane ratings, pump use directions, no smoking signs and other signs as required by federal, state and local authorities, provided that the accumulated total square footage of same shall not exceed two (2) square feet per pump island.

(3) Other signs and stamps required by state and federal law, provided same are of size no greater than the minimum requirements of the law and for design, size and lighting as approved by the city manager. (1999 Code, § 14-413)

**14-414. Historic district design guidelines.** In addition to the requirements set forth by this sign ordinance, signs to be located within the historic districts must go through the historic district commission's approval process prior to sign erection. In most cases, attending a meeting of the historic district commission will be necessary. The commission has set some general guidelines for signs that are to be located within the historic districts. The historic district commission is granted separate injunctive powers, as authorized by state law, to enforce the guidelines not specifically mentioned within this chapter. (1999 Code, § 14-414)

## CHAPTER 5

### AIRPORT ZONING ORDINANCE

#### SECTION

- 14-501. Short title.
- 14-502. Definitions.
- 14-503. Zones.
- 14-504. Height limitations.
- 14-505. Use restrictions.
- 14-506. Nonconforming uses.
- 14-507. Permits.
- 14-508. Enforcement.
- 14-509. Appeals and judicial review.
- 14-510. Remedies.
- 14-511. Conflicting regulations.

**14-501. Short title.** This chapter shall be known as the "Hassell Field Airport Zoning Ordinance." (Ord. #242, July 2013)

**14-502. Definitions.** As used in this chapter, unless the context otherwise requires:

- (1) "Airport." Hassell Field Municipal Airport.
- (2) "Airport elevation." The established elevation of the highest point on the usable landing area measured in feet from mean sea level. For the Hassell Field Municipal Airport, this value is four hundred one feet (401') MSL.
- (3) "Approach surface." A surface longitudinally centered on the extended runway centerline, extending outward and upward from the end of the primary surface and at the same slope as the approach zone height limitation slope set forth in § 14-504 of this chapter. The perimeter of the approach surface coincides with the perimeter of the approach zone.
- (4) "Approach, transitional, horizontal, and conical zones." These zones are set forth in § 14-503 of this chapter.
- (5) "Conical surface." A surface extending outward and upward from the periphery of the horizontal surface at a slope of 20:1 for a horizontal distance of four thousand feet (4,000').
- (6) "Hazard to air navigation." An obstruction determined to have a substantial adverse effect on the safe and efficient utilization of the navigable airspace.
- (7) "Height." For the purpose of determining the height limits as to all zones set forth in this chapter and shown on the zoning map, the datum shall be mean sea level elevation unless otherwise specified.

(8) "Horizontal surface." A horizontal plane one hundred fifty feet (150') above the established airport elevation, the perimeter of which plane coincides with the perimeter of the horizontal zone.

(9) "Landing area." The surface area of the airport used for the landing, takeoff, or taxiing of aircraft.

(10) "Nonconforming use." Any pre-existing structure, object of natural growth, or use of land, which is inconsistent with the provisions of this chapter or an amendment thereto.

(11) "Nonprecision instrument runway." A runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area-type navigation equipment, for which a straight-in nonprecision instrument approach procedure has been approved or planned.

(12) "Obstruction." Any structure, growth, or other object, including a mobile object, which exceeds a limiting height set forth in § 14-504 of this chapter.

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

(14) "Precision instrument runway." A runway having an existing instrument approach procedure utilizing an Instrument Landing System (ILS) or a Precision Approach Radar (PAR). It also means a runway for which a precision approach system is planned and is so indicated on an approved airport layout plan or any other planning document.

(15) "Primary surface." A rectangular surface longitudinally aligned with the runway and defined by the largest rectangular area definable containing the runway within the Hassell Field property boundaries. For Runway 2/20 at Hassell Field, a four thousand six hundred foot (4,600') long runway with visual approaches, the primary surface is a rectangular area two hundred fifty feet (250') in width centered on the runway (east-west orientation) and extends two hundred feet (200') in length (north-south orientation) beyond the ends of the runway. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.

(16) "Runway." A defined area on an airport prepared for landing and take-off of aircraft along its length.

(17) "Structure." An object, including a mobile object, constructed or installed by man, including, but not limited to, buildings, towers, cranes, smokestacks, earth formations, and overhead transmission lines.

(18) "Transitional surfaces." These surfaces extend outward and upward at ninety degree (90°) angles to the runway centerline at a slope of seven feet (7') horizontally for each foot vertically from the sides of the primary and approach surfaces to where they intersect the horizontal and conical surfaces.

(19) "Tree." Any object of natural growth.

(20) "Visual runway." A runway intended solely for the operation of aircraft using visual approach procedures.



(21) "Utility runway." A runway that is constructed for and intended to be used by propeller driven aircraft twelve thousand five hundred pounds (12,500 lbs) maximum gross weight and less. (Ord. #242, July 2013)

**14-503. Zones.** In order to carry out the provisions of this chapter, there are hereby created and established certain zones, which include all of the land lying beneath the approach surface, transitional surfaces, horizontal surface, and conical surface as they apply to Hassell Field. Such zones are shown on a zoning map and the Airport Layout Drawing (ALD), which is attached to this chapter as Attachment A<sup>1</sup> and made a part hereof. An area located in more than one (1) of the following zones is considered to be only in the zone with the more restrictive height limitations. The various zones are hereby established and defined as follows:

(1) Approach zones. (a) Runway 2 approach zone is established beneath the approach surface at the end of Runway 2 on Hassell Field for visual landings and takeoffs. The inner edge of the approach zone shall have a width of two hundred fifty feet (250') which coincides with the width of the primary surface at the north end of the primary surface, widening thereafter uniformly to a width of one thousand five hundred feet (1,250') at horizontal distance of five thousand feet (5,000') beyond the end of the primary surface, its centerline being continuation of the centerline of the primary surface.

(b) Runway 20 approach zone is established beneath the approach surface at the end of Runway 20 on Hassell Field for visual landings and takeoffs. The inner edge of the approach zone shall have a width of two hundred fifty feet (250') which coincides with the width of the primary surface at the south end of the primary surface, widening thereafter uniformly to a width of one thousand two hundred fifty feet (1,250') at a horizontal distance of five thousand feet (5,000') beyond the end of the primary surface, its centerline being the continuation of the centerline of the primary surface.

(2) Transitional zones. Transitional zones are hereby established beneath the transitional surface adjacent to each runway and approach surface as indicated on the zoning map.

(3) Horizontal zone. The area beneath a horizontal plane one hundred fifty feet (150') above the established airport elevation, the perimeter of which is constructed by swinging arcs of five thousand feet (5,000') radii from the center of each end of the primary surface of runway(s) 2 and 20 and connecting the adjacent arcs by lines tangent to those arcs.

(4) Conical zone. The area beneath the conical surface extending outward and upward from the periphery of the horizontal surface at a slope of

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<sup>1</sup>Attachment A is available in the office of the city recorder.

20:1 for a horizontal distance of four thousand feet (4,000'). (Ord. #242, July 2013)

**14-504. Height limitations.** Except as otherwise provided in this chapter, no structure shall be erected, altered, or maintained and no tree shall be allowed to grow in any zone created by this chapter to a height in excess of the applicable height limit herein established for such zone. Such applicable height limitations are hereby established for each of the zones in question as follows:

(1) **Approach zones.** (a) Runway 2: One foot (1') in height for each twenty feet (20') in horizontal distance beginning at the end of and at the elevation of the primary surface and extending to a point five thousand feet (5,000') from the end of the primary surface.

(b) Runway 20: One foot (1') in height for each twenty feet (20') in horizontal distance beginning at the end of and at the elevation of the primary surface and extending to a point five thousand feet (5,000') from the end of the primary surface.

(2) **Transitional zones.** Slope seven feet (7') outward for each foot upward beginning at the sides of and at the same elevation as the primary surface and the approach surface, and extending to a height of one hundred fifty (150') above the airport elevation which is four hundred one feet (401') above mean sea level. In addition to the foregoing, there are established height limits sloping seven feet (7') outward for each foot upward beginning at the sides of and at the same elevation as the approach surface, and extending to where they intersect the conical surface.

(3) **Horizontal zone.** Established at one hundred fifty feet (150') above the airport elevation, or a height of five hundred fifty-one feet (551') above the mean sea level.

(4) **Conical zone.** Slope twenty feet (20') outward for each foot upward beginning at the periphery of the horizontal zone and at one hundred fifty feet (150') above the airport elevation and extending to a height of three hundred fifty feet (350') above the airport elevation.

(5) **Excepted height limitations.** Nothing in this chapter shall be construed as prohibiting the construction or maintenance of any structure, or growth of any tree to a height up to fifty feet (50') above the surface of the land. (Ord. #242, July 2013)

**14-505. Use restrictions.** Notwithstanding any other provisions of this chapter, no use may be made of land or water within any zone established by this chapter in such a manner as to create electrical interference with navigational signals or radio communication between airport and aircraft, make it difficult for pilots to distinguish between airport lights and others, result in glare in the eyes of pilots using the airport, impair visibility in the vicinity of the airport, create bird strike hazards, or otherwise in any way endanger or

interfere with the landing, taking-off, or maneuvering of aircraft intending to use the airport. (Ord. #242, July 2013)

**14-506. Nonconforming uses.** (1) Regulations not retroactive. The regulations described by this chapter shall not be construed to require the removal, lowering, or other change or alteration of any structure or tree not conforming to the relations as of July 2013, the effective date of this chapter, or otherwise interfere with the continuance of any nonconforming use. Nothing herein contained shall require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which was begun prior to the effective date of this chapter and which has been diligently prosecuted.

(2) Marking and lighting. Notwithstanding the preceding provision of this section, the owner of any nonconforming structure or tree is hereby required to permit the installation, operation, and maintenance thereon of such markers and lights as shall be deemed necessary by the Clifton Airport Authority to indicate to the operators of aircraft in the vicinity of the airport, the presence of such airport hazards. Such markers and lights shall be installed, operated, and maintained at the expense of the Clifton Airport Authority. Except as indicated, all applications or such a permit will be granted. (Ord. #242, July 2013)

**14-507. Permits.** (1) Future uses. Except as specifically provided in (a), (b), and (c) hereunder, no material change shall be made in the use of land, no structure shall be erected or otherwise established, and no tree shall be planted in any zone hereby created unless a permit therefor shall have been applied for and granted. Each application for a permit shall indicate the purpose for which the permit is desired, with sufficient particularity to permit it to be determined whether the resulting use, structure, or tree would conform to the regulations herein prescribed. If such determination is in the affirmative, the permit shall be granted. No permit for a use inconsistent with the provisions of this chapter shall be granted unless a variance has been approved in accordance with § 14-507(4).

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

(b) In areas lying within the limits of the approach zones, but at a horizontal distance of not less than four thousand two hundred feet (4,200') from each end of the runway no permit shall be required for any tree or structure less than seventy-five feet (75') of vertical height above the ground, except when such tree or structure would extend above the height limit prescribed for such approach zones.

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

Nothing contained in any of the foregoing exceptions shall be construed as permitting or intending to permit any construction or alteration of any structure or growth of any tree in excess of any of the height limits established by this chapter except as set forth in § 14-504(5).

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

(3) Nonconforming uses, abandoned or destroyed. Whenever the Clifton Airport Authority and Clifton City Board of Commissioners determines that a nonconforming structure or tree has been abandoned or more than eighty percent (80%) torn down, physically deteriorated, or decayed, no permit shall be granted that would allow such structure or tree to exceed the applicable height limit or otherwise deviate from the zoning relations.

(4) Variances. Any person desiring to erect or increase the height of any structure, or permit the growth of any tree or use his property in violation of the regulations prescribed in this chapter, may apply to the city commission for a variance from such regulations in question. The application for variance shall be accompanied by a determination from the Federal Aviation Administration as to the effect of the proposal on the operation of air navigation facilities and the safe-efficient use of navigable airspace. Such variances shall be allowed where it is duly found that a literal application or enforcement of the relations will result in unnecessary hardship and the relief granted would not be contrary to the public interest, but do substantial justice, and be in accordance with the spirit of this chapter. Additionally, no application for variance to the requirements of this chapter may be considered by the Clifton Airport Authority or the city commission unless a copy of the application has been furnished to the manager of Hassell Field for advice as to the aeronautical effects of the variance. If the manager of Hassell Field does not respond to the application within fifteen (15) days after receipt, the city commission may act on its own to grant or deny said application.

(5) Obstruction marking and lighting. Any permit or variance granted, if such action is deemed advisable by the Clifton Airport Authority or the city commission to effectuate the purpose of this chapter and be reasonable in the circumstances, may be so conditioned as to require the owner of the structure or tree in question to allow the Clifton Airport Authority to install, operate, and

maintain, at the expense of the city, such markings and lights as may be necessary. (Ord. #242, July 2013)

**14-508. Enforcement.** It shall be the duty of the City of Clifton to administer and enforce the regulations prescribed herein. Applications for permits shall be made to the Clifton Airport Authority upon a form published for that purpose. Applications required by this chapter to be submitted to the Clifton Airport Authority shall be promptly considered and granted or denied. Applications for variance shall be made to the Clifton Airport Authority by filing said application for variance determination. (Ord. #242, July 2013)

**14-509. Appeals and judicial review.** (1) Any person aggrieved by any decision of the City of Clifton or the Clifton Airport Authority, the Clifton Planning Commission or the Clifton City Board of Commissioners made in administration of this chapter may appeal such decision to the Circuit Court of Wayne County, Tennessee.

(2) All appeals hereunder must be taken within ten (10) days after such ruling by filing a notice of appeal specifying the grounds thereof. The notice of appeal shall forthwith be transmitted by the city recorder of the City of Clifton to the clerk of the Circuit Court for Wayne County, Tennessee and shall include papers constituting the record upon which the action appealed from was taken.

(3) An appeal shall stay all activities in furtherance of the action by the application and appeal in accordance with applicable law. (Ord. #242, July 2013)

**14-510. Remedies.** In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained or any building, structure or land is used in violation of this chapter, the city commission, in addition to other remedies, may institute any appropriate action or proceedings to prevent, restrain, correct, or abate any such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use, to restrain, correct, or abate such violation, to prevent the occupancy of such building, structure, or land, or to prevent any illegal act, conduct, business or use in or about such premises. (Ord. #242, July 2013)

**14-511. Conflicting regulations.** (1) Where there exists a conflict between any of the regulations or limitations prescribed in this chapter and any other regulations applicable to the same area, whether the conflict be with respect to the height of structures or trees, the use of land, or any other matter, the terms and provisions of this chapter shall govern and prevail.

(2) If any of the provisions of this chapter or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other

provisions or application, and to this end the provisions of this chapter are declared to be severable. (Ord. #242, July 2013)