THE

BARTLETT

MUNICIPAL

CODE

Prepared by the

MUNICIPAL TECHNICAL ADVISORY SERVICE
INSTITUTE FOR PUBLIC SERVICE
THE UNIVERSITY OF TENNESSEE

in cooperation with the

TENNESSEE MUNICIPAL LEAGUE

April 2007

CITY OF BARTLETT, TENNESSEE

MAYOR

David Parsons

VICE MAYOR

Jack Young

ALDERMEN

Robert Griffin

Harold Brad King

Kevin Quinn

Davd Reaves

Bobby Simmons

CITY CLERK

Penny Medlock

PREFACE

The Bartlett Municipal Code contains the codification and revision of the ordinances of the City of Bartlett, Tennessee. By referring to the historical citation appearing at the end of each section, the user can determine the origin of each particular section. The absence of a historical citation means that the section was added by the codifier. The word "modified" in the historical citation indicates significant modification of the original ordinance.

The code is arranged into titles, chapters, and sections. Related matter is kept together, so far as possible, within the same title. Each section number is complete within itself, containing the title number, the chapter number, and the section of the chapter of which it is a part. Specifically, the first digit, followed by a hyphen, identifies the title number. The second digit identifies the chapter number, and the last two digits identify the section number. For example, title 2, chapter 1, section 6, is designated as § 2-106.

By utilizing the table of contents and the analysis preceding each title and chapter of the code, together with the cross references and explanations included as footnotes, the user should locate all the provisions in the code relating to any question that might arise. However, the user should note that most of the administrative ordinances (e.g. Annual Budget, Zoning Map Amendments, Tax Assessments, etc...) do not appear in the code. Likewise, ordinances that have been passed since the last update of the code do not appear here. Therefore, the user should refer to the city's ordinance book or the city clerk for a comprehensive and up to date review of the city's ordinances.

Following this preface is an outline of the ordinance adoption procedures, if any, prescribed by the city's charter.

The code has been arranged and prepared in loose-leaf form to facilitate keeping it up to date. MTAS will provide updating service under the following conditions:

(1) That all ordinances relating to subjects treated in the code or which should be added to the code are adopted as amending, adding, or deleting specific chapters or sections of the code (see section 7 of the adopting ordinance).

(2) That one copy of every ordinance adopted by the city is kept in a separate ordinance book and forwarded to MTAS annually.

(3) That the city agrees to pay the annual update fee as provided in the MTAS codification service charges policy in effect at the time of the update.

When the foregoing conditions are met MTAS will reproduce replacement pages for the code to reflect the amendments and additions made by such ordinances. This service will be performed at least annually and more often if

justified by the volume of amendments. Replacement pages will be supplied with detailed instructions for utilizing them so as again to make the code complete and up to date.

The able assistance of Nancy Gibson, Program Resource Specialist and Linda Winstead, the MTAS Administrative Specialist is gratefully acknowledged.

Steve Lobertini
Codification Consultant

ORDINANCE ADOPTION PROCEDURES PRESCRIBED BY THE CITY CHARTER

All ordinances shall be passed on three (3) different days at a regular, adjourned, or called meeting of the board. Ordinances may be amended up to and at the third and final reading. A public hearing shall be held prior to or at the third and final reading of an ordinance, and notice of such hearing shall be published in a newspaper of general circulation within the community and posted at city hall. Ordinances shall be made available for public inspection. Each ordinance shall be effective upon final passage unless by its terms the effective date is deferred. Ordinances shall be signed by the mayor, acting mayor, or the register, placed in an ordinance book, and thereby attested by the signature of the city clerk and filed and preserved. (art. IV, § 5)

Change 8
August 9, 2022

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TITLE 1

GENERAL ADMINISTRATION[1]

CHAPTER

CHAPTER 1

BOARD OF MAYOR AND ALDERMEN

SECTION

1-101. Agenda. Any item to be added to the agenda during a meeting of the City of Bartlett Board of Mayor and Aldermen must be approved by a unanimous vote of the aldermen present. (Ord. #88-12, May 1988)

1-102. Ordinance procedures. (1) No general ordinance, zoning ordinance, zoning amendment or appropriation of money, or order involving same, or levy of taxes, shall be made unless the ordinance authorizing same shall be read once on three (3) separate days, and passed on its third reading by a majority of the entire board, by calling the aye's and no's.

(2) Publication of ordinances. Each general ordinance, zoning ordinance, zoning amendment, appropriation of money, or order authorizing

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[1]Charter references
Board of mayor and aldermen: article IV.
City clerk: article VI.
Elections: article III.
Incorporation, etc.: article I.
Officers: article V.
Municipal code references
Building, plumbing, electrical and gas inspectors: title 12.
Fire department: title 7.
Utilities: titles 18 and 19.
Wastewater treatment: title 18.
Zoning: title 14, Appendix A.
Ordinances establishing salaries of elected officials are available in the office of the city clerk.

same, or levy of taxes shall be published once at least fifteen (15) days prior to the third and final reading of said action, in a newspaper of general circulation in the City of Bartlett.

(3) Public hearing on ordinance or amendment required--notice. Prior to the enactment of a general ordinance, a zoning ordinance, zoning amendment, appropriation of money, or order authorizing same, or levy of taxes the board of mayor and aldermen shall hold a public hearing thereon on the date and time scheduled for third and final reading, notice of the time and place for said public hearing to be published as hereinbefore provided.

(4) Change in, or departure from text of ordinance prohibited--exception. The board of mayor and aldermen in consideration of zoning ordinances or zoning amendments, shall make no change in or departure from the text or maps as certified by the planning commission, unless such change or departure be first submitted to the planning commission and approved by it, or if disapproved, receive the favorable vote of a majority of the entire board. In the consideration of general ordinances and appropriations of money, or order involving it, or the levy of taxes, the board shall have the power and authority of liberal amendment so long as the publication, public hearing and notice of same substantially conform to the action as amended.

(5) Yearly budget approval permitted. The board of mayor and aldermen shall be empowered to assemble, publish and enact an ordinance for the appropriation of money or order authorizing same in the form of a yearly budget ordinance, and all expenditures of money thereunder and within the scope of said budget shall not require further ordinance or board action, provided that the requirements of publication, public hearing and three (3) readings as hereinabove provided receive substantial compliance. The appropriation of money or order authorizing same, beyond the terms of scope of a yearly budget shall require ordinance approval as hereinbefore provided. (Ord. #77-7, Nov. 1977, modified)

CHAPTER 2

MAYOR[1]

SECTION

1-201. Local emergency powers. (1) In the event that it is deemed necessary to declare the existence of an emergency without delay, the mayor, or if the mayor is unavailable, the vice-mayor, may declare an emergency. Such declaration shall be made when it is determined that a natural or manmade emergency has occurred or that the occurrence or threat of one is imminent and requires immediate expeditious action.

(2) "Emergency" shall mean the occurrence, or threat thereof, whether accidental, natural, or caused by man, in war or peace, which results or may result in substantial injury or harm to the population or substantial damage to or loss of property.

(3) Following declaration of a local emergency, such declaration shall continue until the mayor, or if the mayor is unavailable, the vice-mayor, finds that the threat or danger of emergency no longer exists or until a meeting of the board of mayor and aldermen takes place at which the declaration of the local emergency is terminated by proclamation.

(4) A proclamation declaring a local emergency will activate the emergency plan applicable to the specific incident and will be the authority for use or distribution of any supplies, equipment, materials, or facilities assembled or arranged to be made available pursuant to such plans.

(5) Upon the declaration of a local emergency pursuant to this chapter, emergency ordinances issued by the officials of this jurisdiction will be in effect during the period of such emergency to protect the public health, safety and welfare. (Ord. #01-21, Dec. 2001)

1-202. Powers provided. Pursuant to this chapter, the mayor, or if the mayor is unavailable, the vice-mayor, is hereby given the authority and enforcement powers including, but not limited to, those powers delineated below:

(1) Suspend or limit the sale, dispensing or transportation of alcoholic beverages, firearms, explosives and combustibles.

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[1]Charter references
Board of mayor and aldermen: article IV.
Elections: article III.
Officers: article V.

(2) Establish curfews including, but not limited to, the prohibition or restriction of people or vehicles on the streets except for the provision of designated essential services, such as fire, police, emergency medical services and hospital services, including the transportation of patients, utility emergency repairs and emergency calls by physicians.

(3) Utilize all available resources of the City of Bartlett as may be reasonably necessary to cope with the emergency including emergency expenditures not to exceed two hundred fifty thousand dollars ($250,000.00); and if it is anticipated that the cost of emergency expenditures shall exceed two hundred fifty thousand dollars ($250,000.00), the mayor, or if the mayor is unavailable, the vice-mayor, shall have the power to call a special meeting of the board of mayor and aldermen to consider authorization for additional emergency expenditures.

(4) Declare certain areas off limits.

(5) Make provisions for the availability and use of temporary emergency housing and emergency warehousing of materials.

(6) Establish emergency operating centers and shelters.

(7) Declare that during an emergency it will be unlawful and an offense against the City of Bartlett for any person, firm or corporation to use the fresh water supplied by the City of Bartlett, except as may be necessary to be used by emergency workers, for any purpose other than cooking, drinking or bathing.

(8) Declare that during an emergency it shall be unlawful and an offense against the City of Bartlett for any person, firm or corporation operating within the city to charge more than average retail price for any merchandise, goods or services sold during the emergency. The average retail price as used herein is defined to be that price at which similar merchandise, goods or services were being sold during the ninety (90) days immediately preceding the emergency or a mark-up which is not a larger percentage over wholesale cost than was being charged prior to the emergency.

(9) Confiscate merchandise, equipment, vehicles or property needed to alleviate the emergency. Reimbursement shall be made within sixty (60) days and customary value paid as was charged for the item during the ninety (90) days prior to the emergency.

(10) Allow the Mayor of the City of Bartlett, or if the mayor is unavailable, the vice-mayor, to request the National Guard of the Army, Coast Guard or other law enforcement divisions, if necessary, to assist in the mitigation of the emergency or to help maintain law and order, rescue efforts, and traffic control.

(11) Nothing in this chapter shall be construed to limit the authority of the board of mayor and aldermen to declare or terminate a local emergency and to take any action authorized by law when in regular or special session.

(12) Any person, firm or corporation who refuses to comply with or violates any section of this chapter, or the emergency measures which may be

made effective pursuant to this chapter, shall be punished by a fine not to exceed fifty dollars ($50.00) and/or incarcerated as permitted by the laws of the State of Tennessee. Each day of non-compliance or each violation shall constitute a separate offense. In addition to the foregoing, any licensee of the City of Bartlett found guilty of violating any provision of this chapter, or the emergency measures which may be made effective pursuant to this chapter, may have his license suspended or revoked by the board of mayor and aldermen.

(13) Nothing herein shall prevent the City of Bartlett from taking such other lawful actions in any court of competent jurisdiction as is necessary to prevent or remedy any refusal to comply with or violation of this chapter or the emergency measures, which may be effective pursuant to this chapter. Such other lawful action shall include, but shall not be limited to, an equitable action for injunctive relief or any action of law for damages. (Ord. #01-21, Dec. 2001, modified)

CHAPTER 3

CODE OF ETHICS[1]

SECTION

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[1]State statutes dictate many of the ethics provisions that apply to municipal officials and employees. For provisions relative to the following, see the Tennessee Code Annotated (T.C.A.) sections indicated:

Campaign finance: Tennessee Code Annotated, title 2, ch. 10.

Conflict of interests: Tennessee Code Annotated, §§ 6-54-107, 108; 12-4-101, 102.

Conflict of interests disclosure statements: Tennessee Code Annotated, § 8-50-501 and the following sections.

Consulting fee prohibition for elected municipal officials: Tennessee Code Annotated, §§ 2-10-122, 124.

Crimes involving public officials (bribery, soliciting unlawful compensation, buying and selling in regard to office): Tennessee Code Annotated, § 39-16-101 and the following sections.

Crimes of official misconduct, official oppression, misuse of official information: Tennessee Code Annotated,§ 39-16-401 and the following sections.

Ouster law: Tennessee Code Annotated,§ 8-47-101 and the following sections.

1-301. Applicability. This chapter is the code of ethics for elected and appointed officials of the City of Bartlett. It applies to all full-time and part-time officials, whether compensated or not, including those of any separate board, commission, committee, authority, corporation, or other instrumentality appointed or created by the municipality. The words "municipal" and "municipality" include these separate entities. (as added by Ord. #06-26, Dec. 2006)

1-302. Definition of "personal interest." (1) For purposes of §§ 1-303 and 1-304, "personal interest" means:

(a) Any financial, ownership, or employment interest in the subject of a vote by a municipal board not otherwise regulated by state statutes on conflicts of interests; or

(b) Any financial, ownership, or employment interest in a matter to be regulated or supervised; or

(c) Any such financial, ownership, or employment interest of the official's immediate family member of which the official has knowledge.

(2) The words "employment interest" include a situation in which an official has knowledge of a family member negotiating possible employment with a person or organization that is subject of the vote or that is to be regulated or supervised.

(3) In any situation in which a personal interest is also a conflict of interest under state law, the provisions of the state law take precedence over the provisions of this chapter. (as added by Ord. #06-26, Dec. 2006)

1-303. Disclosure of personal interest by official with vote. An official with the responsibility to vote on a measure shall disclose during the meeting at which the vote takes place, before the vote and so it appears in the minutes, any personal interest that affects or that would lead a reasonable person to infer that it affects the official's vote on the measure. In addition, the official may recuse himself[1] from voting on the measure. (as added by Ord. #06-26, Dec. 2006)

1-304. Disclosure of personal interest in non-voting matters. An official who must exercise discretion relative to any matter, other than casting a vote, and who has a personal interest in the matter that affects or that would lead a reasonable person to infer that it affects the exercise of discretion shall disclose, before the exercise of the discretion when possible, the interest on a form provided by and filed with the city clerk. In addition, the official may, to

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[1]Masculine pronouns include the feminine. Only masculine pronouns have been used for convenience and readability.

the extent allowed by law, charter, ordinance, or policy, recuse himself from the exercise of discretion in the matter. (as added by Ord. #06-26, Dec. 2006)

1-305. Acceptance of gratuities, etc. If an official accepts, directly or indirectly, any money, gift, gratuity, or other consideration or favor of any kind from anyone other than the municipality that a reasonable person would infer to affect the official's vote or actions or reward him for past action in executing municipal business, then the official must disclose this gratuity in writing on a form provided by and filed with the city clerk. (as added by Ord. #06-26, Dec. 2006)

1-306. Use of information. An official or employee may not disclose any information obtained in his official capacity or position of employment that is made confidential under state or federal law except as authorized by law. (as added by Ord. #06-26, Dec. 2006)

1-307. Use of municipal time, facilities, etc. (1) An official may not use or authorize the use of municipal time, facilities, equipment, or supplies for private gain or advantage to himself.

(2) An official may not use or authorize the use of municipal time, facilities, equipment, or supplies for private gain or advantage to any private person or entity, except as authorized by legitimate contract or lease that is determined by the governing body to be in the best interests of the municipality. (as added by Ord. #06-26, Dec. 2006)

1-308. Use of position or authority. (1) An official may not make or attempt to make private purchases, for cash or otherwise, in the name of the municipality, except as allowed by the city's charter, ordinances or resolutions.

(2) An official may not use or attempt to use his position to secure any privilege or exemption for himself or others that is not authorized by the charter, general law, or ordinance or policy of the municipality. (as added by Ord. #06-26, Dec. 2006)

1-309. Outside employment. An official may not accept or continue any outside employment if the work unreasonably inhibits the performance of any affirmative duty of the municipal position or conflicts with any provision of the municipality's charter or any ordinance or policy. (as added by Ord. #06-26, Dec. 2006)

1-310. Ethics complaints. (1) The city attorney is designated as the ethics officer of the municipality. Upon the written request of an official potentially affected by a provision of this chapter, the city attorney may render an oral or written advisory ethics opinion based upon this chapter and other applicable law.

(2) (a) Except as otherwise provided in this subsection, the city attorney shall investigate any credible complaint against an appointed official charging any violation in this chapter, or may undertake an investigation on his own initiative when he acquires information indicating a possible violation, and make recommendations for action to end or seek retribution for any activity that, in the attorney's judgment, constitutes a violation of this code of ethics.

(b) The city attorney may request the governing body to hire another attorney, individual, or entity to act as ethics officer when he has or will have a conflict of interests in a particular matter.

(c) When a complaint of a violation of any provision of this chapter is lodged against a member of the municipality's governing body, the governing body shall either determine that the complaint has merit, determine that the complaint does not have merit, or determine that the complaint has sufficient merit to warrant further investigation. If the governing body determines that a complaint warrants further investigation, it shall authorize an investigation by the city attorney or another individual or entity chosen by the governing body.

(3) The interpretation that a reasonable person in the circumstances would apply shall be used in interpreting and enforcing this code of ethics. (as added by Ord. #06-26, Dec. 2006)

1-311. <u>Violations</u>. An elected official or appointed member of a separate municipal board, commission, committee, authority, corporation, or other instrumentality who violates any provision of this chapter is subject to punishment as provided by the municipality's charter or other applicable law, and in addition is subject to censure by the governing body. An appointed official who violates any provision of this chapter is subject to disciplinary action. (as added by Ord. #06-26, Dec. 2006)

TITLE 2

BOARDS AND COMMISSIONS, ETC.

CHAPTER

CHAPTER 1

DESIGN REVIEW COMMISSION

SECTION

2-101. Composition. The design review commission shall consist of nine (9) members. (Ord. #76-2, March 1976, as amended by Ord. #76-7, July 1976, Ord. #79-5, Feb. 1979, Ord. #87-15, June 1987, and Ord. #01-01, Feb. 2001)

2-102. Qualifications of membership. Members shall be recognized in any of the following fields: Architecture, engineering, landscape architecture, urban planning, art, building, or other profession involved in implementing aesthetic design principles, except that there shall be at least one architect on the commission at all times. The membership of this commission shall include two (2) members who are citizens of the City of Bartlett but shall not be required

to meet the above qualifications. (Ord. #76-2, March 1976, as amended by Ord. #85-21, Oct. 1985, Ord. #89-19, Nov. 1989, and Ord. #01-01, Feb. 2001)

2-103. Appointment of members. Each member of the design review commission shall be appointed or re-appointed by the mayor and approved by the board of mayor and aldermen. Vacancies occurring for reasons other than expiration of terms shall be filled as they occur for the period of the unexpired term. (Ord. #76-2, March 1976, as amended by Ord. #01-01, Feb. 2001)

2-104. Term of members. Each member shall be appointed for a term of two (2) years, except that to obtain the benefits of carry-over membership, terms shall be staggered so that four terms expire one (1) year and five (5) terms expire the following year. (Ord. #76-2, March 1976, as amended by Ord. #01-01, Feb. 2001)

2-105. Removal of members. Members of the design review commission may be removed without cause at the will of the mayor. (Ord. #01-01, Feb. 2001, modified)

2-106. Meetings. Meetings of the design review commission shall be held at such times as the commission may determine. Five (5) members shall constitute a quorum; and it shall take five (5) votes to pass or reject an item. In the absence of the chairman, the member next in seniority shall be the acting chairman. The commission shall keep minutes of its proceedings showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact. A majority of the commission may adopt rules and regulations to govern the procedure before the commission. (Ord. #76-2, March 1976, as amended by Ord. #76-7, July 1976, and Ord. #01-01, Feb. 2001)

2-107. Responsibilities. It shall be the duty of the design review commission

(1) To develop specific review procedures for construction of development, in all zoning districts other than those having the designation RE or RS, having an influence upon the appearance or environment of the community; and

(2) To apply such procedures in either approving or disapproving proposals for such improvements in the City of Bartlett. Except pursuant to § 2-114. (Ord. #76-2, March 1976, as amended by Ord. #01-01, Feb. 2001, and Ord. #13-02, March 2013)

2-108. Applications. (1) Applicants must submit scaled plans for the development of the site that include the following: (The number of sets of plans to be as determined by the design review commission.)

(a) Site plan;

(b) Building elevation plan;

(2) Landscaping plan in accordance with article VI section 23 of the zoning ordinance.

(3) Signs.

(a) Size;

(b) Dimensions;

(c) Construction materials;

(d) Colors;

(e) Lettering and illustration;

(f) Lighting;

(g) Location; (Provide plan for ground signs and building elevation for building signs.)

(h) Ground sign justification;

(i) Landscaping around sign;

(j) Linear feet of building frontage or store frontage.

(4) Exterior lighting plan and/or photometric plan.

(a) Location;

(b) Height;

(c) Style of fixtures;

(d) Designed and arranged to prevent intrusion on adjoining property and streets.

(5) Garbage collection areas.

(a) Indicate type and location on plan;

(b) Must be properly screened.

(6) Electric meters, transformers, and connecting conduit; gas meters.

(a) Location;

(b) Screening required.

(7) Mechanical units.

(a) Location;

(b) Screening required.

(8) Vents (plumbing, heating, etc.).

(a) Conceal from public's view.

(9) Exterior material (natural appearing and limited number).

(a) Material samples;

(b) Color samples. (Ord. #84-12, May 1984, as amended by Ord. #01-01, Feb. 2001, modified, and Ord. #13-02, March 2013)

2-109. Building applications--submittals to commission. Every application for a building permit in any district, except those districts designated RE or RS, shall be submitted to the director of planning for administrative review and approval or to be forwarded to the design review commission, along with plans, elevations and specifications, before being approved by the building official. (Ord. #76-2, March 1976, as amended by Ord. #01-01, Feb. 2001, and Ord. #13-02, March 2013)

2-110. Building applications--due consideration. Within thirty (30) days of the established submittal deadline after an application is submitted to the commission, the chairman shall examine same and present it to the members of the commission for examination and determination of whether the proposed structure will conform to proper urban design standards and be conducive to the proper architectural development of the city. At said meeting, the design review commission shall examine the plans, elevations, and specifications, and any other evidence that may be pertinent or requested. The chairman of the design review commission may request the applicant or his representative to appear at the commission meeting. The design review commission shall act as expeditiously as practicable and in no event shall any applicant be caused unreasonable delay. (Ord. #76-2, March 1976, as amended by Ord. #01-01, Feb. 2001, and Ord. #13-02, March 2013)

2-111. Building applications--approval or disapproval. At said meeting or at any meeting within fifteen (15) days subsequent thereto, the design review commission shall approve the application if, in its opinion, the proposed development will conform to proper design standards and be conducive to the proper development of the city. The design review commission shall disapprove and return the application if it determines that the proposed development will be unsightly or unsuitable in appearance or detrimental to the environment of the community. However, the design review commission may make comments and recommendations if it sees fit, toward the end of informing the applicant, the building official, and the board of aldermen why the proposal is unsuitable and what might be done to help bring it into conformance. (Ord. #76-2, March 1976, as amended by Ord. #01-01, Feb. 2001)

2-112. Building applications--issuance of permit. If the design review commission transmits the application to the building official with approval, the building official may issue the permit. If the design review commission returns the application with its disapproval and recommendations, the building official shall refuse to issue a building permit until such time as appropriate changes have been made and resubmitted in such form that meets the approval of the design review commission. If, in the opinion of the chairman of the design review commission, the resubmittal clearly meets the design standards and recommendations of the design review commission, he may approve the application for the commission without further delay. (Ord. #76-2, March 1976, as amended by Ord. #01-01, Feb. 2001)

2-113. Appeals. In the event any application is refused by the building official under the provisions of this design review commission ordinance, the applicant may appeal to the board of mayor and aldermen to review the decision of the design review commission at a regular meeting of the board of mayor and aldermen not more than sixty (60) days after said appeal. The board of mayor

and aldermen, at said hearing, shall listen to all parties who desire to be heard and after said hearing shall approve or disapprove the application. If the board of mayor and aldermen approve, the building official may issue the building permit forthwith. The action of the board in regard to the application, together with the report of the design review commission, shall be entered in the minutes of the board. (Ord. #76-2, March 1976, as amended by Ord. #01-01, Feb. 2001)

2-114. Authority of the planning director. The planning director shall have the authority to approve applications relating to minor revisions to existing or approved architectural elements for a development. Minor revisions are alterations to the approved plans that maintain the major design elements but change, add or delete components of those elements due to changes in the availability of materials, unique needs of tenants, oversights in initial planning and similar events, and include, but are not limited to:

(a) Exterior material or color changes that affects a minor area of each wall of building;

(b) Changes to exterior roofing, masonry or siding material or color that are similar to the approved material/color and maintain the original intent;

(c) Changes to exterior approved lighting features that are similar to the approved material/color and maintain the original intent;

(d) Security light additions;

(e) Changes to approved landscaping that will substitute plants that will perform their intended purpose as well or better than the approved material;

(f) The addition of accessory structures including, but not limited to: power transformers, emergency generator enclosures, dumpster enclosures, utility equipment and flagpoles, as long as said structures are not larger than one hundred fifty (150) square feet.

(g) Signage that complies with the Bartlett Sign Ordinance. (as added by Ord. #13-02, March 2013)

CHAPTER 2

PERFORMING ARTS CENTER ADVISORY BOARD

SECTION

2-201. Established. There is hereby established a performing arts center advisory board consisting of nine (9) members who will advise and review programs and policies and procedure for the performing arts center in the City of Bartlett as a subsidiary commission to the board of mayor and aldermen. (Ord. #98-10, Oct. 1998, as amended by Ord. #99-1, Feb. 1999)

2-202. Membership of advisory board. The performing arts center advisory board shall consist of nine (9) members, who shall be appointed by the mayor and approved by the board of aldermen. As qualification for membership the advisory board members shall be residents of the City of Bartlett and no official of the City of Bartlett shall be a member of said board; provided, however there shall be an ex-officio member of the board of mayor and aldermen assigned as coordinator and liaison to the board of mayor and aldermen and administration of the City of Bartlett. (Ord. #98-10, Oct. 1998, as amended by Ord. #99-1, Feb. 1999)

2-203. Terms of membership. When a member's term expires that member will serve until reappointed or replaced by another member. Terms will be staggered and will be for three (3) years. To establish the staggered terms, the initial appointments will be three (3) members for three (3) years, three (3) members for two (2) years and three (3) members for one (1) year. (Ord. #98-10, Oct. 1998, as amended by Ord. #99-1, Feb. 1999)

2-204. Vacancies and/or removal from membership. The Mayor of the City of Bartlett shall have the authority to remove any member of the performing arts center advisory board at will. Vacancies occasioned by removal, resignation or otherwise shall be filled for the unexpired term in like manner as the original appointment. (Ord. #98-10, Oct. 1998, modified)

2-205. Grant of responsibility. It shall be the responsibility of the performing arts center advisory board to adopt such by-laws, policies and procedures for its own proceedings as may be expedient and such policies and procedures it deems appropriate for the use and management of the performing arts center in the City of Bartlett. It shall be the responsibility of the performing arts center advisory board to report all such policies and procedures or changes therein to the board of mayor and aldermen within a period not less than thirty (30) days from adoption thereof and the board of mayor and aldermen may veto, revise or modify any such policies and procedures as it deems appropriate. The performing arts center advisory board shall initiate policies of mutual cooperation in the maintenance and conduct of performing arts activities with other public and governmental agencies. Further, the performing arts center advisory board shall have authority to meet informally and confer with other public and government agencies in efforts to establish a program of joint action; provided however any such arrangement shall be reduced to writing in the form of a memorandum of understanding which shall be referred to the board of mayor and aldermen for its final approval before implementation. (Ord. #98-10, Oct. 1998)

2-206. Long range planning of the performing arts center. The performing arts center advisory board shall review and recommend long range plans for the performing arts center in the City of Bartlett and make recommendations to the City of Bartlett Board of Mayor and Aldermen. (Ord. #98-10, Oct. 1998)

2-207. Election of board chairman. The performing arts center advisory board shall, according to its by-laws, for a term not greater than yearly, elect and appoint from its membership, one (1) member to serve as chairman of the performing arts center advisory board and such other officers as it shall according to its by-laws, deem necessary. (Ord. #98-10, Oct. 1998)

2-208. Coordination with the performing arts center director. The City of Bartlett shall, from time to time, employ or designate such persons and/or officials of the City of Bartlett as performing arts center director. The performing arts center director shall work in conjunction with the performing arts center advisory board, but shall not serve as a member thereof. All members of the performing arts center advisory board shall serve without compensation. (Ord. #98-10, Oct. 1998)

2-209. Conflicts of interest. It is specifically understood that all members of the performing arts center advisory board shall with their appointments receive and accept the responsibilities of public trust and no member of the performing arts center advisory board, directly or indirectly, shall

participate in any way in any decision, effort or function which even possibly ensures to his benefit, financially or otherwise.

Concurrently, the purchase of all materials, supplies, equipment, and services shall be strictly regulated and performed by the purchasing department of the City of Bartlett and the performing arts center advisory board shall have neither the power nor the authority to expend or commit any expenditure of funds or assets of the City of Bartlett without the advice and consent of the Board of Mayor and Aldermen of the City of Bartlett. (Ord. #98-10, Oct. 1998)

CHAPTER 3

FAMILY ASSISTANCE COMMISSION

SECTION

2-301. Established. The City of Bartlett hereby establishes the family assistance commission. (Ord. #00-18, Sept. 2000)

2-302. Purpose. The purpose of the family assistance commission shall be to:

(1) Identify individuals and families residing within the City of Bartlett whose health, safety and general welfare may be endangered by their living conditions because of a lack of resources.

(2) Identify the various sources of available assistance including, but not limited to:

(a) Governmental agencies;
(b) Non-profit charitable organizations;
(c) Private businesses and business organizations;
(d) Individuals; and

(3) Bring about the appropriate assistance in removing or eliminating existing health and safety hazards to those individuals and families who are endangered. (Ord. #00-18, Sept. 2000)

2-303. Composition of commission. (1) The chairperson and six (6) other members of the commission shall be appointed by the Mayor of the City of Bartlett; approved by the board of mayor and aldermen, and shall serve at the will and pleasure of the mayor. Members shall serve three (3) year terms and may be re-appointed. To achieve staggered terms; the initial appointments shall be two (2) members for one (1) year, two (2) members for two (2) years and three (3) members for three (3) years. Members shall have a sincere interest in finding assistance for those endangered individuals and families, and shall receive no salary or other compensation.

(2) Vacancies in unexpired terms shall be filed by appointment by the mayor and approval of the board of mayor and aldermen.

(3) No member of the municipal government of the City of Bartlett shall be a member of the commission; however a member of the board of mayor and aldermen shall be appointed as a non-voting, ex-officio member of the board to act as coordinator and liaison. (Ord. #00-18, Sept. 2000)

2-304. Authority. On behalf of the City of Bartlett, the commission is hereby authorized to:

(1) Identify and qualify individuals and families residing within the City of Bartlett, Tennessee whose health, safety and general welfare are endangered because their current household income is at or below the guidelines of the Shelby County Housing Rehabilitation Program and they lack other resources necessary to correct the situation themselves;

(2) Solicit and accept donations of goods and services to be used for the benefit of those qualified to receive assistance;

(3) Solicit and accept donations of cash to be held by the city in a separate fund designated as the family assistance fund, which shall be used exclusively for the benefit of those qualified to receive assistance;

(4) Coordinate assistance to those qualified to receive assistance with other governmental agencies and non-profit charitable organizations;

(5) Request assistance from the city's various departments in removing or eliminating existing health and safety hazards from the properties occupied by those qualified to receive assistance. Said requests shall be subject to the approval of the mayor;

(6) Request full or partial waivers of city fees such as water tap fees, sewer tap fees and various building permit fees for the benefit of those qualified to receive assistance. Said requests shall be subject to the approval of the mayor; and

(7) Request payments from the family assistance fund for goods and services to be provided for the benefit of those qualified to receive assistance, subject to the availability of money from the family assistance fund and the approval of the mayor.

The commission shall not give cash to any individual or family. (Ord. #00-18, Sept. 2000, as amended by Ord. #04-11, Aug. 2004)

2-305. Meetings. The commission shall meet at least on a quarterly basis, but may meet more often at the request of the chairman or any two (2) members on at least twenty-four (24) hours notice. An affirmative vote of four (4) members present shall be required to pass any motion which has been duly seconded. Minutes of the meetings shall be maintained to record actions taken. (Ord. #00-18, Sept. 2000)

CHAPTER 4

PARKS AND RECREATION ADVISORY BOARD

SECTION

2-401. Definitions. (1) "Board" means the City of Bartlett Parks and Recreation Advisory Board; and

(2) "Parks" means areas of land, with or without water, owned by the city and used for public recreational purposes, including landscaped tracts, greenbelts, downtown parks, picnic grounds, playgrounds, athletic fields, golf courses, community centers, recreation centers, camps, foot, bicycle and bridal paths, wildlife sanctuaries, zoological and botanical gardens, facilities for boating, and fishing, as well as other recreational facilities and open space used for the benefit of the public. (Ord. #02-15, Oct. 2002)

2-402. Creation--eligibility. (1) There is hereby created an advisory parks and recreation advisory board as a subsidiary commission of the board of mayor and aldermen, consisting of nine (9) voting members, each appointed by the mayor and approved by a majority vote of the board of mayor and aldermen, from among the residents of the city. Appointments shall be made from citizens of recognized fitness for the position, based on a demonstrated interest in parks and recreation, dedication to representing the interests of the public, and to some degree, based on professional training/expertise in related fields. The mayor shall appoint one (1) alderman as a non-voting liaison member.

(2) The board may from time to time create short-term ad-hoc committees that include non-members who are deemed important in performing the board's duties. Tenure shall vary with the need as determined by the board's voting members. Non-members or alternate members shall not have voting rights.

(3) Compensation. No board member shall receive any compensation for his or her services. (Ord. #02-15, Oct. 2002)

2-403. Terms of board members. Board members shall be appointed to three (3) year terms running from January 1 through December 31, or until a member's successor is duly appointed and confirmed. Terms shall be staggered

so that one third (⅓) of terms expire each year. Members of the board serve at the will and pleasure of the mayor and may be removed at any time with or without cause and with or without notice. (Ord. #02-15, Oct. 2002)

2-404. Officers--meetings--quorum. (1) Members of the board shall meet and organize by electing from the members of the board a chair and vice-chair and secretary and such other officers as may be necessary. The chair and vice-chair shall be elected for a one (1) year term taking office January 1st. All board members present are eligible to vote. In the event the chair is unable to complete his or her term, the vice-chair will assume the position of the chair until the expiration of the one (1) year term, and a new vice-chair shall be elected.

(2) The chair shall preside at all meetings of the board and in his or her absence, the vice-chair shall preside.

(3) A majority [five (5)] of the board shall constitute a quorum, and five (5) affirmative votes shall be necessary to carry any proposition.

(4) A meeting of the board shall be held at least once a month. (Ord. #02-15, Oct. 2002)

2-405. Powers and duties. The board shall:

(1) Develop bylaws to govern the internal affairs of the board. The Bartlett Board of Mayor and Aldermen must approve all bylaws;

(2) Advise and make recommendations to the board of mayor and aldermen regarding the acquisition, promotion, improvement, maintenance, and use of city parks, and advise and make recommendations in regards to recreational programs and events. All recommendations presented to the board of mayor and aldermen should include estimates of the impact on annual revenues and operating expenses, as well as the projected capital cost of the project;

(3) Make suggestions regarding available grants for the purpose of supporting city parks;

(4) Coordinate with the director of the parks and recreation department to assure that the board's recommendations are feasible and practical;

(5) Submit to the board of mayor and aldermen during March of each year a report of accomplishments for the previous year and five (5) year work-plan recommendations for the development and operation of the parks and recreation program and facilities, for the information of and as a recommendation to the board of mayor and aldermen in preparing the annual parks and recreation budget;

(6) Carry out other parks and recreation related tasks assigned by the board of mayor and aldermen or by ordinance; and

(7) Periodically conduct surveys to obtain feedback from Bartlett citizens concerning their opinions about future parks and recreation needs. (Ord. #02-15, Oct. 2002)

2-406. City staff support. The parks and recreation director or any other designee of the city mayor shall provide administrative staff support. Said staff support shall be responsible for the agenda packets, written record of the proceedings of the parks and recreation advisory board, and such other support as necessary to enable the parks and recreation advisory board to conduct business and carry out its duties and responsibilities. (Ord. #02-15, Oct. 2002)

2-407. Vacancies. The office of any member shall become vacant upon his or her resignation delivered to the chairman of the commission or the mayor. Any member who misses three (3) regularly scheduled meetings in a calendar year will immediately and without notice be automatically removed from the commission. The mayor shall then appoint and the board of mayor and aldermen shall approve a new member to serve the remainder of the removed member's term on the commission. (Ord. #02-15, Oct. 2002)

2-408. Conflicts of interest. It is specifically understood that all members of the park and recreation advisory board shall with their appointments receive and accept the responsibilities of public trust and no member of the park and recreation advisory board, directly or indirectly, shall participate in any way in any decision, effort or function which even possibly enures to his benefit, financially or otherwise. Concurrently, the purchase of all materials, supplies, equipment, and services shall be strictly regulated and performed by the purchasing department of the City of Bartlett and the park and recreation advisory board. (Ord. #81-21, Dec. 1981)

CHAPTER 5

CITY BEAUTIFUL COMMISSION[1]

SECTION

2-501. City beautiful commission. The duties and powers of said commission shall be to study, investigate, develop and carry out plans for improving the health, sanitation, safety and cleanliness of the City of Bartlett by beautifying the streets, highways, alleys, ditches, lots, yards and other similar places in said city; to aid in the prevention of fires, diseases and other casualties by the removal and elimination of trash and other debris from the streets, highways, alleys, lots, yards, plots and other similar places; to encourage the placing, planting and/or preservation of trees, flowers, plants, shrubbery and other objects of ornamentation in said city; advise with and recommend plans to other agencies of the city for beautification of said city and otherwise promote public interest in the general improvement of the appearance of said city; provided, however, that nothing herein shall be construed to abridge or change the powers and duties of the other commissions, departments, boards and like agencies of the City of Bartlett. The commission shall consist of sixteen (16) members; who shall be of lawful age, property owners and residents of the City of Bartlett and shall be appointed by the mayor and confirmed by the board of mayor and aldermen. The mayor shall designate one of the members of the commission to be the chairman thereof. In addition to the sixteen (16) members there shall be one (1) advisory member from the public works department of the City of Bartlett.

Term of all members of the commission shall be one (1) year, terms of all members shall expire on the thirty-first day of December of each year. Members of the board serve at the will of the mayor and may be removed by the mayor at any time with or without cause. All of the members of the commission shall serve without pay. Provision shall be made in the budget of the legislative branch for funds to assist in the carrying out of the purposes of this chapter. It shall be the duty of the city beautiful commission, on the first day of January and July of each year, to file with the Board of Mayor and Aldermen of the City of Bartlett, a written report of the work performed and the results accomplished and the receipt and disbursements of all moneys allotted to and received by said commission. (Ord. #79-9, April 1979, Ord. #81-6, March 1981, as amended by Ord. #05-14, Jan. 2006, modified, and amended by Ord. #13-03, April 2013)

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[1]Municipal code reference

Tree ordinance: title 14, chapter 5.

CHAPTER 6

MUNICIPAL PLANNING COMMISSION

SECTION

2-601. Membership. The municipal planning commission shall consist of nine (9) members. One of the members shall be the Mayor of the City of Bartlett, Tennessee; one shall be a member of the Board of Aldermen of the City of Bartlett, selected by said board; and the seven (7) remaining members shall be citizens appointed by the mayor. The terms of the seven (7) appointive members shall be for three (3) years, except that in the appointment of the first municipal planning commission under the terms of this chapter the appointments shall be staggered. Any vacancy in an appointive membership shall be filled for the unexpired term by the mayor, who shall have the authority to remove any appointive member at his pleasure. The term of the member selected from the board shall run concurrently with his membership on the board. All members shall serve without compensation. (Ord. #55-2, Nov. 1955, as amended by Ord. #79-4, Feb. 1979, modified)

2-602. Organization, rules, staff and finances. The municipal planning commission shall elect its chairman from amongst its appointive members. The term of chairman shall be one (1) year with eligibility for re-election. The commission shall adopt rules for the transactions, findings and determinations, which record shall be a public record. (Ord. #55-2, Nov. 1955, modified)

2-603. 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 or procedures, then said commission shall have all the powers, duties and responsibilities as set forth in Tennessee Code Annotated, title 13, or other acts relating to the duties and powers of the municipal planning commission adopted subsequent thereto. (Ord. #55-2, Nov. 1955, modified)

CHAPTER 7

BOARD OF ZONING APPEALS

SECTION

2-701. Establishment, etc. The establishment, terms of members, powers and duties, etc., of the Board of Zoning Appeals are set forth in Article IX of the City of Bartlett Zoning Ordinance.[1]

[1]The City of Bartlett Zoning Ordinance is included in its entirety in this municipal code as Appendix A.

TITLE 3

MUNICIPAL COURT[1]

CHAPTER

CHAPTER 1

MUNICIPAL COURT

SECTION

3-101. Establishment of court. There is hereby established a municipal court. (Ord. #55-6, Jan. 1956, as amended by Ord. #00-01, Feb. 2000, and Ord. #08-01, Feb. 2008)

3-102. Divisions. The judicial department of the city, which is presently presided over by two (2) persons serving in the capacity of municipal judge, shall henceforth be divided into divisions to be designated as Division I and Division II. If the board of mayor and aldermen should increase by future ordinance the number of persons who shall serve as municipal judge, additional divisions shall be automatically created upon such person or persons taking office. (Ord. #55-6, Jan. 1956, as amended by Ord. #00-01, Feb. 2000, and Ord. #08-01, Feb. 2008)

3-103. Severability. If any provision of this chapter or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this chapter which can be given effect

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[1]Charter references
City attorney: article VII.
Judicial: article VIII.

without the invalid provision or application, and to that end the provisions of this chapter are declared to be severable. (Ord. #08-01, Feb. 2008)

CHAPTER 2

MUNICIPAL JUDGE

SECTION

3-201. Municipal judge. There is hereby created the offices of City of Bartlett Municipal Judges, that said municipal judges shall be vested with all the powers and duties granted under law in the State of Tennessee. (as added by Ord. #08-01, Feb. 2008)

3-202. Qualifications. All candidates for the position of Judge of the Bartlett Municipal Court shall be thirty (30) years of age or older, a resident of the State of Tennessee for not less than five (5) years immediately prior to the election, a resident of the city for at least one (1) year immediately prior to the election, and shall be licensed to practice law in the State of Tennessee. (as added by Ord. #08-01, Feb. 2008)

3-203. Election/term of office. Judges of the Bartlett Municipal Court shall be elected by a popular vote of the registered voters of the City of Bartlett for a term of eight (8) years. Said election shall be at large and the candidate receiving the largest number of votes shall be declared elected. The first election for Division I judge was held in 1994 and the first election for Division II judge was held in 2000. All subsequent elections for municipal judge pursuant to this chapter and general law shall be held in accordance with Article 7, § 5 of the Tennessee Constitution. In any election for the position of municipal judge, all persons shall be required to designate which division of the municipal court to which they seek election, and no person shall be permitted to seek election to more than one (1) division in any election. (as added by Ord. #08-01, Feb. 2008)

3-204. Vacancies in office. In the absence of a judge of the Bartlett Municipal Court due to resignation, death or disability, the board of mayor and aldermen may appoint a qualified person to serve until the next regular November general election. At this election, a person shall be elected to serve any unexpired term if the full term is not to be filled at the election. In the

temporary absence or inability of the municipal judge, the board of mayor and aldermen shall appoint a qualified person to serve until the judge's return.

No elected judge of the City of Bartlett may hold office while under indictment. Vacancies in such case shall be filled as provided in this section. (as added by Ord. #08-01, Feb. 2008)

3-205. Special judges. (1) General sessions docket. In the event that a municipal judge shall be unable to sit for good cause, including but not limited to, by reason of health, schedule, vacation or other reasons, a special judge shall be chosen to temporarily serve in his or her absence or temporary unavailability as provided by Tennessee Code Annotated, § 16-15-209.

(2) Municipal docket. In the event that a municipal judge shall be unable to sit for good cause, including but not limited to, by reason of health, schedule, vacation or other reasons, a special judge, who is qualified under subsection (1) of this section, or a special judge, who is appointed pursuant to subsections (2)(a) through (c) of this section, shall temporarily serve in such judge's absence or temporary unavailability:

(a) A municipal judge or, if no municipal judge is able, the clerk of court shall appoint a special judge to hold court, preside and adjudicate in the absence of a municipal judge;

(b) A special judge must possess all of the qualifications of a municipal judge of the Bartlett Municipal Court; and

(c) A list of five (5) eligible special judges shall be created by each municipal judge for his or her division. Such list shall designate potential special judges in order of priority and shall be maintained by the clerk of the court. When necessary, a special judge for a division shall be chosen from such list based upon the order of priority in which they are listed. (as added by Ord. #08-01, Feb. 2008)

3-206. Compensation. Compensation for the judges of the Bartlett Municipal Court shall be fixed by the board of mayor and aldermen and shall not be altered during the term of office. Any adjustment to compensation for the office of municipal judge must be made not less than thirty (30) days prior to the deadline for qualification of candidates for the next election. (as added by Ord. #08-01, Feb. 2008)

3-207. Jurisdiction and powers. The jurisdiction of the municipal judges shall extend to the trial of all offenses against the ordinances of the city and concurrently with the general sessions court for violation of the criminal laws of the state within the corporate limits of the city. Costs in trials of offenses against the ordinances of the city shall be provided by ordinance. Costs in other matters shall be as established under the general law of the state. The municipal judges shall have the power to levy fines, penalties and costs, to issue all necessary process, to administer oaths, and to maintain order, including the

power to punish for contempt by fine or confinement not exceeding the limits provided by general law.[1] (as added by Ord. #08-01, Feb. 2008)

3-208. Bail. The bail of persons arrested and awaiting trials and persons appealing the decision of a municipal judge shall be fixed by the municipal judge and upon such security as in the judge's discretion he or she deems necessary or as otherwise may be provided by ordinances or general law. (as added by Ord. #08-01, Feb. 2008)

3-209. Separation of powers. The municipal judge shall be the exclusive judge of the law and facts in every case before him or her, and no official or employee of the city shall attempt to influence his or her decision except through pertinent facts presented in court. (as added by Ord. #08-01, Feb. 2008)

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[1]Charter reference
Article VI, Judicial, § 3, Jurisdiction, Powers, and Process.

CHAPTER 3

MUNICIPAL COURT CLERK

SECTION

3-301. Appointment of clerk. The municipal court clerk shall be appointed by the mayor, subject to confirmation by majority vote of the board of mayor and aldermen. (as added by Ord. #08-01, Feb. 2008)

3-302. Oath. The municipal court clerk shall take the oath of office prescribed for clerks of court by state law.[1] (as added by Ord. #08-01, Feb. 2008)

3-303. Duties. The municipal court clerk shall be the custodian of the books, dockets and records of the municipal court and shall perform such duties as may be delegated to him or her by the mayor or the municipal judges, including but not limited to the maintenance of books and records pertaining to the issuance of warrants of arrests, the disposition of cases coming before the court, the collection of fines and costs, preparation of orders, preparation of reports, and such duties as are set forth in Tennessee Code Annotated, § 16-18-310. (as added by Ord. #08-01, Feb. 2008)

3-304. Term of office. The municipal court clerk shall serve at the will and pleasure of the mayor. (as added by Ord. #08-01, Feb. 2008)

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[1]State law reference
Tennessee Code Annotated, § 18-1-103.

CHAPTER 4

COURT ADMINISTRATION

SECTION

3-401. Maintenance of docket. The municipal judge shall keep, or cause to be kept, a complete docket of all matters coming before the court. The docket shall include for each defendant such information as name; warrant and/or summons numbers; alleged offense; disposition; fines and costs imposed and whether collected; and all other information that may be relevant. (as added by Ord. #08-01, Feb. 2008)

3-402. Court costs; imposition of fines, penalties and costs. The City of Bartlett court costs for violations of city ordinances will be such amount as is set each year by the board of mayor and aldermen in the annual budget ordinance and the maximum permissible fee under state law for state statutory violations, together with the appropriate state litigation tax and the appropriate city litigation tax. One dollar ($1.00) of the court costs shall be forwarded by the court clerk to the state treasurer to be used by the administrative office of the courts for training and continuing education courses for municipal court judges and municipal court clerks. All fines, penalties and costs shall be imposed and recorded by the municipal judge or the municipal court clerk on the municipal court docket. In all cases where a defendant pleads guilty or is tried and found guilty by the court, the municipal judge shall tax the bill of costs the amount set in the annual budget ordinance, the amount determined by the board of mayor and aldermen to be reasonably necessary for operating costs of the municipal court. Said court costs may be waived at the discretion of the municipal judge. (as added by Ord. #08-01, Feb. 2008, as replaced by Ord. #20-06, Nov. 2020 ***Ch7_12-08-20***)

3-403. Litigation tax. On cases in municipal court there is hereby levied a municipal litigation tax to match the state litigation tax of thirteen dollars and seventy-five cents ($13.75). Such taxes shall only be assessed when a judgment is entered against the defendant. The taxes levied hereby are to be used for any valid municipal purposes. (as added by Ord. #06-14, July 2006)

3-404. Disposition and reports of fines, penalties and costs. All funds coming into the hands of the municipal court in the form of fines, penalties, costs and forfeitures shall be recorded by the municipal court clerk and paid over to the municipality. At the end of each month, the municipal court clerk shall submit to the board of mayor and aldermen a report accounting for the collection or noncollection of all fines, penalties and costs imposed by the municipal court during the current month and to date for the current fiscal year. (as added by Ord. #08-01, Feb. 2008)

3-405. Disturbance of proceedings. It shall be unlawful for any person to create any disturbance of any trial before the municipal court by making loud or unusual noises; by using indecorous, profane or blasphemous language; or by any distracting conduct whatsoever. (as added by Ord. #08-01, Feb. 2008)

3-406. Failure to appear. Any person who fails to appear in municipal court to answer a summons or citation for the violation of any ordinance or provision of this code shall be guilty of a civil offense punishable under the general penalty provision of this code. (as added by Ord. #08-01, Feb. 2008)

CHAPTER 5

WARRANTS, SUMMONSES AND SUBPOENAS

SECTION

3-501. Issuance of arrest warrants. Municipal judges shall have the power to issue warrants for the arrest of persons charged with violating municipal ordinances or violating the criminal laws of the state within the corporate limits of the city. (as added by Ord. #08-01, Feb. 2008)

3-502. Issuance of summonses. When a complaint of an alleged ordinance or state criminal law violation is made, a municipal judge may, in his or her discretion, in lieu of issuing an arrest warrant, issue a summons ordering the alleged offender to personally appear before the municipal court at a time specified therein to answer the charges against him or her. The summons shall contain a brief description of the offense charged but need not set out verbatim the provisions of the ordinances or criminal laws alleged to have been violated. Upon failure of any person to appear before the municipal court as commanded in a summons lawfully served on him or her, the cause may be proceeded with ex-parte, and the judgment of the courts shall be valid and binding subject to the defendant's right to appeal. (as added by Ord. #08-01, Feb. 2008)

3-503. Issuance of subpoenas. A municipal judge may subpoena as witnesses all persons whose testimony he or she believes will be relevant and material to matters coming before his or her court, and it shall be unlawful for any person lawfully served with such subpoena to fail or neglect to comply therewith. (as added by Ord. #08-01, Feb. 2008)

CHAPTER 6

BONDS AND APPEALS

SECTION

3-601. Appearance bonds authorized. (1) Deposit allowed. Whenever any person lawfully possessing a chauffeur's or operator's license theretofore issued to him or her by the Tennessee Department of Safety, or under the driver licensing laws of any other state or territory or the District of Columbia, is issued a citation or arrested and charged with the violation of any city ordinance or state statute regulating traffic, except those ordinances and statutes, the violation of which call for the mandatory revocation of an operator's or chauffeur's license for any period of time, such person shall have the option of depositing his or her chauffeur's or operator's license with the officer or court demanding bail in lieu of any other security required for his appearance in the municipal court of this city in answer to such charge before said court.

(2) Receipt to be issued. Whenever any person deposits his or her chauffeur's or operator's license as provided, either the officer or the court demanding bail as described above, shall issue the person a receipt for the license upon a form approved or provided by the department of safety, and thereafter the person shall be permitted to operate a motor vehicle upon the public highways of this state during the pendency of the case in which the license was deposited. The receipt shall be valid as a temporary driving permit for a period not less than the time necessary for an appropriate adjudication of the matter in the municipal court, and shall state such period of validity on its face.

(3) Failure to appear--disposition of license. In the event that any driver who has deposited his or her chauffeur's or operator's license in lieu of bail fails to appear in answer to the charges filed against him or her, the clerk or judge of the municipal court accepting the license shall forward the same to the Tennessee Department of Safety for disposition by said department in accordance with the provisions of Tennessee Code Annotated, § 55-50-801, et seq. (Ord. #08-01, Feb. 2008)

3-602. Appeals. Any defendant who is dissatisfied with any judgment of the municipal court against him or her may, within ten (10) days after such judgment is rendered, appeal to the circuit court, upon posting a proper appeal bond. (Ord. #08-01, Feb. 2008)

3-603. Bond amounts, conditions, and forms. (1) Appearance bond. An appearance bond in any case before the municipal court shall be in such amount as a municipal judge shall prescribe and shall be conditioned that the defendant shall appear for proceedings before the municipal court at the stated time and place.

(2) Appeal bond. An appeal bond in any case shall be in such sum as a municipal judge shall prescribe, not to exceed the sum of two hundred and fifty dollars ($250.00), and shall be conditioned such that if the circuit court shall find against the appellant, the fine or penalty and all costs of the trial and appeal shall be promptly paid by the defendant and/or his or her sureties.

(3) Form of bond. An appearance or appeal bond in any case may be made in the form of a cash deposit or by a corporate surety company authorized to do business in Tennessee. No other type bond shall be acceptable.

(4) Pauper's oath. A bond is not required provided the defendant/ appellant:

(a) Files the following oath of poverty:

I, _____, do solemnly swear under penalties of perjury, that owing to my poverty, I am not able to bear the expense of the action which I am about to commence, and that I am justly entitled to the relief sought, to the best of my belief; and

(b) Files an accompanying affidavit of indigency. (as added by Ord. #08-01, Feb. 2008)

TITLE 4

MUNICIPAL PERSONNEL[1]

CHAPTER
1. SOCIAL SECURITY.
2. OCCUPATIONAL SAFETY AND HEALTH PROGRAM.

CHAPTER 1

SOCIAL SECURITY

SECTION
4-101. Policy and purpose as to coverage.
4-102. Necessary agreements to be executed.
4-103. Withholdings from salaries or wages.
4-104. Appropriations for employer's contributions.
4-105. Records and reports to be made.
4-106. Emergency and fee basis employees.

4-101. Policy and purpose as to coverage. It is hereby declared to be the policy and purpose of the City of Bartlett, Tennessee, to extend at the earliest date, to employees and officials thereof, not excluded by law or this chapter, and whether employed in connection with a governmental or proprietary function, the benefits of the System of Federal Old-Age and Survivors Insurance as authorized by the Federal Social Security Act and amendments thereto, including Public Law 734, 81st Congress. In pursuance of said policy, and for that purpose, the city shall take such action as may be required by applicable state or federal laws or regulations. (Ord. #57-1, April 1957)

4-102. Necessary agreements to be executed. The Mayor of the City of Bartlett, Tennessee, is hereby authorized and directed to execute all necessary agreements and amendments thereto with the state executive director of old age and survivors insurance, as agent or agency, to secure coverage of employees and officials as provided in the preceding section. (Ord. #57-1, April 1957)

4-103. Withholdings from salaries or wages. Withholdings from salaries or wages of employees and officials for the purpose provided in the first

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[1]Charter reference
Administration: article XI.

section of this chapter are hereby authorized to be made in the amounts and at such times as may be required by applicable state or federal laws or regulations, and shall be paid over to the state or federal agency designated by said laws or regulations. (Ord. #57-1, April 1957)

4-104. Appropriations for employer's contributions. There shall be appropriated from available funds such amounts at such times as may be required by applicable state or federal laws or regulations for employer's contributions; which shall be paid over to the state or federal agency designated by said laws or regulations. (Ord. #57-1, April 1957)

4-105. Records and reports to be made. The city shall keep such records and make such reports as may be required by applicable state and federal laws or regulations. (Ord. #57-1, April 1957)

4-106. Emergency and fee basis employees. There is hereby excluded from this chapter any authority to make any agreement with respect to emergency and fee basis employees (full-time and part-time) or any employee or official not authorized to be covered under federal or state laws or regulations. Acting under § 4-102 herein contained, the mayor is hereby directed to amend the Social Security Agreement effective July 1, 1957 with the State of Tennessee so as to provide coverage in the system of federal old age and survivors insurance for emergency and fee basis employees as of April 1, 1962. (Ord. #62-2, May 1962)

CHAPTER 2

OCCUPATIONAL SAFETY AND HEALTH PROGRAM

SECTION

4-201. Title. This section shall be known as "The Occupational Safety and Health Program Plan" for the employees of The City of Bartlett. (Ord. #03-19, Nov. 2003, as replaced by Ord. #15-04, Aug. 2015)

4-202. Purpose. The City of Bartlett in electing to update the established program plan will maintain an effective and comprehensive occupational safety and health program plan for its employees and shall:

(1) Provide a safe and healthful place and condition of employment that includes:

(a) Top management commitment and employee nvolvement;

(b) Continually analyze the worksite to identify all hazards and potential hazards;

(c) Develop and maintain methods for preventing or controlling the existing or potential hazards; and

(d) Train managers, supervisors, and employees to understand and deal with worksite hazards.

(2) Acquire, maintain and require the use of safety equipment, personal protective equipment and devices reasonably necessary to protect employees.

(3) Record, keep, preserve, and make available to the Commissioner of Labor and Workforce Development, or persons within the Department of Labor and Workforce Development to whom such responsibilities have been delegated, adequate records of all occupational accidents and illnesses and personal injuries for proper evaluation and necessary corrective action as required.

(4) Consult with the Commissioner of Labor and Workforce Development with regard to the adequacy of the form and content of records.

(5) Consult with the Commissioner of Labor and Workforce Development, as appropriate, regarding safety and health problems which are considered to be unusual or peculiar and are such that they cannot be achieved under a standard promulgated by the state.

(6) Provide reasonable opportunity for the participation of employees in the effectuation of the objectives of this program plan, including the opportunity to make anonymous complaints concerning conditions or practices injurious to employee safety and health.

(7) Provide for education and training of personnel for the fair and efficient administration of occupational safety and health standards, and provide for education and notification of all employees of the existence of this program plan. (Ord. #03-19, Nov. 2003, as replaced by Ord. #15-04, Aug. 2015)

4-203. Coverage. The provisions of the occupational safety and health program plan for the employees of the City of Bartlett shall apply to all employees of each administrative department, commission, board, division, or other agency, including the Bartlett City School District, whether part-time or full-time, seasonal or permanent. (Ord. #03-19, Nov. 2003, as replaced by Ord. #15-04, Aug. 2015)

4-204. Standards authorized. The occupational safety and health standards adopted by the City of Bartlett are the same as, but not limited to, the State of Tennessee Occupational Safety and Health Standards promulgated, or which may be promulgated, in accordance with section 6 of the Tennessee Occupational Safety and Health Act of 1972.[1] (Ord. #03-19, Nov. 2003, as replaced by Ord. #15-04, Aug. 2015)

4-205. Variances from standards authorized. Upon written application to the Commissioner of Labor and Workforce Development of the State of Tennessee, we may request an order granting a temporary variance from any approved standards. Applications for variances shall be in accordance with Rules of Tennessee Department of Labor and Workforce Development Occupational Safety and Health, VARIANCES FROM OCCUPATIONAL SAFETY AND HEALTH STANDARDS, CHAPTER 0800-01-02, as authorized by Tennessee Code Annotated, title 50. Prior to requesting such temporary variance, we will notify or serve notice to our employees, their designated representatives, or interested parties and present them with an opportunity for a hearing. The posting of notice on the main bulletin board shall be deemed sufficient notice to employees. (Ord. #03-19, Nov. 2003, as replaced by Ord. #15-04, Aug. 2015)

4-206. Administration. For the purposes of this chapter, the health and safety officer is designated as the safety officer to perform duties and to exercise powers assigned to plan, develop, and administer this program plan.

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[1]State law reference

Tennessee Code Annotated, title 50, chapter 3.

The health and safety officer shall develop a plan of operation for the program plan in accordance with Rules of Tennessee Department of Labor and Workforce Development Occupational Safety and Health, SAFETY AND HEALTH PROVISIONS FOR THE PUBLIC SECTOR, CHAPTER 0800-01-05, as authorized by Tennessee Code Annotated, title 50. (Ord. #03-19, Nov. 2003, as replaced by Ord. #15-04, Aug. 2015)

4-207. Funding the program. Sufficient funds for administering and staffing the program plan pursuant to this chapter shall be made available as authorized by the City of Bartlett. (Ord. #03-19, Nov. 2003, as replaced by Ord. #15-04, Aug. 2015)

TITLE 5

MUNICIPAL FINANCE AND TAXATION[1]

CHAPTER

CHAPTER 1

PURCHASING

SECTION

5-101. General provisions. The city shall follow the following procedures:

(1) Establish and maintain an updated ledger of all suppliers of every item purchased or to be purchased by the City of Bartlett said ledger to be hereinafter referred to as the "Registry of Suppliers," a public record.

(2) Solicit within an area at least as broad as Shelby County all persons, companies or suppliers who desire or may desire to be recorded as an

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[1]Charter references
Finance and budget: article IX.
Taxes: article X.

approved supplier within the Registry of Suppliers and at least once each year advertise for same.

(3) Request and record written bids, or oral bids in those limited circumstances permitted herein, for all city purchases, it being the stated and specific intention that no purchase shall be separated or broken down so as to fall within lesser regulated purchasing authority categories.

(4) Maintain the receipt of bids with such confidential and ethical practices to prevent uniform bidding and require full and open competition for all purchases and all sales, it being a specific violation of this chapter to open, inquire or disclose any bid prior to formal bid opening on bid selection.

(5) Take advantage for the city of the bulk and seasonal buying.

(6) Maintain in addition to the Registry of Suppliers a registry of specifications and standards to be established over the course of purchasing activity with the assistance and input of the city engineer, other technical staff and the department heads.

(7) Establish and maintain an overview of purchasing activity so as to approximate yearly quantity and volume of purchases so as to permit requirements contract bidding and designation of service contractors on requirements contract.

(8) Establish and maintain a system of forms which shall meet the requirement of public record keeping.

(9) Obtain all federal and state tax exemptions to which the City of Bartlett is entitled.

(10) Dispose of supplies, materials, equipment and land only by published open sale.

(11) Provide for and maintain a complete record in the city hall for public inspection of all purchase transactions including publication notices, bid deadlines, suppliers bidding, bids received, bids selected, purchase approvals obtained. (Ord. #80-19, July 1980, as amended by Ord. #84-1, Feb. 1984)

5-102. <u>Purchases in excess of $25,000.00</u>. Formal publication in a newspaper of general circulation in Shelby County shall be made to solicit bids from all interested bidders and in addition there shall be sent an invitation to bid to all persons recorded in the Registry of Bidders for purchases of value greater than twenty-five thousand dollars ($25,000.00). Publication shall be made not less than ten (10) days before bids are accepted. Bids shall be opened and read aloud at the time and date specified in the invitation to bid and after review by the appropriate city personnel presented to the board of mayor and aldermen for review and action. (Ord. #80-19, July 1980, as amended by Ord. #84-1, Feb. 1984, Ord. #91-10, June 1991, Ord. #91-14, Sept. 1991, Ord. #99-13, Oct. 1999, and Ord. #17-06, July 2017)

5-103. <u>Purchases between $10,000.00 and $25,000.00</u>. (1) Purchase order request form contains the following minimum information for purchases

between ten thousand dollars ($10,000.00) and twenty-five thousand dollars ($25,000.00) must be submitted.

(a) Department making request;
(b) Items requested;
(c) Reason for request;
(d) Line item expense code;
(e) Assurance of funds availability per budget;
(f) Bids from a minimum of three (3) suppliers or justification as to why three (3) bids were not obtained;
(g) Signature of department head (or his approved representative).

(2) After approval from the mayor's office the request shall be forwarded to accounting where a purchase order authorizing the expenditure will be issued.[1] (Ord. #80-19, July 1980, as amended by Ord. #84-1, Feb. 1984, Ord. #91-10, June 1991, Ord. #91-14, Sept. 1991, Ord. #99-13, Oct. 1999, Ord. #06-25, Dec. 2006, and Ord. #17-06, July 2017)

5-104. Purchases of $10,000.00 or less. A purchase order request form as outlined under § 5-103 of this chapter may be submitted directly to accounting for issuance of a purchase order for purchases of ten thousand dollars ($10,000.00) or less. In no case can the procedure be used when the amount of the purchase would exceed budgeted authorization.[1] (Ord. #80-19, July 1980, as amended by Ord. #84-1, Feb. 1984, Ord. #91-10, June 1991 Ord. #99-13, Oct. 1999, Ord. #06-25, Dec. 2006, and Ord. #17-06, July 2017)

5-105. Requirements contracts. Whenever possible the yearly volume of all city purchases for all supplies, materials and services shall be approximated by the city and at least once each year, all such quantity purchases shall be opened to public bid, duly published, for requirements contract during the period, which items shall include and be not limited to all repetitively purchased items. Provided, however, the purchase order authorization shall continue to be required for all orders under the requirements contracts and only the periodic bidding is substituted for repetitive bidding. Further, no requirements contracts can be entered without the approval of the board of mayor and aldermen, there being no exigent or emergency circumstances to compel requirements contracts out of the normal purchasing procedures. (Ord. #80-19, July 1980, as amended by Ord. #84-1, Feb. 1984)

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[1]NOTE: The above provisions are minimal requirements and shall not preclude formal advertising for bids where appropriate in the opinion of the mayor or his representative.

5-106. Cooperative purchasing. The department head with the approval of the mayor shall have the authority to join with other units of government in cooperative purchasing plans so that the best interest of the city shall be served thereby. (Ord. #80-19, July 1980, as amended by Ord. #84-1, Feb. 1984)

5-107. Process for awarding bids. When determining which vendor shall be awarded a bid or purchase order, the department head shall not only factor in the lowest bid price, but also the most responsive and responsible vendor prior to awarding the contract or bid. (Ord. #80-19, July 1980, as amended by Ord. #84-1, Feb. 1984, and replaced by Ord. #11-11, Nov. 2011)

5-108. Bid deposit required. In all instances where the item proposed for purchase is intricately necessary to the provision of city services or the failure of a bidder to honor the bid price or delivery shall result in a hardship from delay or scheduling the mayor may within the invitation to bid and publication, if required, require a bid deposit or bond of face value of ten percent (10%) of the total purchase price; provided, however, this bid deposit may be made by certified bond or cashier's check. (Ord. #80-19, July 1980, as amended by Ord. #84-1, Feb. 1984, and Ord. #91-10, June 1991)

5-109. Solicitation of bids. At least once each year the bid officer shall publish during three (3) consecutive weeks an invitation to all suppliers to register with the City of Bartlett to participate and provide all supplies, materials, equipment, equipment services, repair services and contractual services required in the operation of city government and all of its departments. (Ord. #80-19, July 1980, as amended by Ord. #84-1, Feb. 1984)

5-110. Private contract restricted. It is the stated intent and underlying principle of this section to minimize all private contracts between all city officers, employees and all suppliers upon the accepted premises that contact other than discussion in open public hearing compromises the city in its responsibility to deal openly and deal fairly with all persons. Realistically, it is accepted that department heads and purchasing officials must invite discussion if only to determine product performance and specifications, particularly in those instances where multiple competing products exhibit diverse properties and performance characteristics. Such contacts should be minimized, and if engaged made equally available to all suppliers. Moreover, the greatest care should be taken to insure against personal influence, produce puffing and the congeniality which must be understood as intended to influence decision. Moreover, it is a mandatory provision of this section that there shall be no traditional or customary suppliers, the bid and selection process being hereby declared equally accessible to all persons regardless of personal considerations. Only in the instance where the bid received is identical in price and term will

a resident of Bartlett supplier be favored over a non-resident. (Ord. #84-1, Feb. 1984)

5-111. Professional services. Pursuant to the provisions of Tennessee Code Annotated, § 12-4-106, the professional services of a financial advisor, educational consultant, attorneys or other professional advisory services are not subject to the bid and purchase procedure. (Ord. #84-1, Feb. 1984)

5-112. Multi-year contracts. For professional or specialized services such as insurance, attorneys, financial advisor, auditing, engineering or other similar service the city may from time to time engage in multi-year contracts with approval of the board of mayor and aldermen and subject to budget authorization. (Ord. #91-10, June 1991)

5-113. Emergency purchasing procedures. The mayor shall be empowered to waive the normal advertising requirement for bids, to accept bids via facsimile or email and to authorize the procurement, at the lowest available price, of any parts, supplies or contractual services in the event of an operational emergency.

A full report of the circumstances of any operational emergency purchase shall be presented to the aldermen and shall be entered into the minutes of the next board of mayor and aldermen meeting. (as added by Ord. #06-21, Oct. 2006)

5-114. Competitive sealed proposals. (1) Notwithstanding anything to the contrary in the city ordinances and/or resolutions governing purchases, the city may use competitive sealed proposals to purchase goods and services rather than competitive sealed bids when the board, acting under the restrictions and requirements of Tennessee Code Annotated, § 12-3-10, as same may hereinafter be amended, and the procurement code adopted by this section, determines that the use of competitive sealed bidding is either not practicable or not advantageous to the city. The board must make the aforesaid determination with regard to each use of competitive sealed proposals rather than competitive sealed bids, except that in actual emergencies caused by unforeseen circumstances such as natural or human-made disasters, delays by contractors, delays in transportation, or unanticipated volume of work, purchases through competitive sealed proposals may be made without specific authorizing action of the board. A record of any emergency purchase shall be made by the person authorizing the emergency purchase, specifying the amount paid, the items and services purchased, from whom the purchase was made, and the nature of the emergency. A report of the emergency purchase purchased through competitive sealed proposals containing all relevant information shall be made as soon as possible by the person authorizing the purchase to the board.

(2) Procurement code. The following shall constitute the procurement code of the city:

(a) Conditions for use. (i) Competitive sealed proposals may be used only when qualifications, experience, or competence are more important than price in making the purchase;

(ii) When there is more than one solution to a purchasing issue and the competitive sealed proposals will assist in choosing the best solution; or

(iii) When there is no readily identifiable solution to a purchasing issue and the competitive sealed proposals will assist in identifying one or more solutions.

(b) Public notice. Adequate public notice of the request for competitive sealed proposals shall be given in the same manner provided by applicable law for competitive sealed bids.

(c) Request/evaluation factors. The request for competitive sealed proposals shall state the relative importance of price and other evaluation factors. Among other things, the request shall include the desired specifications (which may be expressed in the context of the result sought to be obtained); the qualifications of each proposer; warranties, time frame for performance, the contract; and, if applicable, the bond or other security that the successful proposer will be required to furnish.

(d) Opening of proposals. Competitive sealed proposals shall be opened in a manner that avoids disclosure of contents to competing proposers during the negotiation. The proposals shall be open for public inspection after, but not before, the intent to award the contract to a particular proposer is announced.

(e) Discussions with responsive proposers and revisions to proposals. The request for competitive sealed proposals shall provide that after receipt by the city of a proposal, discussions may be conducted for clarification to assure full understanding of, and responsiveness to, the solicitation requirements with responsible proposers who submit proposals determined by the city to be reasonably susceptible of being selected. These proposers shall be accorded fair and equal treatment with respect to any opportunity for discussion and for revision of proposals, both as to the particular goods or services to be furnished and the price thereof. In order to permit the city to obtain the best offers of proposers, revisions may be permitted after submission and before the intent to award to a particular proposer is announced. In conducting discussions, the city may make no disclosure to any proposer of any information derived from proposals submitted by competing proposers. Nothing contained herein shall preclude the city from conducting conferences or otherwise communicating with all parties who may be interested in responding to a proposal prior to the time that proposals are to be received.

(f) Best and final offers. If discussions are conducted, the city shall issue a written request for best and final offers. The request shall set forth the date, time, and place for submission of best and final offers. Best and final offers shall be requested only once, unless the city makes a written determination that it is advantageous to the city to conduct further discussion or change the city's requirements. The request for best and final offers shall inform proposers that, if they do not submit a notice of withdrawal or a best and final offer, their immediate previous offer will be construed as their best and final offer. Nothing contained herein shall preclude the board from rejecting all proposals and thereafter requesting new proposals.

(g) Award. The award shall be made to the responsible proposer whose proposal the board determines is the most advantageous to the city, taking into consideration price and the evaluation factors set out in the request for competitive sealed proposals. No other factor may be used in the evaluation. The city shall place in the contract file a statement containing the basis on which the award was made.

(h) Protest. In the event that any proposer to a request for competitive sealed proposers is aggrieved by the decision of the city, such aggrieved proposer may protest the intended award to another proposer if the protest is filed within seven (7)days after the intended award is announced. The protest must be filed with the board in care of the mayor and shall be promptly decided by the board. (as added by Ord. #11-12, Nov. 2011)

CHAPTER 2

REAL AND PERSONAL PROPERTY TAXES[1]

SECTION

5-201. Penalty assessed on real property taxes. The City of Bartlett does hereby levy and assess the five percent (5%) penalty upon all real property taxes delinquent from and after the last day of February of the year following the taxable year, said penalty to be required and collected by the Tax Officer of the City of Bartlett along with the assessed tax amount. (Ord. #82-9, July 1982)

5-202. Penalty assessed on personal property taxes. The City of Bartlett does hereby levy and assess the five percent (5%) penalty upon all personal property taxes delinquent from and after the last day of February of the year following the taxable year, said penalty to be required and collected by the Tax Officer of the City of Bartlett along with the assessed tax amount. (Ord. #82-9, July 1982)

5-203. Assessment of interest charges on delinquent real property taxes. There is hereby assessed an interest charge of one and one-half percent (1.5%) per month or any part thereof upon unpaid real property taxes from and after the last day of February of each year following the taxable year of said taxes. (Ord. #82-9, July 1982)

5-204. Assessment of interest charges on delinquent personal property taxes. There is hereby assessed an interest charge of one and one-half percent (1.5%) per month or any part thereof upon unpaid personal property taxes from and after the last day of February of each year following the taxable year of said taxes. (Ord. #82-9, July 1982)

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[1]Charter reference
Taxes: article X.

CHAPTER 3

PRIVILEGE TAXES[1]

SECTION

5-301. Tax levied. There is hereby levied on all vocations, occupations, and businesses declared by the general laws of the state to be privileges taxable by municipalities, an annual privilege tax in the maximum amount allowed by said state laws. The taxes provided for in the state's Business Tax Act, Tennessee Code Annotated, § 67-4-701, et seq., are hereby expressly enacted, ordained, and levied on the businesses, business activities, vocations, and occupations carried on within the municipality at the rates and in the manner prescribed by said Act. (Ord. #74-6, March 1974, as amended by Ord. #76-6, July 1976)

5-302. Business license. There is hereby levied on all vocations, occupations, and businesses declared by the general laws of the state to be privileges taxable by municipalities, an annual requirement to have and exhibit a business license, except those professions exempt by the Tennessee State Code. This license shall be issued by the finance director or his designee to each applicant therefore upon such applicant's compliance with all regulatory provisions and payment of the appropriate privilege tax. (Ord. #74-6, March 1974, as amended by Ord. #76-6, July 1976, modified)

5-303. Privilege tax on beer. There is hereby imposed on the business of selling, distributing, storing, or manufacturing beer an annual privilege tax of one hundred dollars ($100.00). Any person, firm, corporation, joint stock company, syndicate or association engaged in the sale, distribution, storage, or manufacture of beer shall remit the tax on January 1, 1994, and each successive January 1st to the City of Bartlett, Tennessee. At the time a new permit is issued to any business subject to this tax, the permit holder shall be required to pay the privilege tax on a prorated basis for each month or portion thereof remaining until the next tax payment date. (Ord. #93-18, Sept. 1993)

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[1]Charter reference
Taxes: article X.

CHAPTER 4

WHOLESALE BEER TAX[1]

SECTION

5-401. To be collected. The finance director or his designee is hereby directed to take appropriate action to assure payment to the city of the wholesale beer tax levied by the "Wholesale Beer Tax Act," as set out in Tennessee Code Annotated, title 57, chapter 6.

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[1]Charter reference
Taxes: article X.
Municipal code reference
Alcoholic beverages: title 8.

State law reference
Tennessee Code Annotated, title 57, chapter 6 provides for a tax of 17% on the sale of beer at wholesale. Every wholesaler is required to remit to each municipality the amount of the net tax on beer wholesale sales to retailers and other persons within the corporate limits of the municipality.

CHAPTER 5

CITY SERVICE FEE

SECTION

5-501. Established. A city service fee for all households and places of business within the city is hereby established. (Ord. #84-18, Aug. 1984)

5-502. Amount of fee. (1) A service fee of two dollars and fifty cents ($2.50) per month will be assessed against each household and place of business within the city limits.

(2) The city service fee of two dollars and fifty cents ($2.50) per month is waived for citizens of the City of Bartlett who have been granted relief by the State of Tennessee Property Tax Relief Agency. (Ord. #84-18, Aug. 1984, as amended by Ord. #87-3, March 1987)

5-503. Method of collection. The service fee will be included on the utility billing system of the city and the total amount collected will be transferred to a special improvement fund each month. (Ord. #84-18, Aug. 1984)

5-504. Special improvement fund established. A special improvement fund will be established to account for all of the service fee proceeds with a report on the current balance and a record of expenditures forwarded to the board of mayor and aldermen on a monthly basis in conjunction with the treasurer's report. Twenty-five percent (25%) of the revenue produced by the city service fee shall be designated to the general fund reserve account. (Ord. #84-18, Aug. 1984)

5-505. Discontinuance of fee and priorities. This fee will be discontinued when the reserve fund is built up amounting to thirty percent (30%) of the yearly budget. The priorities and budget for this fee will be set each January for the next fiscal year. (Ord. #84-18, Aug. 1984)

CHAPTER 6

MISCELLANEOUS

SECTION

5-601. Refund of errors on gross sales tax. (1) The City of Bartlett Director of Finance or his representative is hereby authorized to make refunds for errors in City of Bartlett Gross Sales Tax Returns.

(2) Taxpayers requesting a refund under this section must file an amended return within one year of the due date of the original gross sales tax return.

(3) Refunds under this section will only be made for the immediate past one year period. (Ord. #87-19, Nov. 1987)

5-602. Sale of surplus real estate. (1) Whenever the board of mayor and aldermen shall adopt a resolution declaring any real estate owned by the City of Bartlett as surplus and not needed by the city in the orderly expansion of municipal facilities, the mayor shall cause said real estate to be appraised by a competent real estate appraiser, which appraisal shall be confidential and disclosed to none other than the board of mayor and aldermen and the city attorney.

(2) Upon receipt of said appraisal by the mayor, he shall cause to be published in the official newspaper of the City of Bartlett an invitation to bidders that he will, on behalf of the city, accept sealed bids for said property, said notice to give a description of the property, time and place of receipt of bids, and terms of the sale.

(3) Said notice shall be published at least fifteen (15) days prior to the date and time called for receipt of bids. All sales shall be for cash, and all invitations to bidders shall require that each bidder affix to this bid a certified check for ten percent (10%) of the face amount of his bid; that such check will be credited as earnest money and part of the purchase price if said bidder is the highest and best bid; that said certified check will be immediately returned to the bidder if he is not the successful bidder; that if said bid is accepted by the city and the bidder fails to perform as indicated in his bid, same shall be forfeited to the city as liquidated damages; that the city will convey by general warranty deed and will furnish to the successful bidder abstracts of title for examination at least ten (10) days prior to closing.

(4) The board of mayor and aldermen shall not be required to accept any bid.

(5) No city officer, elected or appointed, or city employee shall, directly or indirectly, submit a bid for the purchase of any surplus real estate.

(6) The proceeds of said sale shall immediately be deposited with the Treasurer of the City of Bartlett, and placed in the general fund. (Ord. #74-8, June 1974, modified)

5-603. Bids required for sale of surplus, seized or confiscated property. All sales of personal and real property, of whatever form or description, however to be transferred and wherever located which the board of mayor and aldermen determine to be no longer necessary to the operation of city government shall be sold by written contract to the highest responsible bidder after due notice and publication not less than ten (10) days prior to bid opening, all of which shall be documented and delivered to the purchasing comptroller for permanent record. (Ord. #80-19, July 1980,as amended by Ord. #84-1, Feb. 1984, and Ord. #91-10, June 1991)

TITLE 6

LAW ENFORCEMENT

CHAPTER

CHAPTER 1

POLICE AND ARREST[1]

SECTION

6-101. Keeping and sale of unclaimed property in the possession of the police department. (1) Any and all unclaimed personal property of whatsoever kind or character, now or hereafter coming into the possession of the police department shall be inventoried by the chief of police, and a full and complete list thereof shall be transmitted to the mayor.

(2) The mayor, upon receipt of said list of unclaimed property, shall determine therefrom the unclaimed property that has been held by the police department for a period of at least sixty (60) days; whereupon, the mayor shall cause said unclaimed property so held to be appropriated for the use of the City of Bartlett, or sold at public auction, which may be via the Internet, as follows:

(a) That resolution authorizing such sale, describing the property in sufficient detail for its identification, shall first be adopted, and that notice of such sale describing the property in like manner shall be prepared by the chief of police and signed by the mayor, which notice of sale shall be posted in three (3) public places within the City of Bartlett, at least ten (10) days before the time fixed for said sale.

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[1]Municipal code references
Alarm system standards: title 20, chapter 4.
Arrest on state warrant: § 3-104.
Arrest without state warrant: § 3-105.
Civil action in lieu of arrest: § 3-115.
Driver's license in lieu of bail: § 15-601.
Traffic citations, etc.: title 15, chapter 7.

(b) The notice of said sale shall, in addition to the description of the property to be sold, give date, place, and time of day, and terms, if any, on which said sale shall be made. Notice for sales made via the Internet shall include the city website.

(c) That no city officer elected or appointed, or employee, shall directly or indirectly submit a bid for the purchase of said unclaimed property at said sale.

(d) Said property so offered for sale shall be sold to the highest bidder, either for cash, or on terms, as provided in said notice, provided that the chief of police may, in his discretion, fix a minimum sale price and refuse to sell unless said minimum price is offered.

(3) Any articles of property to be appropriated to the use of the city shall be made available to the division in need thereof, upon approval of such appropriation by the mayor.

(4) That the proceeds of said auction sale or sales shall immediately be deposited with the treasurer of the City of Bartlett and placed in the general fund. (Ord. #74-7, June 1974, as amended by Ord. #74-12, Nov. 1974, modified)

6-102. Police department authorized to charge fees and establish revenue fund for registration of sexual offenders. The Bartlett Police Department is hereby authorized to collect the maximum administrative fee allowed by Tennessee State Law for handling this registration and the finance department is hereby authorized to establish a special revenue fund to receive said registration fees and pay police department costs associated with said registrations. (Ord. #04-16, Nov. 2004)

6-103. Special police officers authorized to issue citations in lieu of arrest.[1] (1) Pursuant to Tennessee Code Annotated, § 7-63-101, et seq., the board of mayor and aldermen hereby appoints the director and his designees in the fire department and the director and his designees in the building codes department as special police officers having the authority to issue citations in lieu of arrest.

(2) The director and his designees in the fire department shall have the authority to issue citations in lieu of arrest for violations of the fire code and the director and his designees in the building codes department shall have the authority to issue citations in lieu of arrest for violations of the building, utility, housing, and property maintenance code.

(3) The citation in lieu of arrest shall contain the name and address of the person being cited and such other information necessary to identify and give the person cited notice of the charges against him, and state a specific date

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[1]Municipal code reference

Civil action in lieu of arrest: § 3-115.

and place for the offender to appear in court and answer the charges against him. The citation shall also contain an agreement to appear, which shall be signed by the offender. If the offender refuses to sign the agreement to appear, the special officer in whose presence the offense was committed shall immediately arrest the offender and dispose of him in accordance with Tennessee Code Annotated, § 7-63-104.

(4) It shall be unlawful for any person to violate his agreement to appear in court, regardless of the disposition of the charge for which the citation in lieu of arrest was issued.

(5) Pursuant to Tennessee Code Annotated, § 7-63-201, et seq., the board of mayor and aldermen designate certain city enforcement officers the authority to issue ordinance summonses in the areas of sanitation, litter control and animal control, the board hereby designates the director and his designees in the public works department to issue ordinance summonses in those areas.

(6) These enforcement officers may not arrest violators or issue citations in lieu of arrest, but upon witnessing a violation of any ordinance, law or regulation in the areas of sanitation, litter control or animal control, may issue an ordinance summons and give the summons to the offender.

(7) The ordinance summons shall contain the name and address of the person being summoned and such other information necessary to identify and give the person summons notice of the charge against him, and state a specific date and place for the offender to appear and answer the charges against him. The ordinance summons shall also contain an agreement to appear, which shall be signed by the offender. If the offender refuses to sign the agreement to appear, the enforcement officer in whose presence the offense occurred may

(a) Have a summons issued by the clerk of the city court; or

(b) Seek the assistance of a police officer to witness the violation.

The police officer who witnesses the violation may issue a citation in lieu of arrest for the violation, or arrest the offender if he refuses to sign the agreement to appear in court. If the police officer makes an arrest, he shall dispose of the person arrested as provided in Tennessee Code Annotated, § 7-63-104.

(8) It shall be unlawful for any person to violate his agreement to appear in court, regardless of the disposition of the charge for which the ordinance summons was issued. (Ord. #04-20, Nov. 2004)

TITLE 7

FIRE PROTECTION AND FIREWORKS[1]

CHAPTER

CHAPTER 1

FIRE CODE

SECTION

7-101. Fire code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of prescribing regulations governing conditions hazardous to life and property from fire or explosion, the International Fire Code,[2] 2021 edition (with city amendments), as recommended by the International Code Council and the National Fire Code for Existing Occupancies, 2003 edition, as published by the National Fire Protection Association, Inc., Batterymarch Park, Quincy, MA 02269-9101, is hereby adopted by reference and included as a part of this code. Pursuant to the requirement of Tennessee Code Annotated, § 6-54-502, one (1) copy of the fire prevention code has been filed with the city clerk and is available for public use and inspection. Said fire prevention code is adopted and incorporated as fully as if set out at length herein and shall be controlling within the corporate limits. (Ord. #72-2, July 1972, as amended by Ord. #83-13, Aug.

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[1]Charter reference
Authority to render fire service outside corporate limits: article XI, § 10.
Municipal code references
Alarm system standards: title 20, chapter 4.
Building, utility and housing codes: title 12.
Sprinkler systems in commercial buildings: title 12, chapter 9.

[2]Copies of this code (and any amendments) are available from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213-1206.

1983, Ord. #92-3, May 1993, Ord. #95-8, July 1995, Ord. #02-02, Feb. 2002, Ord. #07-11, Nov. 2007, Ord. #11-04, April 2011, Ord. #18-06, Nov. 2018 ***Ch7_12-08-20,*** and Ord. #22-03, Aug. 2022 ***Ch8_08-09-22***)

7-102. Definitions. Wherever the word "municipality" is used in the fire prevention code, it shall be held to mean the City of Bartlett, Tennessee. Wherever the term "corporation counsel" is used in the fire prevention code, it shall be held to mean the attorney for the City of Bartlett. (Ord. #72-2, July 1972)

7-103. Penalty. Any person who shall violate any of the provisions of the fire prevention code or fail to comply therewith, or who shall violate or fail to comply with any order made hereunder, or who shall build in violation of any detailed statement of specifications or plans submitted and approved hereunder, or any certificate or permit issued thereunder, and from which no appeal has been taken, or who shall fail to comply with such an order as affirmed or modified by the fire code or by a court of competent jurisdiction, within the time fixed herein, shall severally for each and every such violation and noncompliance respectively, be guilty of a misdemeanor, punishable by a fine of up to fifty dollars ($50.00). (Ord. #72-2, July 1972, modified)

CHAPTER 2

FIRE DEPARTMENT[1]

SECTION

7-201. Established. In order to protect life, avoid injury and preserve property within the city limits from fire, that the Board of Mayor and Aldermen, City of Bartlett be and is hereby empowered to organize a fire department, which shall consist of such apparatus as the city now has and such as hereafter may be provided, and of a personnel to be composed of a chief, assistant chief, fire marshal, battalion commander, lieutenants and not less than thirty (30) men, and that upon organization, the members of the fire department shall be subject to such rules and regulations as may be hereinafter adopted and approved by the board of mayor and aldermen. (Ord. #52-1, March 1952, as amended by Ord. #92-3, May 1992)

7-202. Appointment of fire chief. The fire chief shall be appointed by the mayor on the basis of examination to determine his qualifications. His appointment shall continue during good behavior and satisfactory service. (Ord. #72-2, July 1972, as amended by Ord. #92-3, May 1992, modified)

7-203. Powers and duties of fire chief. The chief shall be authorized to exercise police powers at times of fire and summon to his assistance such additional help as he may deem necessary to control the fire. Further, and the

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[1]Charter reference
Authority to render fire service outside the corporate limits: article XI., § 10.
Municipal code reference
Special privileges with respect to traffic: title 15, chapter 2.

fire chief shall, and is hereby authorized to enforce all fire prevention ordinances contained in the city ordinances. (Ord. #52-1, March 1952)

7-204. Fire marshal to enforce fire prevention code. The fire prevention code shall be enforced by the Fire Marshal in the Fire Department of the City of Bartlett which is hereby established and which shall be operated under the supervision of the chief of the fire department. (Ord. #72-2, July 1972, modified)

7-205. Qualification of firemen. The chief of the fire department may detail such members of the fire department as inspectors as shall from time to time be necessary. The chief of the fire department shall recommend to the mayor the employment of technical inspectors, who, when such authorization is made, shall be selected through an examination to determine their fitness for the position. The examination shall be open to members and non-members of the fire department, and hiring done after examination shall be for an indefinite term with removal only for cause. (Ord. #72-2, July 1972, modified)

7-206. Appeal of fire chief's order. Whenever the fire marshal shall disapprove an application or refuse to grant a permit applied for, or when it is claimed that the provisions of the code do not apply or that the true intent and meaning of the code have been misconstrued or wrongly interpreted, the applicant may appeal the decision of the fire marshal to the board of mayor and aldermen within thirty (30) days from the date of the decision appealed. (Ord. #72-2, July 1972, modified)

7-207. Annual report of fire chief required. A report of the fire chief shall be made annually and transmitted to the chief executive officer of the municipality; it shall contain all proceedings under this code; with such statistics as the fire marshal shall also recommend any amendments of the code which, in his judgment, shall be desirable. (Ord. #72-2, July 1972, modified)

7-208. Power of fire marshal to grant variances. The fire marshal shall have power to modify any of the provisions of the fire prevention code upon application in writing by the owner or lessee, or his duly authorized agent, when there are practical difficulties in the course of carrying out the strict letter of the code, provided that the spirit of the code shall be observed, public safety secured, and substantial justice done. The particulars of such modification when granted or allowed, and the decision of the fire marshal of the bureau of fire prevention thereon shall be entered upon the records of the department and a signed copy shall be furnished the applicant. (Ord. #72-2, July 1972, modified)

7-209. Fire control extended beyond corporate limits. The authorization to use fire fighting equipment and personnel outside the corporate

limits of the City of Bartlett required approval by the state legislature. This authorization was achieved under House Bill No. 211, Chapter No. 57. Thereafter the acceptance and ratification of the legislative grant of power was adopted largely in the same form and terms as provided in this chapter. Section 1 (C) of House Bill No. 211, Chapter No. 57, further gives to the city full discretion to regulate and limit the extension of fire control beyond the corporate limits. The City of Bartlett, Tennessee, is empowered in its governmental capacity to use its fire fighting equipment and personnel outside its corporate limits, when and under such circumstances, limitations and conditions as its governing body may in its sole discretion determine. (Ord. #13, Feb. 1961)

7-210. City to determine limitations. The fire fighting equipment and personnel of the City of Bartlett may be used outside the corporate limits of said City of Bartlett, without limitations as to distance or area, except as limited by the mayor of the City of Bartlett. (Ord. #13, Feb. 1961, as amended by Ord. #65-7, Oct. 1965, modified)

7-211. Immunity and protection from liability. Whenever the fire-fighting equipment and personnel of the City of Bartlett are so used or employed in fighting fires, or affording fire protection outside the corporate limits of said city, the City of Bartlett and its officials, agents, servants and employees authorizing or performing such service shall be entitled to all the immunities and protections from liability to which they are entitled with respect to similar services within the corporate limits of said City of Bartlett, Tennessee. (Ord. #13, Feb. 1961)

CHAPTER 3

MISCELLANEOUS

SECTION

7-301. Explosives and blasting agents restricted. The limits referred to in the adopted fire code, in which storage of explosives and blasting agents is restricted, are hereby established as follows: Corporate limits, City of Bartlett, Shelby County, Tennessee. (Ord. #72-2, July 1972, as amended by Ord. #92-3, may 1992)

7-302. Storage of flammable liquids restricted. The limits referred to in the adopted fire code in which storage of flammable liquids in outside above-ground tanks is restricted, are hereby established as follows: Corporate limits, City of Bartlett, Shelby County, Tennessee. (Ord. #72-2, July 1972, as amended by Ord. #92-3, May 1992)

7-303. Bulk plants restricted. The limits referred to in the adopted fire code, in which new bulk plants for flammable or combustible liquids are restricted, are hereby established as follows: Within corporate limits, City of Bartlett, Shelby County, Tennessee. (Ord. #72-2, July 1972, as amended by Ord. #92-3, May 1992)

7-304. Restricted bulk storage of petroleum restricted. The limits referred to in the adopted fire code, in which bulk storage of liquefied petroleum is restricted, are hereby established as follows: Within corporate limits, City of Bartlett, Shelby County, Tennessee. (Ord. #72-2, July 1972, as amended by Ord. #92-3, May 1992)

7-305. Specified transportation routes for explosives. The routes referred to in the adopted fire code for vehicles transporting explosives and blasting agents are hereby established as follows: as stated on permit. (Ord. #72-2, July 1972, as amended by Ord. #92-3, May 1992)

7-306. Fire lane designated by fire marshal. The fire lanes referred to in the adopted fire code are hereby established as follows: Fire lanes as listed

by the fire marshal. (Ord. #72-2, July 1972, as amended by Ord. #92-3, May 1992)

7-307. Regulating containers and location of liquefied petroleum gas. All liquefied petroleum gas containers (100 lbs. or less) located within the city limits of Bartlett awaiting sale, transfer, or exchange at a commercial business shall not be placed or stored on a sidewalk or in front of any building that has parking in the front. Containers shall be positioned in a remote location as to reduce the exposure of damage by a collision and shall have protection consisting of a reinforced pipe, piling, post, column, etc. Placement of these containers will require the approval of the design review commission, code enforcement, and the fire marshal. Protection shall consist of schedule 0 steel four (4) inch pipe, three (3) feet high above grade with three (3) foot bury depth concrete filled on four (4) foot centers at ends. (Ord. #91-13, Oct. 1991)

TITLE 8

ALCOHOLIC BEVERAGES[1]

CHAPTER

CHAPTER 1

MISCELLANEOUS

SECTION

8-101. Establishments permitting persons in a state of nudity etc.

(1) Definitions. As used in this chapter, unless the context dictates otherwise:

(a) "Alcoholic beverage," as set forth in Tennessee Code Annotated, § 57-3-101(a)(1), means and includes alcohol, spirits, liquor, wine, high alcohol content beer, and every liquid containing alcohol, spirits, liquor, wine, or high alcohol content beer and capable of being consumed by a human being, other than patent medicine or beer, as the latter is defined in Tennessee Code Annotated, § 57-5-101(b) and in § 8-101(1)(b) below. Notwithstanding any provision to the contrary in this chapter, "alcoholic beverage" also includes any beverage or food product containing distilled alcohol capable of being consumed by a human being manufactured or made with distilled alcohol irrespective of alcoholic content, including any alcohol-infused beverage or food product and any ice cream or other frozen dessert containing alcohol, spirits, liquor, wine, high alcohol content beer or beer.

(b) "Beer," as set forth in Tennessee Code Annotated, § 57-5-101(b), means and includes all beer, ales, and other malt liquors having an alcoholic content of not more than eight percent (8%) by weight, other than wine as defined in Tennessee Code Annotated, § 57-3-101; provided, however, that no more than forty-nine (49%) of the overall alcoholic content of such beverage may be derived from the addition of flavors and other non-beverage ingredients containing alcohol.

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[1]State law reference
Tennessee Code Annotated, title 57.

(c) "Owner or operator" as used in this section shall mean any property owner, lease holder, manager or supervisor of any establishment wherein the hereinafter prohibited activity is permitted.

(d) "High alcohol content beer," as set forth in Tennessee Code Annotated, § 57-3-101(a)(8), means an alcoholic beverage which is beer, ale or other malt beverage having an alcoholic content of more than eight percent (8%) by weight and not more than twenty percent (20%) by weight, except wine as defined in Tennessee Code Annotated, § 57-3-101; provided, that no more than forty-nine percent (49%) of the overall alcoholic content of such beverage may be derived from the addition of flavors and other non-beverage ingredients containing alcohol.

(2) Sale of beer, wine or alcoholic beverages prohibited. It shall be prohibited for any owner or operator to permit the sale of beer, wine or alcoholic beverages in any establishment where the customers, employees, bartenders, waitresses, performers or any other person are directed or permitted to present themselves in a state of nudity as defined in § 9-302(14).

(3) Advertisement of exposure prohibited. It shall be unlawful for any owner or operator of any establishment to advertise or permit the advertisement by sign, billboard, media advertisement or other public notice that customers, employees, bartenders, waitresses, performers or other persons on said premises do or shall present themselves in a state of nudity as defined in § 9-302(14).

(4) Geographic location of establishment restricted. Any establishment wherein customers, employees, bartenders, waitresses, performers or any other person is permitted to present themselves in a state of nudity as defined in § 9-302(14) shall not be located within one thousand (1,000) yards of any establishment wherein the sale of beer, wine or alcoholic beverages are permitted to be sold, either wholesale or retail, nor within one thousand five hundred (1,500) yards of any school, church, playground or public park nor within one thousand (1,000) yards of the city hall or any other public building wherein the citizens of the city regularly travel or maintain access in the course of exercising their rights and duties of citizens of the City of Bartlett, Tennessee.

(5) Personal exposure prohibited. It shall be unlawful for any person to present himself in any establishment wherein beer, wine or alcoholic beverages are served or which advertises in violation of subsection (3) hereof or which is located in any prohibited geographic areas prescribed by subsection (4), in a state of nudity as defined in § 9-302(14).

(6) Penalties. Violation of any provision of this section shall subject the violator to a fine of not more than fifty dollars ($50.00) for each offense, each instance of exposure by separate offenders constituting a separate offense. (Ord. #77-2, Feb. 1977, modified, as amended by Ord. #18-08, Dec. 2018 ***Ch7_12-08-20***, and Ord. #19-01, April 2019 ***Ch7_12-08-20***)

8-102. Consumption of alcohol in municipal parks and playgrounds prohibited. (1) It shall be a violation of this chapter for any

person to consume and/or possess alcoholic beverages, beer or wine in municipal parks and playgrounds.

(2) Penalty. Violation of this section shall be subject to the violator to a penalty not to exceed a fine of fifty dollars ($50.00) for each violation. (Ord. #02-05, May 2002)

CHAPTER 2

INTOXICATING LIQUORS

SECTION

8-201. Alcoholic beverages subject to regulation. It shall be unlawful to engage in the business of selling, storing, transporting, distributing, or to purchase or possess alcoholic beverages within the corporate limits of this city except as provided by Tennessee Code Annotated, title 57.

8-202. Definitions. "Alcoholic beverage" or "beverage," as used in this chapter, means and includes alcohol, spirits, liquor, wine, high alcohol content beer, and every liquid containing alcohol, spirits, liquor, wine, or high alcohol content beer and capable of being consumed by a human being, other than patent medicine and beer, as the latter is defined in Tennessee Code Annotated, § 57-5-101(b) and § 8-101(1)(b) above. Notwithstanding any provision to the contrary in this chapter, "alcoholic beverage" also includes any beverage or food product containing distilled alcohol capable of being consumed by a human being

manufactured or made with distilled alcohol irrespective of alcoholic content, including any alcohol-infused beverage or food product and any ice cream or other frozen dessert containing alcohol, spirits, liquor, wine, high alcohol content beer or beer. (Ord. #77-2, Feb. 1977, modified, as by Ord. #18-08, Dec. 2018, modified, and replaced by Ord. #18-08, Dec. 2018 ***Ch7_12-08-20***, and amended by Ord. #19-01, April 2019 ***Ch7_12-08-20***)

8-203. Application for certificate. Before any certificate of compliance, as required by Tennessee Code Annotated, § 57-3-208 or a renewal as required by § 57-3-213 shall be signed by the mayor, or by any aldermen, an application in writing shall be filed with the finance director or his or her designee on a form to be provided by the city, giving the following information:

(1) Name, age and address of the applicant.

(2) Number of years residence in the city.

(3) Occupation or business and length of time engaged in such occupation or business.

(4) Whether or not the applicant has been convicted of a violation of any state or federal law or of the violation of this code or any city ordinance, and the details of any such conviction.

(5) If employed, the name and address of employer.

(6) If in business, the kind of business and location thereof.

(7) The location of the proposed store for the sale of alcoholic beverages.

(8) The name and address of the owner of the store.

(9) If the applicant is a partnership, the name, age and address of each partner, and his occupation, business or employer. If the applicant is a corporation, the name, age and address of the stockholders and their degrees of ownership of stock in the corporation.

The information in the application shall be verified by the oath of the applicant. If the applicant is a partnership or a corporation, the application shall be verified by the oath if each partner, or by the president of the corporation.

Each application shall be accompanied by a non-refundable investigation fee of five hundred dollars ($500.00).

8-204. Renewal of certificate. Certificates of compliance shall be issued for twelve (12) month periods commencing on the effectiveness date. The licensee shall renew the certificate and pay the fee set forth in § 8-203.

8-205. Applicant to agree to comply with laws. The applicant for a certificate of compliance shall agree in writing to comply with the state and federal laws and ordinances of the city and rules and regulations of the Alcoholic Beverage Commission of the State for sale of alcoholic beverages.

8-206. Applicant to appear before board of mayor and aldermen; duty to give information. An applicant for a certificate of compliance may be

required to appear in person before the board of mayor and aldermen for such reasonable examination as may be desired by the board.

8-207. Action on application. Every application for a certificate of compliance shall be referred to the chief of police for investigation and to the city attorney for review. If the application is approved, it shall be signed by the mayor.

8-208. Display of license. Persons granted licenses to carry on any of the businesses or undertakings contemplated by this chapter shall, before being qualified to do business, display and post and keep displayed and posted such license in a conspicuous place on the premises of such license. (Ord. #68-1, April 1968)

8-209. Duplicate license. When a license shall be lost or destroyed without fault of the licensee, a duplicate in lieu thereof shall be issued by the tax clerk of the city only after such clerk has been furnished with satisfactory evidence of such loss without fault of the licensee; provided, however, that upon the issuance of such duplicate license the licensee shall be required to pay a fee of ten dollars ($10.00). (Ord. #68-1, April 1968, modified)

8-210. Residency requirement. The applicant for a certificate of compliance shall have been a bona fide resident of the City of Bartlett for not less than one (1) year at the time his application is filed. If the applicant is a partnership or a corporation, each of the partners or stockholders must have been a bona fide resident of the City of Bartlett not less than one (1) year at the time the application is filed. This section shall not apply to any applicant who has been continuously licensed pursuant to Tennessee Code Annotated, § 57-3-204 for seven (7) consecutive years.

8-211. Applicants for certificate who have criminal record. No certificate of compliance for the manufacture or sale at wholesale or retail of alcoholic beverages, shall be issued to any person, (or if the applicant is a partnership, any partner, or if the applicant is a corporation, any stockholder), who within ten (10) years preceding the application for such certificate of compliance, has been convicted of any felony or of any offense under the laws of the state or of the United States prohibiting the sale, possession, transportation, storage or otherwise handling of intoxicating liquors, or who has during such period been engaged in business, alone or with others, in violation of such laws.

8-212. Only one establishment to be operated by retailer. No retailer shall operate, directly or indirectly, more than one place of business for the sale of alcoholic beverages in the city. The word "indirectly," as used in this section, shall include and mean any kind of interest in another place of business by way of stock, ownership, loan, partner's interest or otherwise. This section

shall not apply to the sale of wine in a retail food store which is eligible for the issuance of a retail food store wine license by the alcoholic beverage commission of the state, pursuant to Tennessee Code Annotated, title 57, chapter 3, part 8 and which has been issued a certificate of compliance as set forth in Tennessee Code Annotated, § 57-3-806. (as amended by Ord. #18-08, Dec. 2018 ***Ch7_12-08-20***)

8-213. Location. (1) Retailers. No person, firm or corporation shall locate an establishment for the warehousing, sale or manufacture of alcoholic beverages of alcohol content greater than five percent (5%) for off premise consumption closer than five hundred (500) feet to a church, school or other place of public gathering, said distance to be measured along a direct line from the closest point on the building of the alcoholic beverage licensee to the closest point on the building of the church, school or other place of public gathering; provided, however, in that instance where the place of public gathering is a park or recreational facility the distance shall be measured from the property line of that place of public gathering.

(2) Licensee in proximity to residences prohibited. No person, firm or corporation shall locate an establishment for the warehousing, sale or manufacture of alcoholic beverages of alcoholic content greater than five percent (5%) for off premise consumption upon premises closer than five hundred (500) feet to any zoning district for limited residential purposes to include zones RS, RS-1, RS-1A, RTH and R-2 as designated on the official zoning ordinance[1] and map[2] of the City of Bartlett. (Ord. #77-2, Feb. 1977, as amended by Ord. #80-28, Nov. 1980, modified)

8-214. Retail stores to be on ground floor; entrances. No retail store shall be located anywhere on premises in the city except on the ground floor thereof. Each such store shall have only one main entrance; provided, that when a store is located on the corner of two (2) streets, such store may maintain a door opening on each such street; and provided further, that any salesroom adjoining the lobby of a hotel may maintain an additional door into such lobby as long as the lobby is open to the public.

8-215. Number of licenses. The number of retail licenses issued and outstanding in the city at any time shall be restricted to three (3). The number of liquor stores in the City of Bartlett is limited to three (3). (Ord. #72-6, Jan. 1973, as amended by Ord. #93-18, ___)

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[1]The zoning ordinance is included in this municipal code as Appendix A.

[2]The Zoning Map is available in the office of the city clerk.

8-216. Zoning restriction of alcoholic beverage retailers established. No person, firm or corporation shall locate an establishment for the retail warehousing, sale or manufacture of alcoholic beverages of alcohol content greater than eight percent (8%) for off premise consumption in any zone except those designated O-C, C-H, SC-1, C-L, and C-G upon the official zoning map[2] and ordinance[1] of the City of Bartlett, or any country club or lodge with a special permit. (Ord. #80-28, Nov. 1980, modified, as amended by Ord. #18-08, Dec. 2018 ***Ch7_12-08-20***)

8-217. On-premises consumption. Any country club or lodge with special use permit. (Ord. #68-1, April 1968, modified)

8-218. Sales to minors, etc. It shall be unlawful for any licensee to sell, furnish or give away any beverages to any person visibly intoxicated, or to any insane person, or to any minor, or to any habitual drunkard or persons of known intemperate habits. (Ord. #68-1, April 1968)

8-219. Hours of sale. (1) Any retailer that is permitted by the state to sell liquor or wine for on-premise consumption shall also be allowed to sell beer during the hours set forth in Tennessee Code Annotated § 57-4-203, provided that the establishment has lawfully obtained a beer permit as required by this chapter;

(2) For beer permit holders, the hours within which the sale of beer shall be permitted shall be from 8:00 A.M. TO 3:00 A.M. Monday through Saturday, and from 10:00 A.M. Sunday until 3:00 A.M. on Monday. No beer or other alcoholic beverage shall be consumed or open for consumption on or about any premises licensed by this chapter for on-premise consumption in any glass, bottle, can, or other container after 3:15 A.M.

(3) Retail package liquor stores may remain open between 8:00 A.M. and 11:00 P.M. Monday through Saturday, and between 10:00 A.M. and 11:00 P.M. on Sundays. The sale of alcoholic beverages by retail package liquor stores is prohibited on Christmas, Thanksgiving and Easter.

(4) Retail food stores may sell, give away, or otherwise dispense wine between 8:00 A.M. and 11:00 P.M. Monday through Saturday; and, effective January 1, 2019, retail food stores may sell, give away, or otherwise dispense wine on Sundays from 10:00 A.M. until 11:00 P.M. The sale of alcoholic beverages by retail food stores is prohibited on Christmas, Thanksgiving and Easter. (Ord. #68-1, April 1968, as replaced by Ord. #18-08, Dec. 2018 ***Ch7_12-08-20***)

8-220. Inspection of business establishments. The duly authorized representatives of the city shall have the right to inspect the premises of any business licensed under this chapter during the hours when such establishments are open for the conduct of business. (Ord. #68-1, April 1968)

8-221. Inspection fee. The City of Bartlett hereby imposes an inspection fee in the maximum amount allowed by Tennessee Code Annotated, § 57-3-501 on all licensed retailers of alcoholic beverages located within the corporate limits of the city. (Ord. #07-06, May 2007)

8-222. Radios, amusement devices and seating facilities prohibited in retail establishments. No radios, pinball machines, slot machines or other devices which tend to cause persons to congregate in such place shall be permitted in any retail establishment. No seating facilities shall be provided for persons other than employees. (Ord. #07-06, May 2007)

8-223. Violations. Any violation of this chapter shall constitute a civil offense and shall, upon conviction, be punishable by a penalty under the general penalty provision of this code. Upon conviction of any person under this chapter, it shall be mandatory for the city judge to immediately certify the conviction, whether on appeal or not, to the Tennessee Alcoholic Beverage Commission. (Ord. #07-06, May 2007)

CHAPTER 3

BEER[1]

SECTION

8-301. Beer board established. There is hereby established a beer board to be composed of five (5) members who are citizens of the City of Bartlett. The members shall be appointed by the mayor and approved by the board of mayor and aldermen. Members shall serve two (2) year terms and may be re-appointed. To achieve staggered terms; the initial appointments shall be:

(1) Two (2) members for one (1) year; and

(2) Three (3) members for two (2) years

All members shall serve at the will and pleasure of the mayor and may be removed with or without cause or notice. The beer board shall, from its members, elect a chairman who shall preside at its meetings. Its members shall serve without compensation. (Ord. #74-5, March 1974, Ord. #01-16, Sept. 2001, and Ord. #01-19, Dec. 2001, as replaced by Ord. #15-01, Feb. 2015)

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[1]Municipal code reference

Wholesale beer tax: title 5, chapter 4.

State law reference

For a leading case on a municipality's authority to regulate beer, see the Tennessee Supreme Court decision in Watkins v. Naifeh, 635 S.W.2d 104 (1982).

8-302. Meetings of the beer board. All meetings of the beer board shall be open to the public. The board shall hold regular meetings in the city hall at such times as it shall prescribe. When there is business to come before the beer board, a special meeting may be called by the chairman, provided he gives reasonable notice thereof to each member. The board may adjourn a meeting at any time to another time and place. (Ord. #74-5, March 1974)

8-303. Record of beer board proceedings to be kept. The city clerk shall be required to attend and make a separate record of the proceedings of all meetings of the beer board. The record shall be a public record and shall contain at least the following:

(1) The date of each meeting;

(2) The names of the board members present and absent;

(3) The names of the members introducing and seconding motions and resolutions;

(4) A copy of each such motion or resolution presented;

(5) A vote of each member thereon; and

(6) The provisions of each permit issued by the board. (Ord. #74-5, March 1974)

8-304. Requirements for beer board quorum and action. The attendance of at least a majority of the members of the beer board shall be required to constitute a quorum for the purpose of transacting business; however, when a quorum is present the affirmative vote of only a simple majority of the members voting shall be required for affirmative action by the board. (Ord. #74-5, March 1974)

8-305. Powers and duties of the beer board. The beer board shall have the power and it is hereby directed to regulate the selling, storing for sale, distribution for sale, and manufacturing of beer and any alcohol-containing beverage or food product or alcohol-infused beverage or food product not regulated by the Tennessee Alcoholic Beverage Commission within the City of Bartlett in accordance with the provisions of this chapter, and it shall have the power to promulgate reasonable rules and regulations for the conduct of its business and the enforcement of this chapter. (Ord. #74-5, March 1974, as replaced by Ord. #19-01, April 2019 ***Ch7_12-08-20***)

8-306. "Beer" defined. The term "beer" as used in this chapter shall mean and include all beers, ales, and other malt liquors having an alcoholic content of not more than eight percent (8%) by weight. (Ord. #74-5, March 1974, as amended by Ord. #18-08, Dec. 2019 ***Ch7_12-08-20***)

8-307. Permit required for engaging in beer business. (1) It shall be unlawful for any person to sell, store, distribute, or manufacture beer without having first exhibited a receipt for the taxes provided for in the state's "Business

Tax Act"[1] and without first making application to and obtaining a permit from the beer board. The permit shall be applied for upon a form as prescribed by the beer board.

(2) Upon application being filed, the finance director or his designee shall cause same to be published in the official newspaper of the city at least one (1) week prior to its consideration by the beer board, the costs of publication to be paid by the applicant. If the application is for a place of business where beer has not been sold in the last twelve (12) months, all property owners within one thousand (1,000) feet of the proposed location shall be notified by United States mail at least one (1) week before consideration by the beer board, giving the name of the applicant, type of permit requested and the time and date of the hearing. (Ord. #74-5, March 1974, modified)

8-308. Beer permits shall be restrictive. All beer permits shall be restrictive as to the type of beer business authorized under them. Separate permits shall be required for selling at retail, storing, distributing, and manufacturing. Beer permits for the retail sale of beer may be further restricted by the beer board so as to authorize sales only for off-premises consumption. It shall be unlawful for any beer permit holder to engage in any type or phase of the beer business not expressly authorized by his permit. It shall likewise be unlawful for a beer permit holder to fail to comply with any and all of the express restrictions or conditions which may be written into his permit by the beer board. No beer permit shall be subject to transfer or assignment. No beer permit shall be issued to a spouse, child, relative, employee, or other person having any interest in the business of a licensee whose beer permit has been revoked in the past twelve (12) months. (Ord. #74-5, March 1974)

8-309. Issuance of permits to persons convicted of certain crimes prohibited. Inspections, investigations and background checks. On-premise server permits required. (1) No person or business entity having at least a five percent (5%) ownership interest in the applicant, and if a business entity owns at least a five percent (5%) ownership interest in the applicant, no owner of at least a five percent (5%) ownership interest in such business entity, nor any person to be employed in the distribution, sale, or manufacture or sale of beer shall have been convicted within the past ten (10) years of any crime, whether felony or misdemeanor, involving misuse or abuse of alcohol or illegal use of drugs, including but not limited to, driving under the influence, public intoxication, as defined in Tennessee Code Annotated, § 39-17-310, disorderly conduct when it involves the use of alcohol or the illegal use of drugs, and/or any violation of the laws against possession, sale, manufacture for sale, or transportation of beer or other alcoholic beverages, or the manufacture, delivery,

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[1]State law reference

Tennessee Code Annotated, title 67, chapter 4.

sale or possession with intent to manufacture, deliver or sell any controlled substance that is listed in Tennessee Code Annotated, title 39, chapter 17, part 4, schedules I through V, and/or any crime involving moral turpitude. Any such conviction shall likewise be grounds for revocation of any permit issued under this chapter.

(2) The beer board or its designee has the full power and authority to enter, inspect and investigate any business operated pursuant to any beer permits issued by it and has full authority to call upon any members of the police and health departments for assistance in the enforcement of the state laws, city ordinances, and the rules and regulations of the beer board pertaining to the sale of beer.

(3) No entity holding an on-premise beer permit shall employ any person in serving of beer who does not possess a server permit from the Bartlett Police Department or, in the case of a permit holder who also holds a license issued by the Tennessee Alcoholic Beverage Commission, a server permit from said commission. It is the duty of the on-premise beer permit holder to require that each person dispensing or serving beer in the permit holder's establishment possesses such a permit, which permit must be on the person of such employee or on the premises of the licensed establishment and subject to inspection by the beer board or its designee or by the police department when the employee is engaged in the performance of that employee's duties for the permit holder. (Ord. #74-5, March 1974, as amended by Ord. #13-04, May 2013)

8-310. Prohibited conduct or activities by beer permit holders. It shall be unlawful for any beer permit holder to:

(1) Employ any person to be employed in the distribution, sale, or manufacture or sale of beer who shall have been convicted within the past ten (10) years of any crime, whether felony or misdemeanor, involving misuse or abuse of alcohol or illegal use of drugs, including but not limited to, driving under the influence, public intoxication, as defined in Tennessee Code Annotated, § 39-17-310, disorderly conduct when it involves the use of alcohol or the illegal use of drugs, and/or any violation of the laws against possession, sale, manufacture for sale, or transportation of beer or other alcoholic beverages, or the manufacture, delivery, sale or possession with intent to manufacture, deliver or sell any controlled substance that is listed in Tennessee Code Annotated, title 39, chapter 17, part 4, schedules I through V, and/or any crime involving moral turpitude.

(2) Sell, serve, give away or otherwise allow the consumption of beer between the hours of 3:00 A.M. and 8:00 A.M. on Monday through Saturday or between the hours of 3:00 A.M. and 10:00 A.M. on Sunday.

(3) Allow any unusually loud, or obnoxious noises to emanate from his premises.

(4) Allow any minor under twenty-one (21) years of age, unaccompanied by a parent or adult guardian, to loiter in or about his place of business. The term "loiter" within the meaning of this section, shall mean to

remain in or on the business premises for no apparent reason related to the primary purpose of the business establishment. However, nothing in this section shall prohibit persons under the age of twenty-one (21) from dining in establishments which have a beer permit, but whose primary purpose is the sale of food, whether or not said minor is accompanied by a parent or adult guardian. Similarly, nothing in this section shall prohibit persons between the ages of eighteen (18) and twenty-one (21) years of age from attending receptions or meetings in establishments which have a beer permit, but whose primary purpose is not the sale of alcoholic beverages, whether or not said persons are accompanied by a parent or adult guardian; nor shall it prevent minors under the age of eighteen (18) from attending receptions or meetings in establishments which have a beer permit, but whose primary purpose is not the sale of alcoholic beverages, if said minor is accompanied by a parent or adult guardian. But all establishments which have a beer permit shall ensure that no container of alcoholic beverages, open or closed, is provided by customers, patrons or any other persons, to persons under the age of twenty-one (21); shall promptly remove empty and partially empty containers of alcoholic beverages from the tables where persons under the age of twenty-one (21) are seated; and shall store all alcoholic beverages behind the bar or other proper storage place not ordinarily accessible to customers.

(5) Serve, sell, or allow the consumption on his premises of any alcoholic beverage with an alcoholic content of more than five percent (5%) by weight unless the establishment holds a valid, alcoholic beverage license issued by the Tennessee Alcoholic Beverage Commission.

(6) Allow dancing on his premises by employees or agents of the business.

(7) Allow consumption of beer in an establishment restricted to off-premises consumption.

(8) Sell beer or any alcohol-infused beverage or food product, ice cream or other frozen dessert containing alcohol, spirits, liquor, wine, high alcohol content beer or beer through any drive-through or delivery window or by curb service or to deliver beer or any alcohol infused beverage or food product, ice cream or other frozen dessert containing alcohol, spirits, liquor, wine, high alcohol content beer or beer to the consumer.

(9) Serve, sell, or allow the consumption on his premises of any alcohol-infused beverage or food product, ice cream or other frozen dessert containing alcohol, spirits, liquor, wine, high alcohol content beer or beer unless the following statements are prominently displayed on the printed menu (or, if no printed menus are used, on the menu board or sign setting forth the bill of fare) immediately adjacent to the listing of the item or items of alcohol-infused beverage or food product, ice cream or other frozen desserts containing alcohol, spirits, liquor, wine, high alcohol content beer or beer:

(a) The sale of alcohol-infused beverage or food products, ice cream or other frozen desserts under the age of twenty-one (21) is prohibited.

(b) (Insert the name of the alcohol-infused beverage or food product, ice cream or frozen dessert) contain alcohol.

(c) Notice: (Insert the name of the alcohol-infused beverage or food product, ice cream or frozen dessert) contains alcohol used as a flavoring and, as with any product that contains alcohol:

(i) Women should not consume alcohol during pregnancy because of the risk of birth defects; and

(ii) Consumption of alcohol impairs your ability to drive a car or operate machinery, and may cause health problems.

(10) Serve, sell or allow the consumption on his premises of any alcohol-infused beverage or food product, ice cream or other frozen desserts containing alcohol, spirits, liquor, wine, high alcohol content beer or beer by a person under the age of twenty-one (21). (Ord. #74-5, March 1974, as amended by Ord. #91-16, Oct. 1991, modified, and amended by Ord. #13-04, May 2013, Ord. #18-08, Dec. 2018 ***Ch7_12-08-20***, and Ord. #19-01, April 2019 ***Ch7_12-08-20***)

8-311. Suspension, revocation and civil penalty. (1) The beer board shall have the power to revoke or suspend any beer permit issued under the provisions of this subchapter when the holder thereof is guilty of making a false statement or misrepresentation in the application or of violation any of the provisions of this subchapter. However, no beer permit shall be revoked or suspended until a hearing is held by the beer board after reasonable notice to the permit holder. Revocation or suspension proceedings may be initiated by the police chief or any member of the beer board.

(a) Definition. "Responsible vendor" means a person or business entity that has been issued a permit to sell beer for off-premises consumption and has received certification by the Tennessee Alcoholic Beverage Commission under the "Tennessee Responsible Vendor Act of 2006," Tennessee Code Annotated, § 57-5-601, et seq.

(b) Pursuant to Tennessee Code Annotated, § 57-5-608, the beer board shall not revoke or suspend the permit of a "responsible vendor" qualified under the requirements of Tennessee Code Annotated, § 57-5-606 for a clerk's illegal sale of beer to a minor if the clerk is properly certified and has attended annual meetings since the clerk's original certification, unless the vendor's status as a certified responsible vendor has been revoked by the alcoholic beverage commission. If the responsible vendor's certification has been revoked, the vendor shall be punished by the beer board as if the vendor were not certified as a responsible vendor. "Clerk" means any person working in a capacity to sell beer directly to consumers for off-premises consumption. Under Tennessee Code Annotated, § 57-5-608, the alcoholic beverage commission shall revoke a vendor's status as a responsible vendor upon notification by the beer board that it has made a final determination that the vendor

has sold beer to a minor for the second time in a consecutive twelve (12) month period. The revocation shall be for three (3) years.

(2) The City of Bartlett Beer Board may, but is not obligated to, at the time it imposes a revocation or suspension, offer a permit holder that is not a responsible vendor the alternative of paying a civil penalty not to exceed two thousand five hundred dollars ($2,500.00) for each offense of making or permitting to be made any sales to minors or a civil penalty not to exceed one thousand dollars ($1,000.00) for any other offense.

(a) The beer board may impose on a responsible vendor a civil penalty not to exceed one thousand dollars ($1,000.00) for each offense of making or permitting to be made any sales to minors or for any other offense.

(b) If a civil penalty is offered as an alternative to revocation or suspension, the holder shall have seven (7) days within which to pay the civil penalty before the revocation or suspension shall be imposed. If the civil penalty is not paid within that time, the revocation or suspension shall be imposed. If the civil penalty is paid within that time, the revocations or suspension shall be deemed withdrawn though it will continue on the holder's record for purposes of determining multiple offenses. The holder's payment of a civil penalty shall not affect the holder's ability to seek review of the civil penalty pursuant to Tennessee Code Annotated, § 57-5-108(d).

(c) If the beer board determines that a clerk of an off-premises beer permit holder certified under Tennessee Code Annotated, § 57-5-606, sold beer to a minor, the beer board or its designee shall report the name of the clerk to the alcoholic beverage commission within fifteen (15) days of the determination of such violation. The certification of the clerk shall be invalid and the clerk may not reapply for a new certificate for a period of one (1) year from the date of the beer board's determination.

(d) If the beer board determines that any employee of an on-premise beer permit holder that does not participate in the responsible vendor program has sold beer to a minor, the beer board or its designee shall report the name of the server to the Bartlett Police Department within fifteen (15) days of the determination of such violation. The server permit of said employee shall be invalid and the employee may not apply for another server permit for a period of two (2) years from the date of the beer board's determination. (Ord. #03-04, April 2003, as amended by Ord. #13-04, May 2013)

8-312. Beer permit and application fee required. Upon filing of an application for a beer permit the applicant shall pay to the tax clerk of the City of Bartlett an application fee of two hundred fifty dollars ($250.00) plus an additional sum equivalent to the publication cost of required newspaper publication, said fees to be non-refundable. (Ord. #83-26, Oct. 1983, as amended by Ord. #93-18, Sept. 1993)

8-313. Interference with public health, safety, and morals prohibited--on-premises permit distance. Free standing buildings. Multi-tenant buildings or shopping centers. No permit authorizing the sales of beer for on-premises consumption will be issued when such business would cause congestion or traffic or would interfere with schools or churches, or would otherwise interfere with the public health, safety and morals of the citizens of the City of Bartlett. In no event will a beer permit be issued authorizing the storage for sale or sale of beer for on-premise consumption at places within one hundred fifty feet (150') of any free standing school or church. In the event that a school or church is located in a multi-tenant building or shopping center, no beer permit will be issued authorizing the storage or sale of beer for on-premises consumption at any place which is immediately adjacent to a school or church in such multi-tenant building or shopping center. (Ord. #80-24, Aug. 1980, as amended by Ord. #83-26, Oct. 1983, Ord. #01-13, Aug. 2001, and Ord. #13-04, May 2013)

8-314. Interference with public health, safety, and morals prohibited--off-premises permit--distance. Free standing buildings. Multi-tenant buildings or shopping centers. No permit authorizing the sale of beer for off-premises consumption will be issued when such business would cause congestion or traffic or would interfere with schools or churches, or would otherwise interfere with the public health, safety and morals of the citizens of the City of Bartlett. In no event will a beer permit be issued authorizing the manufacture, storage or sale of beer for off-premises consumption at places within one hundred fifty feet (150') of any free standing school or church. In the event that a school or church is located in a multi-tenant building or shopping center, no beer permit will be issued authorizing the storage or sale of beer for off-premise consumption at any place which is immediately adjacent to a school or church in such multi-tenant building or shopping center. (Ord. #80-24, Aug. 1980, as amended by Ord. #83-26, Oct. 1983, Ord. #01-13, Aug. 2001, and Ord. #13-04, May 2013)

8-315. Method of measuring location distance prohibitions. Whenever in this chapter a distance is specified within which beer for on-premises or off-premises consumption is prohibited that distance shall be measured in a straight line from the nearest point on the free-standing building of the school or church, to the nearest point on the free-standing building of the permit applicant. In the event that a school, church or permit applicant lease space in a multi-tenant building or shopping center, the distance shall be measured in a straight line from the nearest point on the space leased or occupied by such school or church to the nearest point on the space leased or occupied by the permit applicant in a multi-tenant building or shopping center, in which beer is to be sold, distributed or manufactured. (Ord. #80-24, Aug. 1980, as amended by Ord. #83-26, Oct. 1983, #Ord. #01-13, Aug. 2001, and Ord. #13-04, May 2013)

TITLE 9

BUSINESS, PEDDLERS, SOLICITORS, ETC.[1]

CHAPTER

CHAPTER 1

MISCELLANEOUS

SECTION

9-101. Second hand merchandise sales. (1) It shall be unlawful for any licensed business to buy from the general public any music CD's, DVD, play stations, Sega equipment, video games, or electronic equipment without recording identification of the owner of said property. The information recorded will list name, address, social security number, date of birth, phone number, and thumbprint of the person selling the product. The business may not sell or transfer the recorded information to another business without the seller's permission. The business will fill out form BPD 2000-01 to identify said products with description of product and serial numbers when applicable.

(2) If the person is under the age of eighteen (18), written consent of the guardian will be required with the contact phone number of the guardian to verify. The identification information from the minor will also be recorded.

(3) Two (2) copies of form BPD 2000-01 will be completed. One (1) shall be retained at the place of business to be inspected by the chief of police or his

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[1]Municipal code references
Building, plumbing, wiring and housing regulations: title 12.
Junkyards: title 13.
Liquor and beer regulations: title 8.
Noise reductions: title 11.
Zoning: title 14.

designee during regular business hours. The remaining copy will be delivered to the police department within five (5) working days. Form BPD 2000-01 will be maintained as a permanent record of second hand merchandise transactions.

(4) Penalty violation. Violation of this section shall subject the violator a fine of not more than fifty dollars ($50.00) for each violation. Nothing in this section will prohibit or affect the power of the chief of police and/or his designee to suspend or revoke the permit as herein provided. (Ord. #00-04, March 2000)

9-102. Outdoor sales on commercial property regulated. (1) A permit to conduct said outdoor sales must be obtained from the City of Bartlett Tax Department, and a permit fee paid in the amount of twenty-five dollars ($25.00), by the company, organization or individual conducting said outdoor sale. This fee is waived for non-profit organizations and is waived for any permanent business located in the City of Bartlett, but is payable by any business which is not permanently located in the City of Bartlett.

(2) Outdoor sales shall include, but not be limited to, tent sales, truckload sales, sidewalk sales and parking lot sales on commercial property.

(3) Such outdoor sales must be conducted by an existing permanent business adjacent to and on the property of the location of the permanent business. Itinerant peddlers that travel from site to site and set up on street corners and vacant lots are expressly prohibited by this section. The outdoor sales are to be conducted as an adjunct to the existing permanent business. This section does not apply to non-profit organizations.

(4) The duration of outdoor sales shall not exceed ten (10) days in length for those businesses zoned other than Highway Commercial. The duration of outdoor sales for non-profit organizations shall not exceed thirty (30) days in length.

(5) The City of Bartlett Board of Mayor and Aldermen, may in its discretion waive the payment of the permit fee or may extend the length of time of any outdoor sale. (Ord. #85-23, Oct. 1985)

9-103. Regulations of liquidation sales.[1] (1) Definitions. As used in this section, unless the context otherwise requires:

(a) "Inspector" means an inspector of the code enforcement department;

(b) "License" means a license issued pursuant to this section;

(c) "Licensee" means any person to whom a license has been issued pursuant to this section;

(d) "Municipality" means any incorporated city or any incorporated town;

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[1]State law reference

Tennessee Code Annotated, §§ 6-55-401 through 6-55-413.

(e) "Official" means the director of code enforcement or his designee.

(f) "Publish," "publishing," "advertisement," or "advertising" includes any and all means of every kind of conveying to the public notice of sale or notice of intention to conduct a sale, whether by word of mouth, by newspaper advertising, by magazine advertisement, by handbill, by written notice, by printed notice, by printed display, by billboard display, by poster, by radio announcement and any and all means including oral, written or printed; and

(g) "Sales" means the sale or any offer to sell to the public goods, wares and merchandise of any and all kinds and descriptions on hand and in stock in connection with a declared purpose, as set forth by advertising, on the part of the seller that such sale is anticipatory to the termination, closing, liquidation, revision, windup, discontinuance, conclusion or abandonment of the business in connection with such sale. It also includes any sale advertised to be a "fire sale," "adjustment sale," "creditor's sale," "trustee's sale," "liquidation sale," "reorganization sale," "insurance salvage sale," "administrator's sale," "insolvent sale," "mortgage sale," "assignee's sale," "adjuster's sale," "receiver's sale," "loss-of-lease sale," "wholesaler's close-out sale," "creditor's committee sale," "forced-out-of-business sale," "removal sale" and any and all sales advertised in such manner as to reasonably convey to the public that upon disposal of the stock of goods on hand, the business will cease and be discontinued.

(2) License requirement. No person, firm or corporation shall hereafter publish or conduct any sale of the type defined in Tennessee Code Annotated, § 6-55-401, without a license for the publication or conduct of such sale.

(3) Application for license. (a) The official is hereby authorized and empowered to supervise and regulate sales or special sales defined in Tennessee Code Annotated, § 6-55-401, and to issue appropriate licenses or license for such sales.

(b) Such licenses or license shall be issued in the discretion of the official of licenses upon the written application in a form approved by the official and verified by the person who, or by an officer of the corporation which, intends to conduct such sale.

(c) Such application shall contain:

(i) A description of the place where such sale is to be held, the nature of the occupancy, whether by lease or sublease and the effective date of the termination of such occupancy, the means to be employed in publishing such sale, together with the proposed language content in any advertisements;

(ii) An itemized list of the goods, wares and merchandise to be offered for sale, the place where such stock was purchased or

acquired, and if not purchased, the manner of such acquisition; and

(iii) Any additional information as the official may require.

(4) Issuance of license. Upon receipt of such application and payment of the fee prescribed in Tennessee Code Annotated, § 6-55-406, the official shall cause the same to be examined and investigated. If after such investigation the official is satisfied as to the truth of the statements contained in such application and as to the form and content of the advertising to be used in connection with such sale, the official may then issue a license permitting the publication and conduct of such sale. Such license shall be for a period of not exceeding thirty (30) days.

(5) Renewal license. Upon satisfactory proof by the licensee that the stock itemized in the original application has not been disposed of, the official may renew such license for an additional thirty (30) day period upon payment of the prescribed renewal fee. Such proof for a renewal license shall be furnished in a form to be issued by the official. The renewal application shall contain an itemized list of stock on hand and the same shall be verified by the applicant. The official shall cause the same to be examined and investigated, and if satisfied as to the truth of the statements therein contained, the official may issue a renewal license for a period not exceeding thirty (30) days; provided, that not more than three (3) such renewals shall be granted for any such sale for the same location within a period of one (1) year from date of issuance of the first license.

(6) Application fee. Upon filing an original application or a renewal application for a license to advertise and conduct a sale or special sale, as defined in Tennessee Code Annotated, § 6-55-401, the applicant shall pay to the official a fee in the sum of twenty-five dollars ($25.00). If any application or renewal application is disapproved, such payment shall be forfeited to the official of licenses as and for the cost of investigating the statements contained in such application or renewal application.

(7) Contents of advertising. (a) All advertisements or advertising and the language contained therein shall be in accordance with the purpose of the sale as stated in the application pursuant to which a license was issued and the wording of such advertisements shall not vary from the wording as indicated in the application.

(b) Such advertising shall contain a statement in these words and no others:

"Sale held pursuant to permit No. _____ of code enforcement department granted the ____ day of _____."

and in such blank spaces shall be indicated the permit number and the requisite dates.

(8) Display of licenses--books and records. (a) Upon commencement of any sale, as hereinbefore defined, the license issued by the official shall be prominently displayed near the entrance of the premises.

(b) A duplicate of the original application and stock list pursuant to which the license was issued shall at all times be available to the official or to inspectors of the code enforcement department, and the licensee shall permit such inspectors to examine all merchandise on the premises for comparison with such stock list.

(c) Suitable books and records as prescribed by the official shall be kept by the licensee and shall be at all times available to the inspectors of the code enforcement department.

(d) At the close of the business day the stock list attached to the application shall be revised and those items disposed of during such day shall be marked thereon.

(9) Rules and regulations. The official is further empowered to make such rules and regulations for the conduct and advertisement of such sale or special sale as in the official's opinion will serve to prevent deception and to protect the public.

(10) Suspension or revocation of license. The official has the power to suspend or revoke at any time any license granted in accordance with this chapter.

(11) Violations. Any person who violates, neglects or refuses to comply with any of the provisions of this section commits a civil offense punishable by a fine of up to fifty dollars ($50.00).

(12) Application of chapter. The provisions of this chapter shall not apply to or affect the following persons:

(a) Persons acting pursuant to an order or process of court of competent jurisdiction;

(b) Persons acting in accordance with their powers and duties as public officers, such as sheriffs and marshals; or

(c) Duly licensed auctioneers, selling at auction.

(13) Adoption of chapter. Any municipality desiring to adopt the provisions of this chapter may do so and in addition shall have the necessary power to take whatever additional steps are required to carry out the purposes of this chapter. (Ord. #92-11, July 1992, modified)

CHAPTER 2

PEDDLERS, ETC.[1]

SECTION

9-201. General. This chapter is enacted to provide for the safety, health and welfare of the citizens of the City of Bartlett. It is the intent of this chapter to regulate:

(1) Commercial activity on city streets and street right-of-ways and

(2) The conduct of business by peddlers and transient vendors in and around private residences. (Ord. #01-12, July 2001, as amended by Ord. #02-03, March 2002)

9-202. Definitions. Except as specifically defined herein, all words used in this chapter shall have customary dictionary definitions. In case of conflict between the dictionary definitions and the definitions contained in this chapter, the definitions herein shall prevail.

(1) "Goods, wares, or merchandise" means any and all variety of merchandise items, whether handmade or manufactured, or services, whether personal or professional, categorized as, but not necessarily limited to, food products, landscaping products, trees, garden farm products, firewood, cleaning products, books, magazine subscriptions, souvenirs, gifts, prizes, art/school supplies, cloth, clothing or wearing apparel, novelties, appliances, works of arts or crafts, street photographers, tools or mechanical devices of any nature, directional information, service for hire of any nature, or donations for any cause.

(2) "Mobile frozen desserts vendor" shall mean any person who offers for sale or sells to another, ice cream or other frozen dessert products from motor vehicles, human-powered vehicles, bicycles, three-wheeled vehicles, or any other form of mobile transportation conveyance, on the street right-of-ways within the City of Bartlett.

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[1]Municipal code reference
Privilege taxes: title 5.

(3) "Peddlers" shall include the words "hawker" and "huckster." Peddler as used herein shall include any person, whether a resident of the City of Bartlett or not, traveling by foot, automotive vehicle, wagon, or any other type of transportation conveyance, from place to place, from house to house, or from street to street, carrying, conveying or transporting goods, wares, merchandise, and offering and/or exposing the same for sale, or making sales without traveling from place to place or who shall sell or offer the same for sale from any type of transportation conveyance or temporary display stands. One who solicits orders and as a separate transaction, makes deliveries to purchasers, as a part of a scheme or design to evade the provisions of this chapter shall be deemed a peddler and subject to the provisions of this chapter.

(4) "Person" shall include any person, firm, corporation, association, club, co-partnership, society, or any other organization.

(5) "Public designated park" shall mean an open space set aside for public passage, use, recreation or simply enjoyment in the nature of a park.

(6) "Transient vendor" shall mean any person who brings into temporary premises and exhibits stock of merchandise, goods or wares to the public for the purpose of selling or offering to sell these items to the public.

(7) "Temporary premises" shall mean premises as to which a business license for such vendor has not previously been issued, including, but not limited to, any public place, parking lots, motor vehicles, trailers, vacant lots, tents, streets, or any private property. (Ord. #01-12, July 2001, as amended by Ord. #02-03, March 2002, and Ord. #02-06, June 2002)

9-203. Selling prohibited. It shall be unlawful anywhere in the City of Bartlett, Tennessee, for any person, peddler, huckster, hawker or transient vendor to sell or offer for sale on streets and street right-of-ways, private residences, from motor vehicles, and all types of transportation conveyances, except as allowed elsewhere in this chapter, any goods, wares and merchandise of any nature. (Ord. #01-12, July 2001, as amended by Ord. #02-03, March 2002)

9-204. Panhandling in roadway, street or median. It shall be a violation of this chapter to stop a vehicle or to approach a stopped vehicle on a public street or roadway and ask for donations of any kind or sell any product while standing on said street, roadway, sidewalk or median. (Ord. #01-12, July 2001, as amended by Ord. #02-03, March 2002)

9-205. Mobile frozen dessert vehicles. (1) Mobile frozen dessert vendors (in this section, some are referred to as "vendor" or "vendors") are allowed to sell ice cream and other frozen dessert products under the following conditions:

(a) Vendors must comply with any license required by the state, county, and city.

(b) Vendors must comply with health department regulations.

(c) Vendors must carry the minimum amount of insurance required by state and county laws.

(d) Vehicles used to transport and dispense frozen desserts must meet all state and county regulations for such vehicles.

(e) Vendors shall not sell or dispense of their products from stationary locations in the city, including, but not limited to, streets, city-owned property, parking lots, private property, and vacant lots.

(f) Vendors shall not park or stop to sell their products within one-quarter (.25) mile of any boundary of a school zone area during the period from one (1) hour before the start of school until one (1) hour after the school day officially ends.

(g) Vendors shall not sell their products after sunset.

(h) A vendor shall make no sales until the vehicle is stopped and lawfully parked.

(i) A vendor shall sell only from the side of his vehicle away from moving traffic and as near as possible to the curb or side of the street.

(j) A vendor shall not sell to a person standing in the roadway.

(k) The driver of a vehicle shall not stop and back the vehicle to make or attempt to make a sale.

(l) The driver of every mobile frozen dessert vehicle shall at all times when the vehicle is in motion or at a stop take every reasonable precaution to protect the safety of his customers against traffic and other hazards.

(m) Vendors shall not operate in congested areas where the selling of his products will impede, cause a safety hazard or inconvenience the public.

(2) For the purpose of this chapter, the judgment of a police officer, code enforcement officer, city traffic engineer or any other appropriate city official acting in good faith shall be deemed conclusive to determine that an area is congested or unsafe for a mobile frozen dessert vendor to sell his products. (Ord. #01-12, July 2001, as amended by Ord. #02-03, March 2002)

9-206. <u>Exceptions</u>. 1. The provisions of this chapter shall not apply to newspaper delivery or to bona fide merchants who deliver goods in the regular course of business.

(2) Solicitors for charitable, non-profit or religious organizations who go from dwelling to dwelling, business to business, street to street, taking or attempting to take orders for goods, wares and merchandise are exempt from these provisions, provided these organizations meet the Internal Revenue Service criteria to qualify as a charitable, non-profit or religious organization.

(3) The dispensing of religious pamphlets or other literature which is protected by the United States Constitution under Freedom of Speech, Religion or Press is exempt from this chapter.

(4) Campaigning for public office shall be exempt from this chapter. (Ord. #01-12, July 2001)

9-207. Enforcement. The provisions of this chapter shall be enforced by any police officer, code enforcement officer or other duly authorized official of the City of Bartlett. (Ord. #01-12, July 2001, as amended by Ord. #02-03, March 2002)

9-208. Violation and penalty. Violations shall be punishable as a misdemeanor including but not limited to a fine not to exceed fifty dollars ($50.00) per day per violation. This chapter may also be enforced by injunctive relief through the Chancery Court of Shelby County Tennessee. (Ord. #01-12, July 2001, as amended by Ord. #02-03, March 2002)

CHAPTER 3

SEXUALLY ORIENTED BUSINESSES

SECTION

9-301. Purpose and intent. It is the purpose of this chapter to regulate sexually oriented businesses to promote the health, safety, morals, and general welfare of the citizens of the city and county and to establish reasonable and uniform regulations to prevent the continued concentrations of sexually oriented businesses within the city and county. The provisions of this chapter have neither the purpose nor effect of imposing a limitation or restriction of the content of any communicative materials, including sexually oriented materials. Similarly, it is neither the intent nor effect of this chapter to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment at their intended market. (Ord. #90-21, Jan. 1991)

9-302. Definitions. (1) "Adult arcade" means any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show

images to five (5) or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of "specified sexual activities" or "specified anatomical areas."

(2) "Adult bookstore" or "adult video store" means a commercial establishment which as one of its principal business purposes offers for sale or rental for any form of consideration any one or more of the following:

(a) Books, magazines, periodicals, or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions, slides, or other visual representations, which depict or describe "specified sexual activities" or "specified anatomical areas"; or

(b) Instruments, devices, or paraphernalia which are designed for use in connection with "specified sexual activities."

(3) "Adult cabaret" means a nightclub, bar, restaurant or similar commercial establishment which regularly features:

(a) Persons who appear in a state of nudity; or

(b) Live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities"; or

(c) Films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

(4) "Adult motel" means a hotel, motel or similar commercial establishment which:

(a) Offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmission, films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas"; and may have a sign visible from the public right-of-way which advertises the availability of this adult type of photographic reproductions. This definition shall not include "R-rated" films so defined by the Motion Picture Association; or

(b) Offers a sleeping room for rent more than two (2) times in a period of ten (10) hours; or

(c) Allows a tenant or occupant of a sleeping room to subrent the room for a period of time that is less than ten (10) hours; or

(d) Offers or allows a discount or refund which is less than half the normal daily rate.

(5) "Adult motion picture theater" means a commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are regularly shown which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical area." This definition shall not include "R-rated" films so defined by the Motion Picture Association.

(6) "Adult telecommunications business" means a commercial establishment where, by the descriptions of "specified anatomical areas" or

"specified sexual activities" is made for commercial purposes to any person, regardless of whether the maker of such communication placed the call. Adult telecommunication businesses are exempt from the permit requirements of this chapter but shall comply with its locational requirements.

(7) "Adult theater" means a theater, concert hall, auditorium, or similar commercial establishment which regularly features persons who appear in a state of nudity or semi-nude, or live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities."

(8) "Police chief" means the police chief of the City of Bartlett or his designated agent.

(9) "Escort" means a person who, for consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

(10) "Escort agency" means a person or business association who furnishes, offers to furnish, or advertises to furnish escorts as one of its primary purposes, for a fee, tip, or other consideration.

(11) "Establishment" means and includes any of the following:

(a) The opening or commencement of any sexually oriented business as a new business;

(b) The conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business;

(c) The addition of any sexually oriented business to any other existing sexually oriented business; or

(d) The relocation of any sexually oriented business.

(12) "Landmark district" means a geographically definable area with a concentration of landmark buildings, objects or sites.

(13) "Nude model studio" means any place where a person who appears in a state of nudity or displays "specified anatomical areas" is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration.

(14) "Nudity" or a "state of nudity" means:

(a) The appearance of a human bare buttock, anus, male genitals, female genitals, or female breasts; or

(b) A state of dress which fails to cover opaquely a human buttock, anus, male genitals, female genitals, or areola of the female breast.

(15) "Operates or causes to be operated" means to cause to function or to put or keep in operation. A person may be found to be operating or causing to be operating a sexually oriented business whether or not that person is an owner, part-time owner, or permittee of the business.

(16) "Permittee" means a person in whose name a permit to operate a sexually oriented business has been issued, as well as the individual listed as an applicant on the application for a permit. "Permittee" shall include an operator of an adult telecommunications business only for purposes of § 9-307.

(17) "Person" means an individual, proprietorship, partnership, corporation, association, or other legal entity.

(18) "Residential district" means a district whose designation begins with the letter "R" according to the City of Bartlett Zoning Ordinance.

(19) "Residential use" means any building or portion of a building used as a dwelling unit.

(20) "Semi-nude" means a state of dress in which clothing covers no more than the genitals, pubic region, and areola of the female breast, as well as portions of the body covered by supporting straps or devices.

(21) "Sexual encounter center" means a business or commercial enterprise that, as one of its primary business purposes, offers for any form of consideration:

(a) Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or

(b) Activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or semi-nude.

(22) "Sexually oriented business" means an adult arcade, adult bookstore or adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, nude model studio, or sexual encounter center or, for the purposes noted in § 9-303(6) adult telecommunications business.

(23) "Sheriff" means Sheriff of Shelby County or his designated agent.

(24) "Specified anatomical areas" means:

(a) Less than completely and opaquely covered:

(i) Human genitals, pubic regions;

(ii) Buttock; and

(iii) Female breast below a point immediately above the top of the areola; and

(b) Human male genitals in a discernible turgid state, even if completely and opaquely covered.

(c) Use of artificial devices or inanimate objects to depict any of the items described above.

(25) "Specified sexual activities" means:

(a) Human genitals in a state of sexual stimulation or arousal;

(b) Acts of human masturbation, sexual intercourse or sodomy;

(c) Fondling or other erotic touching of human genitals, pubic region, buttock or female breast;

(d) Acts of bestiality;

(e) Use of artificial devices or, inanimate objects to depict any of the activities described in this section.

(26) "Substantial enlargement" of a sexually oriented business means the increase in floor area occupied by more than twenty-five percent (25%), as the floor area exists on January 22, 1991.

(27) "Transfer of ownership or control" of a sexually oriented business means and includes any of the following:

(a) The sale, lease or sublease of the business;

(b) The transfer of securities which constitute a controlling interest in the business, whether by sale, exchange, or similar means; or

(c) The establishment of a trust, gift, or other similar legal device which transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control. (Ord. #90-21, Jan. 1991)

9-303. Classification. Sexually oriented businesses are classified as follows:

(1) Adult arcades;

(2) Adult bookstores or adult video stores;

(3) Adult cabarets;

(4) Adult motels;

(5) Adult motion picture theaters;

(6) Adult telecommunications businesses, but only for purposes of §§ 9-307, 9-313, 9-314, 9-321, and 9-322;

(7) Adult theaters;

(8) Escort agencies;

(9) Nude model studios; and

(10) Sexual encounter centers. (Ord. #90-21, Jan. 1991)

9-304. Permit required. (1) A person commits an offense if he operates a sexually oriented business without a valid permit, issued by the city or county for the particular type of business.

(2) For purposes of this chapter, the issuance, suspension, and revocation of a permit for a sexually oriented business located within the City of Bartlett shall be handled by the police chief. The issuance, suspension, and revocation of a permit for a sexually oriented business located in the unincorporated areas of Shelby County shall be handled by the sheriff.

(3) An application for a permit must be made on a form provided by the police chief or sheriff of the county. The application must be accompanied by a sketch or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared but must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six (6) inches. Applicants who must comply with § 9-319 of this chapter shall submit a diagram meeting the requirements of § 9-319.

(4) The applicant must be qualified according to the provisions of this chapter.

(5) If a person who wishes to operate a sexually oriented business is an individual, he must sign the application for a permit as applicant. If a person who wishes to operate a sexually oriented business is other than an individual

who has any interest in the business must sign the application for a permit as applicant. Each applicant must be qualified under § 9-305 hereof and each applicant shall be considered a permittee if a permit is granted.

(6) The fact that a person possesses a valid theater permit, dance hall permit, or public house of amusement permit does not exempt him from the requirement of a sexually oriented business permit. A person who operates a sexually oriented business and possesses a theater permit, public house of amusement permit or dance hall permit shall comply with the requirement and provisions of this chapter, as well as the requirements and provisions of all other Bartlett and Shelby County building, fire, health and other permit codes.

(7) A permit may be issued only in the name of a natural person.

(8) Every permittee shall, before employing any person or using the services of an independent contractor in the operation of or entertainment at a sexually oriented business, secure from the police chief, an employee or oriented business permittee to ensure that each person so employed in permittee's place of business has a permit as above required, which permit must be upon the sexually oriented business premises at all times subject to inspection by the police chief or his duly authorized agents.

No employee's permit may be issued for any person who has been convicted of an offense listed in § 9-305(1)(h)(i) for which the time period required in § 9-305(1)(h)(ii) has not elapsed. An employee's permit issued pursuant to the provisions of this section shall be valid for a three (3) year period and shall be subject to suspension or revocation for breaches described in §§ 9-304 and 9-305 of this chapter.

An employee's permit shall be revoked upon the employee's or independent contractor's conviction of an offense listed in § 9-305(1)(h)(i). Applications for renewal shall be made in the same manner as applications for original permits upon forms to be prescribed by the police chief within five (5) days from the date the holder thereof ceases to work for or at a sexually oriented business, and it shall be the duty of the sexually oriented business permittee to notify the police chief within five (5) days of the termination of the employment for which such permit was issued. (Ord. #90-21, Jan. 1991)

9-305. <u>Issuance of permit</u>. (1) The police chief shall approve the issuance of a permit to an applicant within thirty (30) days after receipt of an application unless the police chief finds one (1) or more of the following to be true:

(a) An applicant is under eighteen (18) years of age.

(b) An applicant is overdue in payment to city and/or, City of Memphis and/or Shelby County taxes, fees, fines, or penalties assessed against or imposed upon the applicant in relation to a sexually oriented business.

(c) An applicant has failed to provide information reasonably necessary for issuance of the permit or has falsely answered a question or request for information on the application form.

(d) An applicant has been convicted of a violation of a provision of this chapter, other than the offense of operating a sexually oriented business without a permit, within two (2) years immediately preceding the application. The fact that a conviction is being appealed shall have no effect.

(e) The permit fee required by this chapter has not been paid.

(f) An applicant has been employed in a sexually oriented business in a managerial capacity within the preceding twelve (12) months and has demonstrated an inability to operate or manage a sexually oriented business premises in a peaceful and law-abiding manner, thus necessitating a law-abiding action by law enforcement officers.

(g) An applicant or the proposed establishment is in violation of or is not in compliance with §§ 9-307, 9-311, and 9-313 through 9-320 of this chapter.

(h) An applicant has been convicted of a crime:

i. Involving any of the following offenses as described in Tennessee Code Annotated, title 39, or juvenile laws of Tennessee, or corresponding offenses of other, including federal, jurisdictions:

Prostitution;

(A) Promoting prostitution;

(B) The obscenity laws;

(C) Sale, loan, distribution, or exhibition to one or more minors of material which is harmful to minors;

(D) Use of minors for obscene purposes;

(E) Promotion of performances including sexual conduct by minors;

(F) Indecent exposure;

(G) Statutory rape;

(H) Rape, aggravated rape, sexual battery, or aggravated sexual battery;

(I) Incest;

(J) Criminal attempt, conspiracy, or solicitation to commit any of the foregoing offenses.

(ii) For which:

(A) Less than two (2) years have elapsed since the date of conviction or the release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a misdemeanor offense;

(B) Less than five (5) years have elapsed since the date of conviction or the date of release from confinement for the conviction, whichever is the later date, if the conviction is of a felony offense; or

(C) Less than five (5) years have elapsed since the date of the last conviction or the date of release from

confinement for the last conviction, whichever is the later date, if the convictions are of two (2) or more misdemeanor offenses or combination of misdemeanor offenses occurring within any twenty-four (24) month period.

(2) The fact that a conviction is being appealed shall have no effect on the disqualification of the applicant or applicant's spouse.

(3) An applicant who has been convicted or whose spouse has been convicted of any offense listed in § 9-305 (1)(h)(i) hereof may qualify for a sexually oriented business permit only when the time period required by § 9-305(1)(h)(ii) hereof has elapsed.

(4) The permit, if granted, shall state on its face the name of the person or persons to whom it is granted, the expiration date, and the street address and any post office address of the sexually oriented business. The permit shall be posted in a conspicuous place at or near the entrance to the sexually oriented business so that it may be easily read at any time. (Ord. #90-21, Jan. 1991)

9-306. Fees. (1) The annual fee for a sexually oriented business permit is five thousand dollars ($5,000.00).

(2) The annual fee for a permit issued on a date other than the annual expiration date shall be prorated according to the number of days until the expiration date.

(3) The applicant for an employee's permit shall pay to the police chief the sum of fifteen dollars ($15.00) therefor.

(4) Fees shall be collected by the director of police services at the time of issuance of the permit. All fees for sexually oriented businesses located within the City of Bartlett shall be collected by the police chief. (Ord. #90-21, Jan. 1991)

9-307. Inspection. (1) An applicant or permittee shall permit representatives of the police chief, sheriff's department, health department, fire services division, housing and neighborhood services department, and building inspection division to inspect the premises of a sexually oriented business for the purpose of insuring compliance with the law, at any time it is occupied or open for business.

(2) A person who operates a sexually oriented business or his agent, employee or independent contractor, commits an offense if he refuses to permit a lawful inspection of the premises by a representative of the police chief, sheriff's department or health department at any time it is occupied or open for business. (Ord. #90-21, Jan. 1991)

9-308. Expiration of permit. Each permit shall expire December 31 of each year and may be renewed only by making application as provided in § 9-304 of this chapter. Application for renewal should be made at least thirty (30) days before the expiration date, and when made less than thirty (30) days

before the expiration date, the expiration of the permit will not be affected. (Ord. #90-21, Jan. 1991)

9-309. Suspension. The police chief shall suspend a permit for a period not to exceed thirty (30) days if he determines that a permittee or an employee or agent of a permittee or independent contractor employed at the licensed premises has:

(1) Violated or is not in compliance with §§ 9-307, 9-312, 9-313 or 9-315 through 9-320 of this chapter;

(2) Engaged in excessive use of alcoholic beverages while on the sexually oriented business premises;

(3) Refused to allow an unimpeded inspection of the sexually oriented business premises as authorized by this chapter;

(4) Knowingly permitted gambling by any person on the sexually oriented business premises;

(5) Demonstrated inability to operate or manage a sexually oriented business in a peaceful and law-abiding manner thus necessitating action by law enforcement officers. (Ord. #90-21, Jan. 1991)

9-310. Revocation. (1) The police chief shall revoke a permit if a cause of suspension in § 9-309 occurs and the permit has been suspended within the preceding twelve (12) months.

(2) The police chief shall revoke a permit if he determines that:

(a) A permittee gave false or misleading information in the material submitted to the police chief during the application process;

(b) A permittee or an employee, agent, or independent contractor employed on the premises has allowed possession, use, or sale of controlled substances on the premises;

(c) A permittee or an employee, agent, or independent contractor employed on the premises has allowed prostitution on the premises;

(d) A permittee or an employee, agent, or independent contractor employed on the premises operated the sexually oriented business during a period of time when the permittee's permit was suspended;

(e) A permittee has been convicted of an offense listed in § 9-305(1)(h)(ii) has not elapsed;

(f) On two or more occasions within a twelve (12) month period, a person or persons committed an offense occurring in or on the licensed premises of a crime listed in § 9-305(1)(h)(i) for which a conviction has been obtained, and the person or persons were employees, agents or independent contractors employed on the premises of the sexually oriented business at the time the offenses were committed;

(g) A permittee or an employee, agent or independent contractor employed on the premises has allowed any act of sexual intercourse,

sodomy, oral copulation, masturbation, or sexual contact to occur in or on the licensee's premises. The term "sexual contact" shall have the same meaning as it is defined in Tennessee Code Annotated, § 39-13-501(6); or

(h) A permittee is delinquent in payment to the city for hotel occupancy taxes; ad valorem taxes, or sales taxes to the sexually oriented business.

(3) The fact that a conviction is being appealed shall have no effect on the revocation of the permit.

(4) § 9-310(2)(g) hereof does not apply to adult motels as a ground for revoking the permit unless permittee, employee, agent or independent contractor employed at the premises allowed the act of sexual intercourse, sodomy, oral copulation, masturbation, or sexual contact to occur in a public place or within public view.

(5) When the police chief revokes a permit, the revocation shall continue five (5) years and no sexually oriented business permit shall be issued to that permittee for five (5) years from the date the revocation became effective. If, subsequent to revocation, the police chief finds that the basis for the revocation has been corrected or abated, a permit may be granted to the permittee if at least ninety (90) days has elapsed since the date the revocation became effective. If the permit was revoked under § 9-310(2)(e) hereof, an applicant may not be granted another permit until the appropriate number of years under § 9-304(1)(h)(ii) has elapsed. (Ord. #90-21, Jan. 1991)

9-311. **Appeal**. If the police chief denies the issuance of a permit, or an applicant believes it should be exempt, or a permittee applicant or business desires to appeal a revocation or suspension, it shall be done in the following manner:

(1) Written notice of the denial or proposed suspension or revocation shall be sent to the permittee by certified mail, return receipt requested, or have delivered by process server.

(2) The appeal of revocation, suspension or exemption request must be filed with the Office of the Mayor of the City of Bartlett within ten (10) days of receipt of notice.

(3) The hearing must be scheduled before the City of Bartlett Board of Mayor and Aldermen within sixty (60) days. Only members of said board may participate in the hearing and at least four (4) members must be present for the hearing to proceed.

(4) Where a permit is suspended or revoked, the suspension of the permit shall not occur within sixty (60) days of notice or prior to the date of the hearing, whichever is less, unless the health officer determines there is to be a health hazard or risk of disease at said location. No issuance of a new permit shall occur until after the hearing.

(5) A decision of the City of Bartlett Board of Mayor and Aldermen must be made in writing to all parties within five (5) days of the conclusion of the hearing.

(6) Any appeal of the decision of the City of Bartlett Board of Mayor and Aldermen shall be made by Common Law Writ of Certiorari to the Chancery Court of Shelby County, Tennessee.

(7) No permit shall be extended during this appeal without a court ordered writ of supersedes. Said appeal shall be filed within thirty (30) calendar days after receipt of a written decision by the City of Bartlett Board of Mayor and Aldermen. (Ord. #90-21, Jan. 1991)

9-312. Transfer of permit. A permittee shall not transfer his permit to another, nor shall a permittee operate a sexually oriented business under the authority of a permit at any place other than the street address designated in the application. (Ord. #90-21, Jan. 1991)

9-313. Location of sexually oriented businesses. (1) A person commits an offense if he operates or causes to be operated a sexually oriented business within one thousand five hundred (1,500) feet of:

(a) A duly organized and recognized church;

(b) A public or private elementary or secondary school;

(c) A boundary of a residential or landmark district as defined in the City of Bartlett Zoning Ordinance;

(d) A public park; or

(e) The property line of a lot devoted to a residential use as defined in the City of Bartlett Zoning Ordinance.

(2) A person commits an offense if he causes or permits the operation, establishment, substantial enlargement, or transfer of ownership or control of a sexually oriented business within one thousand five hundred (1,500) feet of another sexually oriented business.

(3) A person commits an offense if he causes or permits the operation, establishment, or maintenance of more than one (1) sexually oriented business in the same building, structure, or portion thereof, or the increase of floor, area of any sexually oriented business in any building, structure, or portion thereof containing another sexually oriented business.

(4) For the purpose of subsection (1) of this section, measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as a part of the premises where a sexually oriented business is conducted, to the nearest property line of the premises of a church or public or private elementary or secondary school, or to the nearest boundary of an affected public park, residential district, or local historic district.

(5) For purposes of subsection (2) of this section, the distance between any two sexually oriented businesses shall be measured in a straight line, without regard to intervening structures or objects, from the closest exterior wall of the structure in which each business is located.

(6) Any sexually oriented business lawfully operating on January 22, 1991, that is in violation of subsections (1), (2), or (3) of this section shall be

deemed a nonconforming use. The nonconforming use will be permitted to continue for a period not to exceed one year, unless sooner terminated for any reason or voluntarily discontinued. In the event of termination of such a sexually oriented business, anyone applying for a reopening or for another sexually oriented business establishment at the premises, will be considered a new applicant. Such nonconforming uses shall not be increased, enlarged, extended or altered except that the use may be changed to a conforming use. If two (2) or more sexually oriented businesses are within one thousand five hundred (1,500) feet of one another and otherwise in a permissible location, the sexually oriented business which was first established and continually operating at a particular location is the conforming use and the later-established business(es) is nonconforming.

(7) A sexually oriented business lawfully operating as a use is not rendered a nonconforming use by the location, subsequent to the grant or renewal of the sexually oriented business permit, of a church, or public or private elementary or secondary school, public park, residential or residential lot within one thousand five hundred (1,500) feet of the sexually oriented business. This provision applies only to the renewal of a valid permit, and does not apply when an application for a permit is submitted after a permit has expired or has been revoked. (Ord. #90-21, Jan. 1991)

9-314. Exemption from location restrictions. (1) If the chief of police denies the issuance of a permit to an applicant because the location of the sexually oriented business establishment is in violation of § 9-313 of this chapter, then the applicant may, not later than ten (10) calendar days after receiving notice of the denial, file with the office of the mayor a written request for an exemption from the location restrictions of § 9-313. The hearings shall be handled according to the procedures set out in § 9-311.

(2) If the written request is filed with the Office of the Mayor of the City of Bartlett within the ten (10) day limit, the City of Bartlett Board of Mayor and Aldermen shall consider the request. The City of Bartlett Board of Mayor and Aldermen shall set a date for the hearing within sixty (60) days from the date the written request is received, and shall give notice to the public of such hearing according to the provisions of Tennessee Code Annotated, § 8-44-103.

(3) A hearing by the City of Bartlett Board of Mayor and Aldermen may proceed if at least four (4) of the board members are present. The board shall hear and consider evidence offered by any interested person. The formal rules of evidence do not apply.

(4) The City of Bartlett Board of Mayor and Aldermen may, in its discretion, grant an exemption from the locational restrictions of § 9-313 if it makes the following findings:

(a) That the location of the proposed or existing sexually oriented business will not have a detrimental effect on nearby properties or be contrary to the public welfare;

(b) That the granting of the exemption will not violate the spirit and intent of this section;

(c) That the location of the proposed or existing sexually oriented business will not downgrade the property values or quality of life in the adjacent areas or encourage the development of urban blight;

(d) That the location of an additional sexually oriented business or the continued location of an existing sexually oriented business in the area will not be contrary to any program of neighborhood conservation nor will it interfere with any efforts of urban renewal or restoration; and

(e) That all other applicable provisions of this chapter will be observed.

(5) The City of Bartlett Board of Mayor and Aldermen shall grant or deny the exemption by a majority vote. Failure to reach a majority vote shall be decided on the basis of a preponderance of the evidence. The decision of the City of Bartlett Board of Mayor and Aldermen is final. Appeal shall be by common law writ of certiorari to chancery court.

(6) If the City of Bartlett Board of Mayor and Aldermen grants the exemption, the exemption is valid for one (1) year from the date of the board's action. Upon the expiration of an exemption, the sexually oriented business is in violation of the locational restrictions of § 9-313 until the applicant applies or receives another exemption.

(7) If the City of Bartlett Board of Mayor and Aldermen denies the exemption, the applicant may not re-apply for an exemption until at least twelve (12) months have elapsed since the date of the board's action.

(8) The grant of an exemption does not exempt the applicant from any other provisions of this chapter other than the locational restrictions of § 9-313. (Ord. #90-21, Jan. 1991)

9-315. <u>Additional regulations for escort agencies</u>. (1) an escort agency permittee shall not employ, use or allow the services of any person under the age of eighteen (18) years in the operation of such establishment.

(2) A person commits an offense if he acts as an escort or agrees to act as an escort for any person under the age of eighteen (18) years. (Ord. #90-21, Jan. 1991)

9-316. <u>Additional regulations for nude model studios</u>. (1) A nude model studio shall not employ, use or allow the services of any person under the age of eighteen (18) years in the operation of such establishment.

(2) A person under the age of eighteen (18) years commits an offense if he appears in a state of nudity in or on the premises of a nude model studio. It is a defense to prosecution under this subsection if the person under eighteen (18) years was in a restroom not open to public view or persons of the opposite sex.

(3) A person commits an offense if he appears in a state of nudity or knowingly allows another to appear in a state of nudity in an area of a nude model studio premises which can be viewed from the public right-of-way.

(4) There shall be no bed, sofa, or mattress in any room on the premises of a nude model studio except that a sofa may be placed in a reception room open to the public. (Ord. #90-21, Jan. 1991)

9-317. Additional regulations for adult theaters and adult motion picture theaters. (1) The requirement and provisions of other sections of this chapter remain applicable to adult theaters and adult motion picture theaters.

(2) A person commits an offense if he knowingly allows a person under the age of eighteen (18) years to appear in a state of nudity in or on the premises of an adult theater or motion picture theater.

(3) A person under the age of eighteen (18) years commits an offense if he knowingly appears in a state of nudity or on the premises of an adult theater or adult motion picture theater.

(4) It is a defense to prosecution under subsections (2) and (3) of this section if the person under eighteen (18) years was in a restroom not open to public view or persons of the opposite sex. (Ord. #90-21, Jan. 1991)

9-318. Additional regulations for adult motels. Evidence that a sleeping room in a hotel, motel, or similar commercial establishment has been rented and vacated two (2) or more times in a period of time that is less than ten (10) hours creates a rebuttable presumption that the establishment is an adult motel as that term is defined in this chapter. (Ord. #90-21, Jan. 1991)

9-319. Regulations pertaining to exhibition of sexually explicit films or videos. (1) A person who operates or causes to be operated a sexually oriented business, other than an adult motel, which exhibits on the premises in a viewing room of less than one hundred fifty (150) square feet of floor space, a film, video cassette, or other video reproduction which depicts "specified sexual activities" or "specified anatomical areas," shall comply with the following requirement:

(a) Upon application for a sexually oriented business permit, the application shall be accompanied by a diagram of the premises showing a plan thereof specifying the location of one (1) or more manager's stations and the location of all overhead lighting fixtures and designating any portion of the premises in which patrons will not be permitted. A manager's station may not exceed thirty-two (32) square feet of floor area. The diagram shall also designate the place at which the permit will be conspicuously posted, if granted. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however, each diagram should be oriented to the north or to some designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises to

an accuracy of plus or minus six (6) inches. The police chief may waive the foregoing diagram for renewal applications if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared.

(b) The application shall be sworn to be true and correct by the applicant.

(c) No alteration in the configuration or location of a manager's station may be made without the prior approval of the police chief or his designee.

(d) It is the duty of the owners and operators of the premises to ensure that at least one (1) employee is on duty and situated in each manager's station at all times that any patron is present inside the premises.

(e) The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access for any purpose excluding restrooms. Restrooms may not contain video reproduction equipment. If the premises has two (2) or more manager's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one (1) of the manager's stations. The view required in this subsection must be by direct sight from the manager's station.

(f) It shall be the duty of the owners and operators, and it shall also be the duty of any agents employees and independent contractors employed at the premises present in the premises to ensure that the view area specified in subsection (e) remains obstructed by any doors, walls, merchandise, display racks or other materials at all times that any patron is present in the premises and to ensure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted in the application filed pursuant to subsection (a) of this section.

(g) The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than one (1.0) footcandle as measured at the floor level.

(h) It shall be the duty of the owners and operators and it shall also be the duty of any agents and employees present in the premises to ensure that the illumination described above is maintained at all times that any patron is present in the premises.

(2) A person having a duty under subsections (a) through (h) of subsection (1) above commits an offense if he fails to fulfill that duty. (Ord. #90-21, Jan. 1991)

9-320. Display of sexually explicit material to minors. (1) A person commits an offense if, in a business establishment open to persons under the age of eighteen (18) years, he displays a book, pamphlet, newspaper, magazine, film or video cassette, the cover of which depicts, in a manner calculated to arouse sexual lust or passion for commercial gain, or to exploit sexual lust or perversion for commercial gain, any of the following:

(a) Human sexual intercourse, masturbation, or sodomy;

(b) Fondling or other erotic touching of human genitals, pubic region, buttocks, or female breasts;

(c) Less than completely and opaquely covered human genitals, buttocks, or that portion of the female breasts below the top of the areola; or

(d) Human male genitals in a discernibly turgid state, whether covered or uncovered.

(2) In this section "display" means to locate an item in such a manner, that without obtaining assistance from an employee of the business establishment:

(a) It is available to the general public for handling and inspection; or

(b) The cover or outside packaging on the item is visible to members of the general public. (Ord. #90-21, Jan. 1991)

9-321. Enforcement. (1) Except as provided in subsection (2), any person violating § 9-313 of this chapter upon conviction, is punishable by a fine not to exceed fifty dollars ($50.00) per day per violation. It shall be the duty of the police chief, for sexually oriented businesses located within the City of Bartlett, to enforce the provisions of this chapter. Said chapter may also be enforced by injunctive relief through the Chancery Court of Shelby County.

(2) If the sexually oriented business involved is a nude studio or sexual encounter center, then violation of § 9-313 of this chapter is punishable as a misdemeanor.

(3) Except as provided by subsection (2), any person violating a provision of this chapter other than § 9-313, upon conviction is punishable by a fine not to exceed fifty dollars ($50.00) per day per violation.

(4) It is a defense to prosecution under §§ 9-304, 9-313, or 9-317(4) that a person appearing in a state of nudity did so in a modeling class operated:

(a) By a school licensed by the State of Tennessee; a college, community college, or university supported entirely or partly by taxation;

(b) By a private college or university which maintains and operates educational programs in which credits are transferable to a

college, community college, or university supported entirely or partly by taxation; or

(c) In a structure:

(i) Which has no sign visible from the exterior of the structure and no other advertising that indicates a nude person is available for viewing; and

(ii) Where in order to participate in a class a student must enroll at least three (3) days in advance of the class; and

(iii) Where no more than one (1) nude model is on the premises at any one (1) time.

(5) It is a defense to prosecution under §§ 9-304 or § 9-313 that each item of descriptive, printed, film, or video material offered for sale or rental, taken as whole, contains serious literary, artistic, political, or scientific value.

(6) No alcohol permit may be issued for any sexually oriented business premises within the prescribed areas of § 9-313. (Ord. #90-21, Jan. 1991)

9-322. <u>Injunction</u>. A person who operates or causes to be operated a sexually oriented business without a valid permit or in violation of § 9-313 of this chapter is subject to a suit for injunction as well as prosecution for criminal violations. (Ord. #90-21, Jan. 1991)

CHAPTER 4

TAXICABS[1]

SECTION

9-401. Taxicabs regulated--certificate of convenience. The operation of any motor vehicle transporting persons for compensation on the streets of the City of Bartlett shall be subject to the conditions, regulations and restrictions hereinafter set forth, and it shall be unlawful to operate or cause to be operated in the city any such vehicle unless a certificate of public convenience and necessity has been issued to the owner thereof; and unless the conditions, regulations and restrictions herein prescribed are complied with. (Ord. #97-11, Nov. 1997)

9-402. Application and hearing required. No person shall hereinafter operate such vehicle in the city without having first applied for and received from the mayor and aldermen a permit therefor. Such permit shall be in the form of a certificate of public convenience and necessity and granted only after a public hearing by the board of mayor and aldermen after ten (10) days' notice, by publication in the official newspaper of the City of Bartlett, the cost thereof to be paid for by the applicant. (Ord. #97-11, Nov. 1997)

9-403. Contents of application. The application for a certificate of public convenience and necessity shall be made to the board of mayor and

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[1]Municipal code reference
Privilege taxes: title 5.

aldermen, and shall set forth the name and address of the applicant, the trade name under which the applicant does or proposes to do business, where proposed stands and garages are to be located, the number of vehicles the applicant desires to operate, the type and make of vehicles to be used, and the lettering and marks to be used thereon, whether the applicant has been convicted of the violation of any state or municipal law, and an agreement or a stipulation that the applicant will operate and continue to operate during the time the certificate shall remain in effect, and any other information required by the board of mayor and aldermen. (Ord. #97-11, Nov. 1997)

9-404. Interested parties to be heard. At the hearing of any application made pursuant to this chapter, any person holding a certificate or otherwise interested shall have a right to be heard in favor of or in opposition to the granting of such certificate. (Ord. #97-11, Nov. 1997)

9-405. Certificates issued to owners only. No certificate for the operation of such vehicle under the provisions of this chapter shall be granted to any person unless such person shall be the bona fide owner of such vehicle and, at the time of the issuance of such certificate, such person so applying shall deposit with the finance director or his designees a photostatic or true copy of the certificate of title. (Ord. #97-11, Nov. 1997, modified)

9-406. Granting of additional taxi service discretionary. (1) In determining whether public convenience and necessity require the licensing of any additional companies or additional vehicles for companies now operating, the board of mayor and aldermen will take into consideration whether the demands of the public require such proposed or additional service and, in addition to the other requirements of this chapter, there shall be taken into consideration the increased traffic congestion and demand for increased parking space upon the streets of the city which may result, and whether the safe use of the streets by the public, both vehicular and pedestrian, will be preserved by the granting of such additional certificates.

(2) No person who may be granted a certificate shall be allowed to increase the number of vehicles therein designated or to enlarge upon the authority granted him by such certificate, but every increase in the number of vehicles operated shall be subject to the approval of the board of mayor and aldermen in the same manner and to the same extent as is herein provided for the original issuance of the certificate.

(3) In case any vehicle licensed under the provisions of this chapter should be retired by the owner because it is worn out or damaged, or not worthy of repair, no other vehicle shall be put in its place by the owner without compliance with section five (5) hereof, but a public hearing in this event shall be dispensed with.

(4) The City of Bartlett Tax Department shall collect an annual permit fee of eighty dollars ($80.00) per cab. (Ord. #97-11, Nov. 1997)

9-407. Hearing required for transfer of certificate. No certificate of public convenience and necessity granted under the provisions of this chapter shall be assigned, transferred or alienated to any person except after public hearing before the board of mayor and aldermen as hereinbefore prescribed, and if at such hearing it is found that public convenience and necessity warrants the transfer, the transferee shall be issued a certificate of public convenience and necessity as in case of original application, and the transferor's certificate voided. (Ord. #97-11, Nov. 1997)

9-408. Denial of certificate may be reviewed. In the event the board of mayor and aldermen denies or fails to issue a certificate to any person, firm, or corporation, the party so aggrieved may avail himself of all process of review as is now prescribed for by the laws of the State of Tennessee. (Ord. #97-11, Nov. 1997)

9-409. Revocation of certificate. The board of mayor and aldermen shall have the power to revoke certificates of public convenience and necessity after a hearing upon ten (10) days notice to the holder of such certificate, and opportunity given such holder to be heard, and when it has been proved that such certificate holder has discontinued operation or has violated, refused or neglected to observe any of the proper orders, rules or regulations as may be promulgated by the board of mayor and aldermen, or willfully or persistently violated any ordinances of the city, or laws of the State of Tennessee relative to the operation of such vehicles. (Ord. #97-11, Nov. 1997)

9-410. Board may amend rules and regulations. The board of mayor and aldermen is entitled to make and enforce such additional rules as that body deems proper to regulate the operation of motor vehicles transporting persons for compensation, provided no regulation shall be made or enforced in conflict with this or any other chapter of the code of the City of Bartlett. (Ord. #97-11, Nov. 1997)

9-411. Owner to be insured. Before any certificate of public convenience and necessity is issued, the owner, as defined herein, shall file with the finance director or his designees a copy of a policy of insurance in some good and solvent incorporated insurance company, licensed to do business in the State of Tennessee, covering separately or in a schedule attached to such policy each taxi cab sought to be licensed and operated hereunder. Such policy shall insure the owner and operator in amounts of not less than one hundred thousand dollars ($100,000.00) for each person and three hundred thousand dollars ($300,000.00) for each accident for personal injury, and in amounts of not

less than fifty thousand dollars ($50,000.00) for injury or damage to property, or a three hundred thousand dollars ($300,000.00) combined single limit policy. Such policy shall further provide that it may not be canceled without at least five (5) days' written notice to be sent by registered mail to the finance director or his designees of the City of Bartlett. (Ord. #97-11, Nov. 1997, modified)

9-412. Rates to be posted in cab. Rates shall be conspicuously posted in each and every cab so as to be readily seen by passengers riding in the rear seat thereof, and the name of the person or company owning the cab shall be clearly designated on the outside of the cab. (Ord. #97-11, Nov. 1997)

9-413. Drivers to furnish personal information. All chauffeurs or operators shall file with the finance director or his designees on a form prescribed for and furnished by the city such personal information and data as to name, age, address, previous occupations, and a list of all criminal charges and convictions, if any, that may have been made theretofore, including the disposition of same. (Ord. #97-11, Nov. 1997, modified)

9-414. Consent of board required for parking of taxi. No taxicabs or vehicles for hire shall park upon or maintain stands on the public streets and thoroughfares of the city without first obtaining the written consent and approval of the board of mayor and aldermen. (Ord. #97-11, Nov. 1997)

9-415. Location of business and garages. All taxicab businesses and/or garages shall be located in either the C-H, Highway Business or I-O, Wholesale and Warehouse Zoning Districts. (Ord. #97-11, Nov. 1997)

CHAPTER 5

CABLE TELEVISION ORDINANCE

SECTION

9-501. General authorization. The Board of Mayor and Aldermen of the City of Bartlett are hereby authorized to create, grant, establish and renew non-exclusive franchises for a period of twenty (20) years for the installation, operation, and maintenance of a broadband telecommunication system within the City of Bartlett. In the event the FCC or state government acquires or assumes jurisdiction over the issuing of any broadband telecommunications system franchise, the grantee hereby agrees that this franchise shall remain in full force and effect as a binding contract between the grantee and City of Bartlett. (Ord. #80-26, Jan. 1981, as amended by Ord. #95-2, May 1995)

9-502. Title of ordinance. This ordinance shall be known and may be cited as the "Bartlett Telecommunications Franchise Ordinance," (hereafter "Ordinance"), and it shall become a part of the Ordinances of the City of Bartlett. (Ord. #80-26, Jan. 1981, as amended by Ord. #95-2, May 1995)

9-503. Definitions. For the purpose of this ordinance the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. Words not defined shall be given their common and ordinary meaning:

(1) "Basic service." All subscriber services provided by the company is one (1) or more service tiers, which includes the delivery of local broadcast stations, and public, educational and government access channels. The basic service does not include optional program and satellite service tiers, a la cart services, per channel, per program, or auxiliary services for which a separate charge is made. However, grantee may include other satellite signals on the basic tier if they wish.

(2) "Board." The Board of Mayor and Aldermen of the City of Bartlett.

(3) "Broadband telecommunications system." A system of antennas, cables, wires, lines, towers, waveguides, or other conductors, converters, equipment or facilities, designed and constructed for the purpose of producing, receiving, transmitting, amplifying and distributing, audio, video, data, and

other forms of electronic, electrical or optical signals, located in the city. The definition shall not include any such facility that serves or will serve only subscribers in one (1) or more multiple unit dwellings under common ownership, control or management, and does not use city rights-of-way.

(4) "Class IV channel." A signaling path provided by a broadband telecommunication system to transmit signals of any type from a subscriber terminal to another point in the broadband telecommunications system.

(5) "City." The City of Bartlett, a municipal corporation, in the County of Shelby, State of Tennessee.

(6) "Company." The grantee of rights under this chapter awarding a franchise, or the successor, transferee or assignee.

(7) "Converter." An electronic device which converts signals to a frequency not susceptible to interference within the television receiver of a subscriber, and by an appropriate channel selector also permitting a subscriber to view more than twelve (12) channels delivered by the system at designated converter dial locations.

(8) "FCC." The Federal Communications Commission and any legally appointed, designated or elected agent or successor.

(9) Gross revenues." All revenue derived directly or indirectly by the company, from the city installation, including but not limited to, basic subscriber service monthly fees, pay cable fees, installation and reconnection fees, leased channel fees, converter rentals, studio rental, production equipment, personnel fees, and advertising commissions; provided, however, that this shall not include any taxes on services furnished by the company herein imposed directly upon any subscriber or user by the state, local or other governmental unit and collected by the company on behalf of the governmental unit.

(10) "Initial service area." All areas in the city having at least fifty (50) dwelling units per street mile, and as set forth in the company's applications as incorporated herein.

(11) "Installation." The connection of the system from feeder cable to subscribers' terminals.

(12) "Monitoring." Observing a communications signal, or the absence of a signal, where the observer is neither the subscriber nor the programmer, whether the signal is observed by visual or electronic means, for any purpose whatsoever; provided monitoring shall not include systemwide, non-individually addressed sweeps of the system for purposes of verifying system integrity, controlling return paths transmissions, or billing for pay services.

(13) "Street." The surface of and all rights-of-way and the space above and below any public street, road, highway, freeway, lane, path, public way or place, sidewalk, alley, court, boulevard, parkway, drive or easement now or hereafter held by the city for the purpose of public travel and shall include other easements or rights-of-way as shall be now held or hereafter held by the city which shall, within their proper use and meaning entitle the franchisee and its company to the use thereof for the purposes of installing poles, wires, cable,

conductors, ducts, conduits, vaults, manholes, amplifiers, appliances, attachments, and other property as may be ordinarily necessary and pertinent to a telecommunications system.

(14) "Subscriber." Any person, firm, company, corporation, or association lawfully receiving basic and/or additional service from grantee.

(15) "User." A party utilizing a broadband telecommunication system channel for purposes of production or transmission of material to subscribers, as contrasted with receipt thereof in a subscriber capacity. (Ord. #80-26, Jan. 1981, as amended by Ord. #95-2, May 1995)

9-504. Rights and privileges of company. The franchise granted by the city pursuant to this ordinance shall grant to the company the right and privilege to erect, construct, operate and maintain in, upon, and along, across, above, over and under the streets, now in existence and as may be created or established during its terms; any poles, wires, cable, underground conduits, manholes, and other conductors and fixtures necessary for the maintenance and operation of a broadband telecommunications system for the interception, sale, transmission and distribution of television programs and other audio, visual and data signals and the right to transmit the same to the inhabitants of the city on the terms and conditions hereinafter set forth. (Ord. #80-26, Jan. 1981, as amended by Ord. #95-2, May 1995)

9-505. Agreement and incorporation of application by reference.

(1) Upon the granting of a franchise and execution hereof by the company, the company agrees to be bound by all the terms and conditions contained herein.

(2) The company also agrees to provide all services specifically set forth in its application to provide broadband telecommunications service within the confines of the city; and by its acceptance of the franchise, the company specifically grants and agrees that its application is thereby incorporated by reference and made a part of the franchise and this ordinance. In the event of a conflict between such proposals and the provisions of this ordinance, that provision which provides the greatest benefit to the city, in the opinion of the board of mayor and aldermen shall prevail. (Ord. #80-26, Jan. 1981, as amended by Ord. #95-2, May 1995)

9-506. Franchise territory. The franchise is for the present territorial limits of the City of Bartlett, and for any area henceforth added thereto during the term of the franchise. (Ord. #80-26, Jan. 1981, as amended by Ord. #95-2, May 1995)

9-507. Duration and acceptance of franchise. The franchise and the rights, privileges and authority hereby granted shall take effect and be in force from and after final passage thereof, as provided by law, and shall continue in

force and effect for a term of twenty (20) years, provided that within fifteen (15) days after the date of final passage of the franchise the company shall file with the city mayor its unconditional acceptance of the franchise and promise to comply with and abide by all its provisions, terms and conditions. Such acceptance and promise shall be in writing duly executed and sworn to, by, or on behalf of the company before a notary public or other officer authorized by law to administer oaths. (Ord. #80-26, Jan. 1981, as amended by Ord. #95-2, May 1995)

9-508. Franchise renewal. A franchise may be renewed by the city upon application of the company pursuant to the procedures established by applicable federal law. (Ord. #80-26, Jan. 1981, as amended by Ord. #95-2, May 1995)

9-509. Police powers. (1) In accepting a franchise, the company acknowledges that its rights hereunder are subject to the police power of the city to adopt and enforce general ordinances necessary to the safety and welfare of the public; and it agrees to comply with all applicable general laws and ordinances enacted by the city pursuant to such power.

(2) Any conflict between the provisions of this ordinance and any other present or future lawful exercise of the city's police powers shall be resolved in favor of the latter, except that any such exercise that is not of general application in the jurisdiction, or applies exclusively to the company or broadband telecommunications system which contains provisions inconsistent with this ordinance shall prevail only if upon such exercise the city finds an emergency exists constituting a danger to health, safety, property or general welfare or such exercise is mandated by law. (Ord. #80-26, Jan. 1981, as amended by Ord. #95-2, May 1995)

9-510. Broadband telecommunications franchise required. No telecommunications system shall be allowed to occupy or use the streets, i.e., rights-of-way, for system installation and maintenance purposes, of the city or be allowed to operate without a franchise. (Ord. #80-26, Jan. 1981, as amended by Ord. #95-2, May 1995)

9-511. Use of company facilities. The city shall have the right, during the life of a franchise, to install and maintain free of charge upon the poles of the company any wire or pole fixtures that do not unreasonably interfere with the broadband telecommunications system operations of the company. (Ord. #80-26, Jan. 1981, as amended by Ord. #95-2, May 1995)

9-512. Costs. Costs to be borne by the company shall include, but shall not be limited to, all costs of publications of notices prior to any public meeting provided for pursuant to this ordinance, and any costs not covered by application

fees, incurred by the city in its study, preparation of proposal documents, evaluation of all applications, and examinations of applicants' qualifications. (Ord. #80-26, Jan. 1981, as amended by Ord. #95-2, May 1995)

9-513. Notices. All notices from the company to the city pursuant to this ordinance shall be directed to the Mayor of the City of Bartlett. The company shall maintain with the city, throughout the term of a franchise, an address for service of notices by mail. The company shall maintain an office in Shelby County, Tennessee to address any issues relating to operating under this broadband telecommunications ordinance. (Ord. #80-26, Jan. 1981, as amended by Ord. #95-2, May 1995)

9-514. Letter of credit/security deposit. (1) Within fifteen (15) days after the award of a franchise, the company shall deposit with the city, either a letter of credit from a financial institution or a security deposit in the amount of ten percent (10%) of the estimated construction cost to build the system, with a minimum payment of not less than fifty thousand dollars ($50,000.00) with the form to be established by the board of mayor and aldermen. The deposit held by the city shall be reviewed every three (3) years to make certain the company is in compliance with this section. The form and content of such letter of credit or security deposit shall be approved by the city attorney. These instruments shall be used to insure the faithful performance of the company of all provisions of its franchise; and compliance with all orders, permits and directions of any agency, commission, board, department, division, or office of the city having jurisdiction over its acts or defaults under this ordinance and the payment by the company of any claims, liens, and taxes due the city which arise by reason of the construction, operation or maintenance of the system.

(2) The letter of credit or security deposit shall be maintained at the amount established by the board of mayor and aldermen for the entire term of a franchise, even if amounts have to be withdrawn pursuant to subsections (1) or (2) of this section.

(3) If the company fails to pay to the city any compensation within the time fixed herein; or fails after fifteen (15) days notice to pay to the city any taxes due and unpaid; or fails to pay the city within fifteen (15) days, any damages, costs or expenses which the city is compelled to pay by reason of any act or default of the company in connection with its franchise, or fails, after three (3) days notice of such failure by the city to comply with any provisions of its franchise which the city reasonably determines can be remedied by demand on the letter of credit or security deposit, the city may immediately request payment of the amount thereof, with interest and any penalties, from the letter of credit or security deposit. Upon such request for payment, the city shall notify the company of the amount and date thereof.

(4) The rights reserved to the city with respect to the letter of credit are in addition to all other rights of the city, whether reserved by this ordinance

or authorized by law, and no action, proceeding or exercise of a right with respect to such letter of credit shall affect any other right the city may have.

(5) The letter of credit shall contain the following endorsement: "It is hereby understood and agreed that this letter of credit or security deposit may not be cancelled by the surety nor the intention not to renew be stated by the surety until thirty (30) days after receipt by the city, by registered mail, a written notice of such intention to cancel or not to renew."

(6) Upon receipt of the thirty-day notice, this shall be construed as a default granting the city the right to call on the bank for either the security deposit, or letter of credit.

(7) The city may at any time during the term of this ordinance, waive grantee's requirement to maintain a letter of credit or security deposit. The invitation to waive the requirements can be initiated by the city or grantee. (Ord. #80-26, Jan. 1981, as amended by Ord. #95-2, May 1995)

9-515. Performance bond. (1) Within thirty (30) days after the award of a franchise, the company shall file with the city a performance bond in the amount of not less than fifty (50) percent of costs to install the system contained in the application in favor of the city. This bond shall be maintained throughout the construction period and until such time as determined by the city.

(2) If the company fails to comply with any law, ordinance or resolution governing the franchise, or fails to well and truly observe, fulfill and perform each term and condition of the franchise, as it relates to the conditions relative to the construction of the system, including the company's proposal which is incorporated herein by reference, there shall be recoverable jointly and severally, from the principal and surety of the bond, any damages or loss suffered by the city as a result, including the full amount of any compensation, indemnification, or cost of removal or abandonment of any property of the company, plus a reasonable allowance for attorney's fees, including the city legal staff, and costs, up to the full amount of the bond. This section shall be an additional remedy for any and all violations outlined in § 9-514.

(3) The city may, upon completion of construction of the service area as approved by the board of mayor and aldermen, waive or reduce the requirement of the company to maintain the bond. However, the city may require a performance bond to be posted by the company for any construction subsequent to the completion of the initial service areas, in a reasonable amount and upon such terms as determined by the city.

(4) The bond shall contain the following endorsement: "It is hereby understood and agreed that this bond may not be cancelled by the surety nor the intention not to renew be stated by the surety until thirty (30) days after receipt by the city, by registered mail, a written notice of such intent to cancel and not to renew."

(5) Upon receipt of a thirty-day notice, this shall be construed as default granting the city the right to call in the bond.

(6) The city may at any time during the term of this ordinance, waive grantee's requirement to maintain a performance bond. The invitation to waive the requirement can be initiated by the city or grantee. (Ord. #80-26, Jan. 1981, as amended by Ord. #95-2, May 1995)

9-516. Liability and insurance. (1) The company shall maintain and by its acceptance of the franchise specifically agrees that it will maintain throughout the term of the franchise, liability insurance insuring the city and the company in the minimum amount of:

(a) One million dollars ($1,000,000.00) for property damage to any one person;

(b) One million dollars ($1,000,000.00) for property damage in any one accident;

(c) One million dollars ($1,000,000.00) for personal injury to any one person; and

(d) One million dollars ($1,000,000.00) for personal injury in any one incident.

(2) The insurance policy obtained by the company in compliance with this section must be approved by the city attorney and such insurance policy, along with written evidence of payment of required premiums, shall be filed and maintained with the city mayor during the term of the franchise, and may be changed from time to time to reflect changing liability limits. The company shall immediately advise the city attorney of any litigation that may develop that would affect this insurance.

(3) Neither the provisions of this section nor any damages recovered by the city thereunder, shall be construed to or limit the liability of the company under any franchise issued hereunder or for damages.

(4) All insurance policies maintained pursuant to this ordinance shall contain the following endorsement: "It is hereby understood and agreed that this insurance policy may not be cancelled by the surety nor the intention not to renew be stated by the surety until thirty (30) days after receipt by the city, by registered mail, a written notice of such intention to cancel or not to renew." (Ord. #80-26, Jan. 1981, as amended by Ord. #95-2, May 1995)

9-517. Indemnification. (1) The company shall, at its sole cost and expense, fully indemnify, defend and hold harmless the city, its officers, boards, commissions and employees against any and all claims, suits, actions, liability and judgements for damages (including, but not limited to expenses for reasonable legal fees and disbursements and liabilities assumed by the city in connection therewith):

(a) To persons or property, in any way arising out of or through the acts or omissions of the company, its servants, agents, or employees, or to which the company's negligence shall in any way contribute;

(b) Arising out of any claim for invasion of the right of privacy, for defamation of any person, or the violation or infringement of any copyright, trademark, trade name, service mark or patent, or any other right of any person (excluding claims arising out of or relating to city programming); and

(c) Arising out of the company's failure to comply with the provisions of any federal, state or local statute, ordinance or regulation applicable to the company in its business hereunder.

(2) The foregoing indemnity is conditioned upon the following: The city shall give the company prompt notice of the making of any claim or the commencement of any action suit or other proceeding covered by the provisions of this section. Nothing herein shall be deemed to prevent the city from cooperating with company and participating in the defense of any litigation by its own counsel at its sole cost and expense. No recovery by the city of any sum by reason of the letter of credit required in § 9-514, hereof shall be any limitation upon the liability of the company to the city under the terms of this section, except than any sum so received by the city shall be deducted from any recovery which the city might have against the company under the terms of this section. (Ord. #80-26, Jan. 1981, as amended by Ord. #95-2, May 1995)

9-518. <u>Rights of individuals</u>. (1) The company shall not deny service, deny access, or otherwise discriminate against subscribers, channel users, or general citizens on the basis of race, color, religion, national origin or sex. The company shall comply at all times with all other applicable federal, state and local laws and regulations and all executive and administrative orders relating to nondiscrimination which are hereby incorporated and made part of this ordinance by reference.

(2) The company shall strictly adhere to the equal employment opportunity requirements of the federal communications commission, state and local regulations, and as amended from time to time.

(3) No signals of a class IV broadband telecommunication system shall be transmitted from a subscriber terminal for purposes of monitoring individual viewing patterns or practices without the express written permission of the subscriber. The request for such permission shall be contained in a separate document with a prominent statement that the subscriber is allowing the permission in full knowledge of its provision. Such written permission shall be for a limited period of time not to exceed one (1) year, which shall be renewable at the option of the subscriber. No penalty shall be invoked for a subscriber's failure to provide or renew such an authorization. The authorization shall be revocable at any time by the subscriber without penalty of any kind whatsoever. Such authorization is required for each type or classification of class IV broadband telecommunication system activity planned; provided however, that the company shall be entitled to conduct systemwide or individually addressed

"sweeps" for the purpose of verifying system integrity, controlling return-path transmission, or billing for services.

(4) The company, or any of its agents or employees, shall not, without the specific written authorization of the subscriber involved, sell, or otherwise make available to any party:

(a) Lists of the names and addresses of such subscribers; or

(b) Any list which identifies the viewing habits of subscribers. (Ord. #80-26, Jan. 1981, as amended by Ord. #95-2, May 1995)

9-519. Public notice. Minimum public notice of any public meeting relating to a franchise shall be by publication at least once in a local newspaper of general circulation at least ten (10) days prior to the meeting, posting at city municipal center, by announcement on at least two (2) channels of the company's broadband telecommunications system between the hours of 7:00 P.M. and 9:00 P.M., for five (5) consecutive days prior to the meeting. (Ord. #80-26, Jan. 1981, as amended by Ord. #95-2, May 1995)

9-520. Severability. If any section, subsection, sentence, clause, phrase, or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof. (Ord. #80-26, Jan. 1981, as amended by Ord. #95-2, May 1995)

9-521. Service availability and record request. The company shall provide broadband telecommunications service throughout the entire franchise area pursuant to the provisions of this ordinance and shall keep a record for at least three (3) years of all requests for service received by the company. This record shall be available for public inspection at the local office of the company during regular office hours. (Ord. #80-26, Jan. 1981, as amended by Ord. #95-2, May 1995)

9-522. System construction. (1) Construction timetable. (a) Within two (2) years from the date of the award of a franchise, the company must make broadband telecommunications service available to every dwelling unit within the initial service area.

(i) The company must make broadband telecommunications services available to at least twenty (20) percent of the dwelling units within the initial service area within six (6) months from the date of the award of the franchise.

(ii) The company must make broadband telecommunications service available to at least fifty (50) percent of the dwelling units within the initial service area within one (1) year from the date of the award of the franchise.

(b) The company, in its application, may propose a timetable of construction which will make broadband telecommunications services available in the initial service area sooner than the above minimum requirements, in which case the company's application will be incorporated by reference pursuant to § 9-505 and will be binding upon the company.

(c) Any delay beyond the terms of this timetable, unless specifically approved by the city, will be considered a violation of this ordinance for which the provisions of §§ 9-539 or 9-547 shall apply, as determined by the city.

(d) In special circumstances the city can waive one hundred (100) percent completion within the two (2) year time frame provided substantial completion is accomplished within allotted time frame, substantial completion construed to be not less than ninety-five (95) percent and justification for less than one hundred (100) percent must be submitted subject to the satisfaction of the city.

(2) Line extensions. (a) In areas of the franchise territory not included in the initial services area, the company shall be required to extend it system pursuant to the following requirements:

(i) The company must extend and make broadband telecommunication system available to every dwelling unit within one (1) year of any unserved area reaching the minimum density of at least twenty-five (25) dwelling units per street mile, as measured from the existing system.

(ii) The company must extend and make broadband telecommunication system available to any isolated resident outside the initial service area requesting connection at the standard connection charge, if the connection to the isolated resident would require no more than a standard one hundred and fifty (150) foot aerial drop line.

(3) Early extension. In areas not meeting the requirements for mandatory extension of service, the company shall provide, upon the request of a potential subscriber desiring service, an estimate of the costs required to extend service to the subscriber. The company shall then extend service upon request of the potential subscriber. The company may require advance payment or assurance of payment satisfactory to the company. The amount paid by subscribers for early extensions shall be non-refundable, and in the event the area subsequently reaches the density required for mandatory extension, such payments shall be treated as consideration for early extension.

(4) New development undergrounding. In cases of new construction or property development where utilities are to be placed underground, the developer or property owner shall give the company reasonable notice of such construction or development, and of the particular date on which open trenching will be available for the company's installation of conduit, pedestals and/or

vaults, and laterals to be provided at the company's expense. The company shall also provide specifications as needed for trenching. Costs of trenching and easements required to bring service to the development shall be borne by the developer or property owner; except that if the company fails to install its conduit, pedestals and/or vaults, and laterals within five (5) working days of the date the trenches are available, as designated in the notice given by the developer or property owner, then should the trenches be closed after the five (5) day period, the cost of new trenching is to be borne by the company. Except for the notice of the particular date on which trenching will be available to the company, any notice provided to the company by the city of a preliminary plat request shall satisfy the requirement of reasonable notice if sent to the local general manager or system engineer of the company prior to approval of the preliminary plat request.

(5) Special agreements. Nothing herein shall be construed to prevent the company from serving areas not covered under this section upon agreement with developers, property owners, or residents provided that five (5) percent of those gross revenues are returned to the city.

(a) The company, in its application, may propose a line extension policy which will result in serving more residents of the city than as required above, in which case the company's application will be incorporated by reference pursuant to § 9-505, and will be binding on the company.

(b) The violation of this section shall be considered a breach of the terms of this ordinance for which the provisions of either §§ 9-539 or 9-547 shall apply, as determined by the city. (Ord. #80-26, Jan. 1981, as amended by Ord. #95-2, May 1995)

9-523. Construction and technical standards. (1) Compliance with construction and technical standards. The company shall construct, install, operate and maintain its system in a manner consistent with all laws, ordinances, construction standards, governmental requirements, Federal Communications Commission technical standards, and detailed standards submitted by the company as part of its application, which standards are incorporated by reference herein. In addition, the company shall provide the city, upon request, with a written report of the results of the company's annual proof of performance tests conducted pursuant to Federal Communications Commission standards and requirements.

(2) Additional specifications. (a) Construction, installation and maintenance of the broadband telecommunications system shall be performed in an orderly and workmanlike manner. All cables and wires shall be installed, where possible, parallel with electric and telephone lines. Multiple cable configurations shall be arranged in parallel and bundled with due respect for engineering considerations.

(b) The company shall at all times comply with:

(i) National Electrical Safety Code (National Bureau of Standards);

(ii) National Electrical Code (National Bureau of Fire Underwriters);

(iii) Bell System Code of Pole Line Construction; and

(iv) Applicable FCC or other federal, state and local regulations.

(c) In any event, the system shall not endanger or interfere with the safety of persons or property in the franchise area or other areas where the company may have equipment located.

(d) Any antenna structure used in the broadband telecommunications system shall comply with construction, marking, and lighting of antenna structure, required by the United States Department of Transportation.

(e) All working facilities and conditions used during construction, installation and maintenance of the broadband telecommunications system shall comply with the standards of the occupational safety and health administration.

(f) RF leakage shall be checked at reception locations for emergency radio services to prove no interference signal combinations are possible. Stray radiation shall be measured adjacent to any proposed aeronautical navigation radio sites to prove no interference to airborne navigational reception in the normal flight patterns. Federal Communications Commission rules and regulations shall govern.

(g) The company shall maintain equipment capable of providing standby power for headend, transportation and trunk amplifiers for a minimum of two (2) hours.

(h) In all areas of the city where the cables, wires, and other like facilities of public utilities are placed underground, the company shall place its cables, wires, or other like facilities underground. When public utilities relocate their facilities from pole to underground, the broadband telecommunication system operator must concurrently do so. (Ord. #80-26, Jan. 1981, as amended by Ord. #95-2, May 1995)

9-524. Use of streets. (1) Interference with persons and improvements. The company's system, poles, wires and appurtenances shall be located, erected and maintained so that none of its facilities shall endanger or interfere with the lives of persons or interfere with the rights or reasonable convenience of property owners who adjoin any of the streets and public ways, or interfere with any improvements the city may deem proper to make, or unnecessarily hinder or obstruct the free use of the streets, alleys, bridges, easements or public property.

(2) Restoration to prior condition. In case of any disturbance of pavement, sidewalk, driveway or other surfacing, the company shall, at its own

cost and expense and in a manner approved by the city, replace and restore all paving, sidewalk, driveway or surface of any street or alley disturbed, in as good condition as before the work was commenced and in accordance with standards for such work set by the city.

(3) Erection, removal and common uses of poles:

(a) No poles or other wire-holding structures shall be erected by the company without prior approval of the city with regard to location, height, types, and any other pertinent aspect. However, no location of any pole or wire-holding structure of the company shall be a vested interest and such poles or structures shall be removed or modified by the company at its own expense whenever the city determines that the public convenience would be enhanced thereby.

(b) Where poles or other wire-holding structures already existing for use in serving the city are available for use by the company, but it does not make arrangements for such use, the city may require the company to use such poles and structures if it determines that the public convenience would be enhanced thereby and the terms of the use available to the company are just and reasonable.

(c) Where the city or a public utility serving the city desires to make use of the poles or other wire-holding structures of the company, but agreement thereof with the company cannot be reached, the city may require the company to permit such use for such consideration and upon such terms as the city shall determine to be just and reasonable, if the city determines that the use would enhance the public convenience and would not unduly interfere with the company's operations.

(4) Relocation of the facilities. If at any time during the period of a franchise the city shall lawfully elect to alter, or change the grade of any street, alley or other public ways, the company, upon reasonable notice by the city, shall remove or relocate as necessary its poles, wires, cables, underground conduits, manholes and other fixtures at its own expense.

(5) Cooperation with building movers. The company shall, on the request of any person holding a building moving permit issued by the city, temporarily raise or lower its wires to permit the moving of buildings. The expense of such temporary removal, raising or lowering of wires shall be paid by the person requesting the same, and the company shall have the authority to require such payment in advance. The company shall be given not less than forty-eight (48) hours advance notice to arrange for such temporary wire changes.

(6) Tree trimming. The company shall not remove any tree or trim any portion, either above, at or below ground level, of any tree within any public place without the prior consent of the city. The city shall have the right to do the trimming requested by the company at the cost of the company. Regardless of who performs the work requested by the company, the company shall be responsible, shall defend and hold city harmless for any and all damages to any

tree as a result of trimming, or to the land surrounding any tree, whether such tree is trimmed or removed. (Ord. #80-26, Jan. 1981, as amended by Ord. #95-2, May 1995)

9-525. Operational standards. (1) The company shall put, keep and maintain all parts of the system in good condition throughout the entire franchise period.

(2) Upon the reasonable request for service by any person located within the franchise territory, the company shall, within thirty (30) days, furnish the requested service to such person within terms of the line extension policy. A request for service shall be unreasonable for the purpose of this subsection if no trunk line installation capable of servicing that person's block has as yet been installed.

(3) The company shall render efficient service, make repairs promptly, and interrupt service only for good cause and for the shortest time possible. Such interruptions, insofar as possible, shall be preceded by notice and shall occur during periods of minimum system use.

(4) The company shall not allow its cable or other operations to interfere with television reception of persons not served by the company, nor shall the system interfere with, obstruct or hinder in any manner the operation of the various utilities serving the residents within the confines of the city.

(5) The company shall have knowledgeable, qualified company representatives available to respond to customer telephone inquires Monday through Friday between the hours of 8:00 A.M. and 6:00 P.M., and Saturday between the hours of 9:00 A.M. and 5:00 P.M.

(6) The company will establish supplemental hours on week days and weekends that fit the needs of the community. Under normal operating conditions, telephone answer time, including wait time and the time required to transfer the call, shall not exceed thirty (30) seconds. This standard shall be met no less than ninety percent (90%) of the time as measured on an annual basis.

(7) Under normal operating conditions, the customer will receive a busy signal less than three percent (3%) of the total time that the office is open for business.

(8) Customer service centers and bill payment locations will be open for customer transactions Monday through Friday from 8:00 A.M. to 5:00 P.M., unless there is a need to modify those hours because of the location or customers served. The system will establish supplemental hours on weekdays and weekends if it would fit the needs of the community. The company shall provide service locations in the City of Bartlett for subscribers who wish to visit and conduct business.

(9) Under normal operating conditions, each of the following standards will be met no less than ninety five percent (95%) of the time as measured on an annual basis.

(a) Standard installations will be performed within seven (7) business days after an order has been placed. A standard installation is one that is within one hundred fifty feet (150') of the existing broadband telecommunications system.

(b) Excluding those situations which are beyond the control of the broadband telecommunication system, the company will respond to any service interruption (area or neighborhood outage affecting two (2) or more customers) promptly and in no event later than twenty-four (24) hours from the time of initial notification. All other regular service requests will be responded to within thirty six (36) hours during the normal work week for that system. The appointment window alternatives for installations, service calls and other installation activities will be: "morning"; "afternoon"; and "all day," during normal business hours for that system. The system will schedule supplemental hours during which appointments can be scheduled based on the needs of the community. If at any time an installer or technician is running late, an attempt to contact the customer will be made and the appointment rescheduled as necessary at a time that is convenient to the customer.

(10) The company will provide written information in each of the following areas at the time of installation and at any future time upon the request of the customer:

(a) Product and services offered;

(b) Prices and service options;

(c) Installation and service policies;

(d) How to use the broadband telecommunication system.

(11) Bills will be clear, concise and understandable.

(12) Refund checks will be issued promptly, but no later than the customer's next billing cycle following the receipt of the request and the return of the equipment to the company if service has been terminated.

(13) Customers will be notified a minimum of thirty (30) days in advance of any rate or channel change, provided that the change is within the control of the company.

(14) The company shall maintain and operate its network in accordance with the rules and regulations as are incorporated herein or may be promulgated by the Federal Communications Commission, the United States Congress, or the state.

(15) The company shall continue, through the term of the franchise, to maintain the technical standards and quality of service set forth in this ordinance. Should the city find, by resolution, that the company has failed to maintain these technical standards and quality of service, and should it, by resolution, specifically enumerate improvements to be made, the company shall make such improvements. Failure to make such improvements within three (3) months of such resolution will constitute a breach of a condition for which the remedy of § 9-547(2) is applicable. The company shall keep a service log which

will indicate the nature of each service complaint, the date and time it was received, the disposition of said complaint, and the time and date thereof. This log shall be made available for periodic inspection by the city. (Ord. #80-26, Jan. 1981, as amended by Ord. #95-2, May 1995)

9-526. Continuity of service mandatory. (1) It shall be the right of all subscribers to continue receiving service insofar as their financial and other obligations to the company are honored. If the company elects to overbuild, rebuild, modify or sell the system, or the city gives notice of intent to terminate or fails to renew a franchise, the company shall act so as to ensure that all subscribers receive continuous, uninterrupted service regardless of the circumstances.

(2) If there is a change of franchise, or if a new operator acquires the system, the company shall cooperate with the city, new franchisee or operator in maintaining continuity of service to all subscribers. During such period, the company shall be entitled to the revenues for any period during which it operates the system, and shall be entitled to reasonable costs for its services when it no longer operates the system.

(3) If the company fails to operate the system for seven (7) consecutive days without prior approval of the city or without just cause, the city may, at its option, operate the system or designate an operator until such time as the company restores service under conditions acceptable to the city or a permanent operator is selected. If the city is required to fulfill this obligation for the company, the company shall reimburse the city for all reasonable costs or damages in excess of revenues from the system received by the city that are the result of the company's failure to perform. (Ord. #80-26, Jan. 1981, as amended by Ord. #95-2, May 1995)

9-527. Complaint procedure. (1) The city mayor is designated as having primary responsibility for the continuing administration of the franchise and implementation of complaint procedures.

(2) During the terms of a franchise and any renewal thereof, the company shall maintain a business office in Shelby County for the purpose of receiving and resolving all complaints regarding the quality of service, equipment malfunctions, and similar matters. The office must be reachable by a local, toll-free telephone call to receive complaints regarding quality of service, equipment malfunctions and similar matters. The company will use its best efforts to arrange for one or more payment locations within the City of Bartlett where customers can pay bills or conduct other business activities.

(3) As subscribers are connected or reconnected to the system, the company shall by appropriate means, such as a card or brochure, furnish information concerning the procedures for making inquiries or complaints, including the name, address and local telephone number of the employee or employees or agent to whom such inquiries or complaints are to be addressed,

and furnish information concerning the city office responsible for administration of the franchise with the address and telephone number of the office.

(4) When there have been similar complaints made, or where there exists other evidence, which, in the judgment of the city, casts doubt on the reliability or quality or broadband telecommunication service, the city shall have the right and authority to require the company to test, analyze and report on the performance of the system. The company shall fully cooperate with the city in performing such testing and shall prepare results and a report, if requested, within thirty (30) days after notice. Such report shall include the following information:

(a) The nature of the complaint or problem which precipitated the special tests;

(b) What system component was tested;

(c) The equipment used and procedures employed in testing;

(d) The method, if any, in which such complaint or problem was resolved;

(e) Any other information pertinent to the tests and analysis which may be required.

The city may require that tests be supervised, at the company's expense, by a professional engineer, not on the permanent staff of the company. The engineer should sign all records of special tests and forward to the city such records with a report interpreting the results of the tests and recommending actions to be taken.

The city's right under this section, shall be limited to requiring tests, analysis and reports covering specific subjects and characteristics based on said complaints or other evidence when and under such circumstances as the city has reasonable grounds to believe that the complaints or other evidence require that tests be performed to protect the public against substandard broadband telecommunication system service. (Ord. #80-26, Jan. 1981, as amended by Ord. #95-2, May 1995)

9-528. Company rules and regulations. The company shall have the authority to promulgate such rules, regulations, terms and conditions governing the conduct of its business as shall be reasonably necessary to enable the company to exercise its rights and perform its obligations under its franchise, and to assure an uninterrupted service to each and all of its customers; provided, however, that such rules, regulations, terms and conditions shall not be in conflict with the provisions hereof or applicable state and federal laws, rules and regulations. (Ord. #80-26, Jan. 1981, as amended by Ord. #95-2, May 1995)

9-529. Franchise fee. (1) For the reason that the public streets used by the company in the operation of its system within the boundaries of the city are valuable public properties acquired and maintained by the city at great expense

to its taxpayers, and that the grant to the company to the streets is a valuable property right without which the company would be required to invest substantial capital in right-of-way costs and acquisitions, the company shall pay to the city an amount that shall not exceed five percent (5%) of the company's gross annual revenue from the operations of the company within the confines of the city or contract area. If it is determined that the Federal Communications Commission lacks jurisdiction to impose the five percent (5%) limitation on franchise fees, or that the limit is or the Federal Communications Commission deletes the franchise fee limitation entirely, then the franchise fee may be changed by the city.

(2) This payment shall be in addition to any other tax or payment owed to the city by the company.

(3) The franchise fee and any other costs or penalties assessed shall be payable quarterly, to the city and the company shall file a complete and accurate verified statement of all gross receipts within the city during the period for which the quarterly payment is made. Said statement shall be filed within forty-five (45) days after the quarter is established between the city and the grantee.

(4) The city shall have the right to inspect the company's income records and the right to audit and to recompute any amounts determined to be payable under this ordinance provided, however, that such audit shall take place within thirty-six (36) months following the close of each of the company's fiscal years. Any additional amount due to the city as a result of the audit shall be paid within thirty (30) days following written notice to the company by the city which notice shall include a copy of the audit report. The city will pay for any audit conducted on the company's income record. However, if there is a discrepancy found and it totals more than five percent (5%), the company will in turn be responsible for paying auditor's cost for service rendered.

(5) If any franchise payment or recomputed amount, cost or penalty, is not made on or before the applicable dates heretofore specified, interest shall be charged daily from such date at the legal maximum rate. (Ord. #80-26, Jan. 1981, as amended by Ord. #95-2, May 1995)

9-530. <u>Transfer of ownership or control</u>. (1) A franchise shall not be assigned or transferred, either in whole or in part, or leased, sublet or mortgaged in any manner, nor shall title thereto, either legal or equitable or any right, interest or property therein, pass to or vest in any person without the prior written consent of the city. The company may, however, transfer or assign the franchise to a wholly-owned subsidiary of the company and such subsidiary may transfer or assign the franchise back to the company without such consent. The proposed assignee must show financial responsibility as determined by the city and must agree to comply with all provisions of the franchise. The city shall be deemed to have consented to a proposed transfer or assignment if its refusal to consent is not communicated in writing to the company within one hundred

twenty (120) days following receipt of written notice of the proposed transfer or assignment. The city shall not unreasonably withhold such consent to the proposed transfer.

(2) The company shall promptly notify the city of any actual or proposed change in, or transfer of, or acquisition by any other party of, control of the company. The word "control" as used herein is not limited to major stockholders but includes actual working control in whatever manner exercised. A rebuttable presumption that a transfer of control has occurred shall arise upon the acquisition or accumulation by any person or group of persons of ten percent (10%) of the voting shares of the company. Every change, transfer or acquisition of control of the company shall make the franchise subject to cancellation unless and until the city shall have consented thereto, which consent will not be unreasonably withheld. For the purpose of determining whether it shall consent to such change, transfer or acquisition of control, the city may inquire into the qualification of the prospective controlling party, and the company shall assist the city in such inquiry.

(3) The consent or approval of the city to any transfer of the company shall not constitute a waiver or release of the rights of the city in and to the streets, and any transfer shall by its terms, be expressly subordinate to the terms and conditions of this ordinance.

(4) In the absence of extraordinary circumstances, the city will not approve any transfer or assignment of the franchise prior to substantial completion of construction of the proposed system.

(5) In no event shall a transfer of ownership or control be approved without successor in interest becoming a signatory to the franchise agreement.

(6) The board of mayor and aldermen reserves the right to review the purchase price of any transfer or assignment of the broadband telecommunications system. Any assignee to this franchise expressly agrees that any negotiated sale value which the board (acting upon professional advice) deems unreasonable will not be considered in the rate base for any subsequent request for rate increases. (Ord. #80-26, Jan. 1981, as amended by Ord. #95-2, May 1995)

9-531. <u>Availability of books and records</u>. The company shall fully cooperate in making available at reasonable times, and the city shall have the right to inspect the books, records, maps, plans and other like materials of the company applicable to the broadband telecommunications system, at any time during normal business hours; provided where volume and convenience necessitate, the company may require inspection to take place on the company premises. (Ord. #80-26, Jan. 1981, as amended by Ord. #95-2, May 1995)

9-532. <u>Other petitions and applications</u>. Copies of all petitions, applications, communications and reports submitted by the company to the Federal Communications Commission, Securities and Exchange Commission,

or any other federal or state regulatory commission or agency having jurisdiction in respect to any matters affecting broadband telecommunication system operations authorized pursuant to the franchise, shall be provided simultaneously to the city. (Ord. #80-26, Jan. 1981, as amended by Ord. #95-2, May 1995)

9-533. Fiscal reports. (1) Upon request, the company shall file annually with the city no later than one hundred twenty (120) days after the end of the company's fiscal year, a copy of a financial report applicable to the broadband telecommunications system including an income statement applicable to its operations during the preceding twelve (12) month period, a balance sheet, and a statement of its properties devoted to system operations, by categories, giving its investment in such properties on the basis of original cost, less applicable depreciation.

(2) These reports shall be certified as correct by an authorized officer of the company and there shall be submitted along with them such other reasonable information as the city shall request with respect to the company's properties and expenses related to its operations within the city. (Ord. #80-26, Jan. 1981, as amended by Ord. #95-2, May 1995)

9-534. Removal of broadband and telecommunications system. At the expiration of the terms for which a franchise is granted, or upon its termination as provided herein, the company shall forthwith, upon notice by the city, remove at its own expense all designated portions of the broadband telecommunication system from all streets and public property within the city. If the company fails to do so, the city may perform the work at the company's expense. A bond shall be furnished by the company in an amount sufficient to cover this expense. (Ord. #80-26, Jan. 1981, as amended by Ord. #95-2, May 1995)

9-535. Required services and facilities. (1) The broadband telecommunications system shall have a minimum channel capacity of fifty (50) channels available for immediate use for the totality of broadband telecommunications services to be offered.

(2) Such system shall maintain a plant having the technical capacity for communications.

(3) The company may maintain the following:

(a) At least one (1) specially-designated, channel for use by non-commercial public access available on a first-come, non-discriminatory basis, and by local educational authorities and/or the county;

(b) At least one (1) specially-designated channel for local governmental uses;

(c) At least one (1) specially-designated channel for leased access uses;

(d) Provided, however, these uses may be combined on one or more channels until such time as additional channels become necessary in the opinion of the board of mayor and aldermen.

(4) The company shall incorporate into its broadband telecommunications system the capacity which will permit the city, in times of emergency, to override by remote control, the audio of all channels simultaneously. The company shall designate a channel which will be used for emergency broadcasts of both audio and video. The company shall cooperate with the city in the use and operation of the emergency alert override system.

(5) The company may be required to interconnect its system with other broadband communication facilities. Such interconnection shall be made within the time limit established by the city. The interconnection shall, at the city's discretion, be accomplished according to the method and technical standards determined by the city and generally accepted in industry practices. "Broadband communications facility," as used herein, means any network of cable, optical, electrical or electronic equipment, including broadband telecommunication systems, used for the purpose of transmitting telecommunications signals.

(a) Interconnection procedure. Upon receiving the directive of the city to interconnect, the franchisee shall immediately initiate negotiations with the other affected system or systems in order that all costs may be shared equally among companies for both construction and operation of the interconnection link.

(b) Relief. The franchisee may be granted reasonable extensions of time to interconnect or the city may rescind its order to interconnect upon petition by the franchisee to the city. The city shall grant the request if it finds that the franchisee has negotiated in good faith and has failed to obtain an approval from the operator or franchising authority of system to be interconnected, or the cost of the interconnection would cause an unreasonable or unacceptable increase in subscriber rates.

(c) Cooperation required. The franchisee shall cooperate with any interconnection corporation, regional interconnection authority or city, county, state and federal regulatory agency which may be hereafter established for the purpose of regulating, financing, or otherwise providing for the interconnection of broadband telecommunication systems beyond city boundaries.

(d) Initial technical requirements to assure future interconnection capability:

(i) All broadband telecommunication systems receiving franchises to operate within the city shall use the standard frequency allocations for television signals.

(ii) The city urges franchisees to provide local origination equipment that is compatible throughout the area so that videocassettes or videotapes can be shared by various systems.

(6) The company shall provide such additional services and facilities as are contained in its application, which is incorporated by reference herein. (Ord. #80-26, Jan. 1981, as amended by Ord. #95-2, May 1995)

9-536. Rules and regulations. (1) In addition to the inherent powers of the city to regulate and control a franchise, and those powers expressly reserved by the city, or agreed to and provided for herein, the right and power is hereby reserved by the city to promulgate such additional regulations as it shall find necessary in the exercise of its lawful powers and furtherance of the terms and conditions of a franchise.

(2) The city may also adopt such regulations at the request of company upon application. (Ord. #80-26, Jan. 1981, as amended by Ord. #95-2, May 1995)

9-537. Rate change procedures. Pursuant to the Cable Television Consumer Protection and Competition Act of 1992, the City of Bartlett is currently certified to regulate the basic service rates charged by grantee. Under these rules, a grantee is required to obtain approval from the city for a rate increase for any change to the rates for basic service. (Ord. #80-26, Jan. 1981, as amended by Ord. #95-2, May 1995)

9-538. Advisory commission on cable television. (1) There may be established a citizens advisory commission entitled the Advisory Commission On Telecommunications. The telecommunications commission shall consist of ten (10) members. The members shall be appointed by the board of mayor and aldermen. Appointments to the telecommunications commission shall be made in conformity with applicable federal, state, and local laws regarding discrimination. Appointees may not be employed by, or have any interest in, the broadcasting, cable, or telephone business. One of the members of the commission shall be a member of the board of mayor and aldermen.

(2) Members shall serve for two (2) year staggered terms so that half the members shall have served the previous year with appointment beginning on January first and shall serve until their successors are appointed. Members may be reappointed by the board of mayor and aldermen with vacancies on the commission filled by the board of mayor and aldermen.

(3) The commission shall have the following duties and responsibilities:

(a) Advising the government regarding general policy relating to services provided subscribers and users by the telecommunications providers;

(b) Advising the government regarding general policy relating to the operation and uses of access channels with a view toward maximizing the diversity of programs and services to subscribers and users;

(c) Encouraging the use of access channels among the widest range of institutions, groups and individuals within the city;

(d) Advising the government concerning proposed rate increases;

(e) Submitting an annual report to the government including, but not limited to, a written appraisal of the performance of the company over the entire length of the franchise with regard to the provisions of the franchise, a summary and recommendations of the utilization of access channels, a review of any plans submitted during the year by the company for the development of new services, and a summary report of the commission's deliberations throughout the year in connection with its assigned functions, and any recommendations for revisions or additional provisions of the franchise. A copy of the report shall be sent within thirty (30) days of its submission to the board of mayor and aldermen and to the company;

(f) Advising the government on matters which may constitute grounds for revocation and/or termination of the franchise granted herein;

(g) Advising the government as to the granting or denying applications for new franchises or for authorization to transfer ownership of an existing franchise;

(h) Advising the government on the establishment of additional advisory commissions to address specific issues relating to the operation of the franchise. Nothing in this franchise is intended to prohibit the establishment of such advisory commissions to supervise the accessibility and operation of access channels.

(4) The telecommunications commission shall have the authority to submit proposed rules and regulations for the conduct of its business to the governments for approval and upon approval, shall have the right to hold hearings and make recommendations to the company and to the educational and governmental communities on the coordination of the educational and government access channels. All such actions shall only be advisory. (Ord. #80-26, Jan. 1981, as amended by Ord. #95-2, May 1995)

9-539. Forfeiture and termination. (1) In addition to all other rights and powers retained by the city under this ordinance or otherwise, the city reserves the right to forfeit and terminate a franchise and all rights and privileges of the company hereunder in the event of a substantial breach of its terms and conditions. A substantial breach by the company shall include, but shall not be limited to the following:

(a) Violation of any material provision of the franchise or any material rule, order, regulation or determination of the city made pursuant to the franchise;

(b) Attempt to evade any material provision of the franchise or practice any fraud or deceit upon the city or its subscribers or customers;

(c) Failure to begin or complete system construction or system extension as provided under § 9-522;

(d) Failure to provide the services promised in the company's application as incorporated herein by § 9-505;

(e) Failure to restore service after ninety-six (96) consecutive hours of interrupted service, except when approval of such interruption is obtained from the city; or

(f) Material misrepresentation of fact in the application for or negotiation of the franchise.

(2) The foregoing shall not constitute a major breach if the violation occurs but is without fault of the company or occurs as a result of circumstances beyond its control. The company shall not be excused by mere economic hardship nor by misfeasance or malfeasance of its directors, officers or employees.

(3) The city may make a written demand that the company comply with any such provision, rule, order or determination under or pursuant to this ordinance. If the violation by the company continues for a period of thirty (30) days following such written demand without written proof that the corrective action has been taken or is being actively and expeditiously pursued, the city may place the issue of termination of the franchise before the board of mayor and aldermen. The city shall cause to be served upon the company, at least twenty (20) days prior to the date of such board meeting, a written notice of intent to request such termination and the time and place of the meeting. Public notice shall be given of the meeting and the issue which the board is to consider.

(4) The board of mayor and aldermen shall hear and consider the issue and shall hear any person interested therein (including the report of the advisory commission), and shall determine in its discretion whether or not any violation by the company has occurred.

(5) If the board of mayor and aldermen shall determine the violation by the company was the fault of the company and within its control, the board may, by resolution declare that the franchise of the company shall be forfeited and terminated unless there is compliance within such period as the board may fix, such period shall not be less than sixty (60) days, provided no opportunity for compliance need be granted for fraud or misrepresentation.

(6) The issue of forfeiture and termination shall automatically be placed upon the board agenda at the expiration of the time set by it for compliance. The board then may terminate the franchise forthwith upon finding that the company has failed to achieve compliance or may further extend the

period, in its discretion. (Ord. #80-26, Jan. 1981, as amended by Ord. #95-2, May 1995)

9-540. Foreclosure. Upon the foreclosure or other judicial sale of all or a substantial part of the broadband telecommunications system, or upon the termination of any lease covering all or a substantial part of the broadband telecommunications system, the company shall notify the city of such fact, and such notification shall be treated as a notification that a change in control of the company has taken place, and the provisions of this ordinance governing the consent of the city to such change in control of the company shall apply. (Ord. #80-26, Jan. 1981, as amended by Ord. #95-2, May 1995)

9-541. Approval of transfer and right of acquisition by the city. Upon the expiration of the term of the franchise or upon any other termination thereof as provided herein or by application for approval of transfer of the entire franchise or a majority interest thereof, the city at its election and upon the payment of the grantee of a price equal to the fair market value shall have the right to purchase and take over the network or interest thereof. In the event of dispute between the city and the grantee of what is fair market value, the dispute shall be submitted to arbitration pursuant to the provisions of Tennessee Code Annotated, § 29-5-301, et seq., and if the city has exercised its option to purchase at fair market value, it shall have the right to assume operation of the system even though the final award has not been made by the arbitrators or as approved by the court. This right of the first refusal for purchase shall also include the right to purchase for the price offered to the grantee. In the event of the contemplated sale of the system or majority interest thereof, or upon the termination as provided herein or by law, the city must exercise its option within thirty (30) days. If the grantee has petitioned the city for renewal and renegotiation of its franchise as provided by § 9-508, the city must exercise its option to purchase the system within sixty (60) days after the requested renewal or renegotiation or at least six (6) months prior to the end of the franchise. Nothing shall prohibit the grantee in the event of the election of the city to purchase the system from requesting the court to set a reasonable bond of the city to secure the purchase price. The grantee shall execute such warranty deeds and other instruments as may be necessary. (Ord. #80-26, Jan. 1981, as amended by Ord. #95-2, May 1995)

9-542. Receivership. The city shall have the right to cancel a franchise one hundred twenty (120) days after the appointment of a receiver, or trustee, to take over and conduct the business of the company, whether in receivership, reorganization, bankruptcy or other action or proceeding, unless such receivership or trusteeship shall have been vacated prior to the expiration of one hundred twenty (120) days, or unless:

(1) Within one hundred twenty (120) days after his election or appointment, such receiver or trustee shall have fully complied with all the provisions of this ordinance and remedied all defaults thereunder; and

(2) Such receiver or trustee, within one hundred twenty (120) days, shall have executed an agreement, duly approved by the court having jurisdiction in the premises, whereby such receiver or trustee assumes and agrees to be bound by each and every provision of this ordinance and the franchise granted to the company. (Ord. #80-26, Jan. 1981, as amended by Ord. #95-2, May 1995)

9-543. Compliance with state and federal laws. (1) Notwithstanding any other provisions of this ordinance to the contrary, the company shall at all times comply with all laws and regulations of the state and federal government or any administrative agencies provided, however, if any such state or federal law or regulation shall require the company to perform any service, or shall permit the company to perform any service, or shall prohibit the company from performing any service, in conflict with the terms of this ordinance or of any law or regulation of the city, then as soon as possible following knowledge thereof, the company shall notify the city of the point of conflict believed to exist between such regulation or law and the laws or regulations of the city or this ordinance.

(2) If the board of mayor and aldermen determines that a material provision of this ordinance is affected by any subsequent action of the state or federal government, the board shall have the right to modify any of the provisions herein to such reasonable extent as may be necessary to carry out the full intent and purpose of this agreement. (Ord. #80-26, Jan. 1981, as amended by Ord. #95-2, May 1995)

9-544. Landlord/tenant. (1) Interference with broadband telecommunications service prohibited. Neither the owner of any multiple unit residential dwelling nor his agent or representative shall interfere with the right of any tenant or lawful resident thereof to receive broadband telecommunication system service, cable installation or maintenance from a broadband telecommunication system company regulated by and lawfully operating under a valid and existing franchise issued by the city.

(2) Gratuities and payments to permit service prohibited. Neither the owner of any multiple unit residential dwelling nor his agent or representative shall ask, demand or receive any payment, service or gratuity in any form as a condition for permitting or cooperating with the installation of a broadband telecommunications service to the dwelling unit occupied by a tenant or resident requesting service.

(3) Penalties and charges to tenants for service prohibited. Neither the owner of any multiple unit residential dwelling nor his agent or representative shall penalize, charge or surcharge a tenant or resident, or forfeit or threaten to forfeit any right of such tenant or resident, or discriminate in any

way against such tenant or resident who requests or receives broadband telecommunications service from a company operating under a valid and existing franchise issued by the city.

(4) Reselling service prohibited. No person shall resell, without the expressed, written consent of both the company and the city, any broadband telecommunication system, program or signal transmitted by a broadband telecommunications system company under a franchise issued by the city.

(5) Protection of property permitted. Nothing in this ordinance shall prohibit a person from requiring that broadband telecommunication system facilities conform to laws and regulations and reasonable conditions necessary to protect safety, functioning, appearance and value of premises or the convenience and safety of persons or property.

(6) Risks assumed by company. Nothing in this ordinance shall prohibit a person from requiring a broadband telecommunications company from agreeing to indemnify the owner, or his agents or representatives for damages or from liability for damages caused by the installation, operation, maintenance or removal of broadband telecommunication system facilities. (Ord. #80-26, Jan. 1981, as amended by Ord. #95-2, May 1995)

9-545. Applicant bids. (1) All bids received by the city from the applicants for a franchise will become the sole property of the city.

(2) The city reserves the right to reject any and all bids and waive informalities and/or technicalities where the best interest of the city may be served.

(3) All questions regarding the meaning or intent of this ordinance or application documents shall be submitted to the city in writing. Replies will be issued by addenda mailed or delivered to all parties recorded by the city as having received the application documents.

The city reserves the right to make extensions of time for receiving bids as it deems necessary. Questions received less than fourteen (14) days prior to the date for the opening of bids will not be answered. Only replies to questions by written addenda will be binding. All bids must contain an acknowledgment of receipt of all addenda.

(4) Bids must be sealed, and submitted at the time and place indicated in the application documents for the public opening. Bids may be modified at any time prior to the opening of the bids, provided that any modifications must be duly executed in the manner that the applicant's bid must be executed. No bid shall be opened or inspected before the public opening.

(5) Before submitting his bid, each applicant must:

(a) Examine this ordinance and the application documents thoroughly;

(b) Familiarize himself with local conditions that may in any manner affect performance under the franchise;

(c) Familiarize himself with federal, state and local laws, ordinances, rules and regulations affecting performance under the franchise; and

(d) Carefully correlate his observations with the requirements of this ordinance and the application documents.

(6) The city may make such investigations as it deems necessary to determine the ability of the applicant to perform under the franchise, and the applicant shall furnish to the city all such information and data for this purpose as the city may request. The city reserves the right to reject any bid if the evidence submitted by, or investigation of, such applicant fails to satisfy the city that such applicant is properly qualified to carry out the obligations of the franchise and to complete the work contemplated therein. Conditional bids will not be accepted.

(7) All bids received shall be placed in a secure depository approved by the city and not opened nor inspected prior to the public opening. (Ord. #80-26, Jan. 1981, as amended by Ord. #95-2, May 1995)

9-546. Financial, contractual, shareholder and system disclosure.

(1) No franchise will be granted to any applicant unless all requirements and demands of the city regarding financial, contractual, shareholder and system disclosure have been met.

(2) Applicants, including all shareholders and parties with any interest in the applicant, shall fully disclose all agreements and undertakings, whether written or oral, or implied with any person, firm, group, association or corporation with respect to a franchise and the proposed broadband telecommunication system. The grantee of a franchise shall disclose all other contracts to the city as the contracts are made. This section shall include, but not be limited to, any agreements between local applicants and national companies.

(3) Applicants, including all shareholders and parties with any interest in the applicant, shall submit all requested information as provided by the terms of this ordinance or the application documents, which are incorporated herein by reference. The requested information must be complete and verified true by the applicant.

(4) Applicants, including all shareholders and parties with any interest in the applicant, shall disclose the numbers of shares of stock, and the holders thereof, and shall include the amount of consideration for each share of stock and the nature of the consideration.

(5) Applicants, including all shareholders and parties with any interest in the applicant, shall disclose any information required by the application documents regarding other broadband telecommunication systems in which they hold an interest of any nature, including, but not limited to, the following:

(a) Locations of all other franchises and the dates of award for each location;

(b) Estimated construction costs and estimated completion dates for each system;

(c) Estimated number of miles of construction and number of miles completed in each system as of the date of this application; and

(d) Date for completion of construction as promised in the application for each system.

(6) Applicants, including all shareholders and parties with any interest in the applicant, shall disclose any information required by the application documents regarding pending applications for other broadband telecommunication systems, including but not limited to, the following:

(a) Location of other franchise applications and date of application for each system;

(b) Estimated dates of franchise awards;

(c) Estimated number of miles of construction; and

(d) Estimated construction costs.

(Ord. #80-26, Jan. 1981, as amended by Ord. #95-2, May 1995)

9-547. Penalties. For the violation of any of the following provisions of this franchise, penalties shall be chargeable to the letter of credit as follows:

(1) For failure to complete system construction and provide service in accordance with § 9-522, unless the city specifically approves the delay by motion or resolution, due to the occurrence of conditions beyond the company's control, the company shall pay fifty dollars ($50.00) per day for each day, or part thereof, the deficiency continues.

(2) For failure to provide data, documents, reports, information as required by §§ 9-521, 9-531, 9-532, and 9-533, the company shall pay fifty dollars ($50.00) per day each violation occurs or continues.

(3) For failure to test, analyze and report on the performance of the system following a request pursuant to § 9-527, the company shall pay fifty dollars ($50.00) per day for each day, or part thereof, that such noncompliance continues.

(4) For failure to comply with the operational standards following the city's resolution directing the company to make improvements pursuant to § 9-525, the company shall forfeit fifty dollars ($50.00) per day or part thereof that the violation continues. (Ord. #80-26, Jan. 1981, as amended by Ord. #95-2, May 1995, modified)

9-548. Periodic review and evaluation sessions. (1) The city and company shall hold scheduled performance evaluation sessions within thirty (30) days of the fifth, tenth, and fifteenth anniversary dates of the company's award of the franchise and as may be required by federal and state law. All such evaluation sessions should be open to the general public.

(2) Special evaluation sessions may be held at any time during the term of the franchise at the request of the city or the company.

(3) All evaluation sessions shall be open to the public and announced in a newspaper of general circulation in accordance with legal notice. The company shall notify its subscribers of all evaluation sessions by announcements on at least two (2) channels of its system between the hours of 7:00 P.M. and 9:00 P.M., for five (5) consecutive days preceding each session.

(4) Topics which may be discussed at any scheduled or special evaluation session may include, but not be limited to, service rate structures; franchise fee; penalties; free or disconnected services; application of new technologies; system performance; services provided; programming offered; customer complaints; privacy; amendments to this ordinance; judicial and FCC rulings; line extension policies; and company or city rules.

(5) Under no circumstance is the city authorized to make unilateral amendments to the franchise agreement. Any amendments resulting from a periodic review must be mutually agreed upon by the city and company.

(6) Members of the general public may add topics either by working through the regulating parties or by presenting a petition. If such a petition bears the valid signatures of fifty (50) or more residents in the city the proposed topic or topics should be added to the list of topics to be discussed at the evaluation session. (Ord. #80-26, Jan. 1981, as amended by Ord. #95-2, May 1995)

9-549. <u>Bid fees</u>. All applicants for a franchise, upon submission of each bid, shall concurrently pay, in cash, to the City of Bartlett, a non-refundable fee of five thousand dollars ($5,000.00) which shall be applied to defray the cost of bid review and builder capability certification. Should the cost to the city for bid review and builder capability certification exceed the total amount of bid fees received, the successful bidder shall be required to pay all such excess before issuance of the franchise. Further, the city shall charge a fee of twenty-five dollars ($25.00) to all persons for each copy of bid documents and specification upon receipt of same. (Ord. #80-26, Jan. 1981, as amended by Ord. #95-2, May 1995)

CHAPTER 6

FOOD ESTABLISHMENTS ORDINANCE

SECTION

9-601. Food establishments to be governed by Shelby County Ordinance. Food establishment operation and health regulations within the City of Bartlett shall be governed by the Shelby County Food Ordinance and any amendments thereto.

9-602. Violations and penalty. Violations of the food establishments ordinance shall subject the offender to a penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense.

CHAPTER 7

SWIMMING POOLS AND PUBLIC AMUSEMENTS

SECTION

9-701. Definitions. The term "public swimming pool," as used in this chapter shall mean any body of water used for public or semipublic swimming or recreative bathing, which is artificial or semiartificial construction, including all appurtenances concerning its use, whether operated for the public in general or for a portion of the public, as a member of clubs, associations or other organizations. Other terms used in this chapter shall have the meanings usually accorded to them by the health department of this and other cities regulating swimming pools. (Ord. #83-4, April 1983)

9-702. Permit. (1) The city and company shall hold scheduled performance evaluation sessions within thirty (30) days of the fifth, tenth, and fifteenth anniversary dates of the company's award of the franchise and as may be required by federal and state law. All such evaluation sessions should be open to the general public.

(2) Special evaluation sessions may be held at any time during the term of the franchise at the request of the city or the company.

(3) All evaluation sessions shall be open to the public and announced in a newspaper of general circulation in accordance with legal notice. The company shall notify its subscribers of all evaluation sessions by announcements

on at least two (2) channels of its system between the hours of 7:00 P.M. and 9:00 P.M., for five (5) consecutive days preceding each session.

(4) Topics which may be discussed at any scheduled or special evaluation session may include, but not be limited to, service rate structures; franchise fee; penalties; free or disconnected services; application of new technologies; system performance; services provided; programming offered; customer complaints; privacy; amendments to this ordinance; judicial and FCC rulings; line extension policies; and company or city rules.

(5) Under no circumstance is the city authorized to make unilateral amendments to the franchise agreement. Any amendments resulting from a periodic review must be mutually agreed upon by the city and company.

(6) Members ermit therefor has been issued by the county health department, which permit shall not be valid for longer than one year. A new permit shall be secured at the first of each year or season of operation. All permits shall be in writing and shall state the conditions under which operation shall be maintained and the term for which the permit is allowed.

Before a permit is issued by the health department, an annual permit fee of one hundred and fifty dollars ($150.00) shall be paid to the Shelby County Health Department. Said fee shall be due on January 1 of each calendar year and shall be paid by January 31, commencing January 1, 1969.

(7) Any permit granted by the health department under the provisions of this section may be revoked by the health department, acting through the health officer, for failure to comply with any of the provisions of this chapter, or whenever, under such permit becomes a menace to the health and safety of bathers; provided, that the holder of any permit which has been revoked, feeling aggrieved at the action of the health officer, shall have the right to appeal to the board of mayor and aldermen and have tried before the board the question of the legality or reasonableness of the action of the health officer. No such appeal shall entitle the continued operation of the pool pending the action of the board of mayor and aldermen. (Ord. #83-4, April 1983, modified)

9-703. <u>Approval of plans and specifications</u>. No person shall begin construction of a public swimming pool or substantially alter or reconstruct any such swimming pool, unless plans and specifications therefor have been submitted to and approved by the health department. Such plans and specifications shall be accompanied by supporting data, such as shop drawings of equipment, fittings, skimmers, filters, disinfectant feeders, pump rating curves, etc. The plans shall be prepared by an architect or engineer licensed to practice in the State of Tennessee. (Ord. #83-4, April 1983)

9-704. <u>Design of pool area</u>. Each public swimming pool area shall be designed in such a manner as to permit the installation of all equipment necessary for the proper operation of same, and so as to give the proper routing and segregation of bathers and spectators. (Ord. #83-4, April 1983)

9-705. Water requirements generally; recirculation system.

(1) No natural body of water which contains sewage or other waste, rendering it dangerous to public health, shall be used as a public swimming pool.

(2) Every public swimming pool shall be provided with a sufficient quantity of fresh water which meets the drinking water standards of the health department as to physical, bacteriological and chemical quality. The water shall show an alkaline reaction at all times when the pool is in use. Frequent tests shall be made when the pool is in use, the water shall be sufficiently clear to permit the entire bottom of the pool to be clearly visible from the walkways.

(3) A complete recirculating system for swimming pools consist of circulating pumps, chemical dosing equipment (alum and soda ash) or surge tank, float valve control on water supply, gauges, piping connections to inlets and outlets. (Ord. #83-4, April 1983)

9-706. Disinfecting agent. Some means of disinfecting the water in a public swimming pool shall be used which provides a residual of a disinfecting agent in the pool water. (Ord. #83-4, April 1983)

9-707. Gaseous chlorine equipment. Where gaseous chlorine equipment is provided in a filter room at a public swimming pool, or in any part of a building which provides housing, the mechanical proportioning and cylinders of chlorine shall be housed in a reasonably gas-tight, corrosion-resistant and mechanically vented enclosure. (Ord. #83-4, April 1983)

9-708. Dressing rooms; maintenance of premises. All public swimming pools shall be provided with dressing rooms which shall be so constructed and maintained that they will be clean and in a sanitary condition at all times. The buildings and grounds shall be kept free from garbage, trash and other refuse. (Ord. #83-4, April 1983)

9-709. Toilet facilities. All public swimming pools shall be provided with a sanitary method of excreta disposal, including one or more separate toilets for each sex, and their number and location will be determined by the health department. (Ord. #83-4, April 1983)

9-710. Lighting systems. A complete system of artificial lighting shall be provided for all indoor public swimming pools and for all public swimming pools which are to be used at night. (Ord. #83-4, April 1983)

9-711. Drinking water. Drinking water furnished at any public swimming pool shall be of a quality approved by the health department and shall be made available by means of sanitary drinking fountains. The use of common drinking cups is forbidden. (Ord. #83-4, April 1983)

9-712. Safety of bathers generally. All reasonable precautions shall be taken at public swimming pools to protect the bathers from injury or accident. Convenient means of ingress and egress shall be provided. The depth of the water and any irregularities of the bottom shall be clearly indicated. Safety appliances such as life buoys, life hooks, bamboo poles or ropes, and equipment, including first aid kits, shall be provided and be readily accessible. (Ord. #83-4, April 1983)

9-713. Attendants. A sufficient number of attendants shall be on duty when a public swimming pool is in use. Such attendants shall be capable swimmers competent in life saving methods and trained in methods of artificial resuscitation. (Ord. #83-4, April 1983)

9-714. Diseased persons not to use pool; spitting, spouting water, etc., prohibited. No person having any skin eruptions or abrasions, sore or infected eyes, cold, nasal or ear discharge, or any communicable disease shall be permitted to use any public swimming pool. Spitting, spouting of water, or blowing the nose in the pool shall be strictly prohibited. Suitable placards embodying such personal regulations and instructions shall be conspicuously posted. (Ord. #83-4, April 1983)

9-715. Common use of suits and towels. Suits and towels for common use at a public swimming pool shall be thoroughly laundered and dried after each usage in such manner as to meet the requirements of the health department. (Ord. #83-4, April 1983)

9-716. Records and reports. Such records concerning the operation of a public swimming pool shall be kept as may be required by the health department and reports shall be submitted to the health department as required. (Ord. #83-4, April 1983)

9-717. Rules and regulations of health department. The health department shall make such rules and regulations as may be necessary in its judgment to meet the requirements of public swimming pool sanitation, and to preserve the safety and health of the bathers. Such rules and regulations, when adopted by the health department, shall be printed and copies thereof delivered to all operators of public swimming pools and to such other persons as may request the same. When such rules have been duly adopted and printed, they shall constitute a part of the requirements imposed upon operators of public pools by this chapter, and for any violation of such rules and regulations or any failure to comply therewith, any permit to operate may be revoked by the health officer. (Ord. #83-4, April 1983, modified)

9-718. <u>Publication of grades of sanitary condition</u>. The health department may, from time to time, publish grades of the sanitary condition of public swimming pools. (Ord. #83-4, April 1983)

TITLE 10

ANIMAL CONTROL

CHAPTER
1. IN GENERAL.
2. DOGS AND CATS.

CHAPTER 1

IN GENERAL

SECTION
10-101. Keeping of poultry or fowl within residential and the corporate limits.
10-102. Dog stands, animals, fowl, and pets.
10-103. Fee to claim animals picked up by city.
10-104. Running at large, noise, etc. prohibited; dog park.

10-101. Keeping of poultry or fowl within residential and the corporate limits. (1) It shall be unlawful for any person to engage in any form of commercial poultry or egg business within a residential district of the corporate limits of the City of Bartlett.

(2) A residential district is hereby defined as the land fronting on both sides of a street and extending to the rear lot lines, where, at the time of enactment of the ordinance comprising this section, less than twenty-five percent (25%) of the frontage is used for commercial and industrial purposes within a distance of two hundred (200) feet to a site where a building or structure is proposed to be erected, altered or used for commercial or industrial purposes or the land used for such purposes. If there is an intersecting street within said two hundred (200) feet of such a site, the residential district shall extend only to the street line of such street. In determining the percentage of commercial and industrial frontage in any district, land and buildings used for the following purposes shall be considered as residential frontage:

(a) Churches, Sunday schools, and other places of worship;

(b) Public schools, libraries and other public buildings, and public parks and playgrounds;

(c) Hospitals or sanitariums;

(d) Vacant land.

(3) It shall be unlawful for any family to keep at any time more than eight (8) hens per family member.

(4) It shall be unlawful for day-old or young poultry to be kept or housed within a residential district as hereinabove defined in excess of the number of twenty-five (25) per family member.

(5) It shall be unlawful for any person to permit poultry or fowls to run at large upon the property of others, or permit buildings, runs, pens, or yards within which such fowls are kept to become dirty and littered to the extent that they attract flies, become a breeding place for flies, or create an odor that is offensive and inimical to the health and general welfare of the citizens adjacent thereto.

(6) Any person violating any provision of this section shall be guilty of a misdemeanor, and upon conviction shall be fined not less than two dollars ($2.00) nor more than fifty dollars ($50.00) for each offense. Each day such violation shall continue shall constitute a separate offense. (Ord. #55-4, Nov. 1955)

10-102. Dog stands, animals, fowl, and pets. Where four (4) or more dogs are kept or boarded on a residential or commercial property or where other animals, including fowl or pets, are kept boarded on a residential or commercial property, the owners shall be required to install a secure enclosure with a concrete floor containing one (1) or more floor drains, which are connected to a sanitary sewer. A concrete curb shall be made a part of the floor around the perimeter and the curb shall extend six inches (6") above the floor.

Residential or commercial lots of two (2) or more acres may be exempt from the requirements of this section with approval of the codes enforcement director. (Ord. #83-15, Aug. 1983, modified, as amended by Ord. #12-19, Dec. 2012)

10-103. Fee to claim animals picked up by city. 1. A fee of thirty dollars ($30.00) will be charged to any person who claims an animal including, but not limited to dog, cat, horse, cow or pig, which have been picked up by the City of Bartlett. Said fee will be paid to the veterinarian who has possession of said animal. The veterinarian is entitled to retain five dollars ($5.00) of said fee for collection, and will forward the rest to Bartlett Finance Department on a monthly basis. Said fees collected shall be set aside in a special account for the construction of a City of Bartlett Animal Shelter. After the animal shelter is built, then the funds will go to the operating expense of the shelter. (Ord. #83-15, Aug. 1983, as amended by Ord. #90-18, Jan. 1991, and Ord. #99-7, May 1999)

10-104. Running at large, noise, etc., prohibited; dog park. (1) It shall be unlawful for any person owning, keeping, harboring, or possessing any dogs, cats, rabbits, hares, goats, hogs, sheep, cattle or other animals, chickens, ducks, geese, or other birds or poultry to permit or allow the same to go at large at any time within the limits of the City of Bartlett, Tennessee to the damage or annoyance of any of the residents of said city.

(2) It shall be unlawful for any person to own, keep, harbor or possess any animals which, by loud and frequent howling, yelping, growling, bleating,

braying, or bawling, or by any other noise, causes serious annoyance to any of the citizen of the City of Bartlett, Tennessee.

(3) It shall further be unlawful for any person to permit any animal or poultry owned by him or under his dominion and control or leased by him or otherwise in his possession to create any nuisance or unreasonable annoyance to the detriment of other citizens of the City of Bartlett, Tennessee.

(4) All ordinances or parts of ordinances heretofore enacted which are in conflict with this section are hereby declared to be void and are hereby repealed.

(5) Anyone violating the provisions of this section will be guilty of a misdemeanor and upon conviction will be fined not less than one dollar ($1.00) nor more than fifty dollars ($50.00).

(6) The only exception to the "running at large" prohibition above is inside of the fenced area (dog park) located on Shelter Run Lane west of the City of Bartlett's Animal Shelter. The use of this "dog park" shall constitute a waiver of liability of the City of Bartlett, Tennessee by the dog owner and the person having care, custody, or control of that dog and is considered his or her agreement to protect, indemnify, defend and hold harmless the city from any claim, injury, or damage arising from or in connection with such use. Any person found violating any of the "dog park" rules may be issued a written citation from an animal control officer or a police officer. (Ord. #76-5, March 1976, as amended by Ord. #02-20, Dec. 2002)

CHAPTER 2

DOGS AND CATS

SECTION

10-201. Rabies vaccination required for dogs and cats. In accordance with Tennessee Code Annotated, § 68-8-104, it shall be unlawful for any person to own, keep or harbor in the City of Bartlett any dog, three (3) months or more of age or any cat, six (6) months or more of age which has not been vaccinated against rabies. Rabies vaccinations are to be administered by or under the supervision of a licensed veterinarian, who will prepare a certificate in triplicate, the original to be given to the owner, the first copy filed with the local health department, and the second copy retained by the person administering the vaccine. Every dog owner shall attach a metal tag or other evidence of vaccination to a collar which shall be worn at all times by the dog vaccinated; provided, that the collar may be removed in the case of hunting dogs while in chase or returning from the chase. (Ord. #03-03, April 2003)

10-202. License required for dogs. At the time the rabies vaccination is administered, dog owners and keepers residing within the City of Bartlett shall be required to pay a City of Bartlett license fee of sixteen dollars ($16.00) for a fertile dog. However, the owner or keeper is hereby granted a ten-dollar ($10.00) discount if the dog is spayed or neutered. Therefore, owners and keepers of spayed or neutered dogs may license their animal upon the payment of only six dollars ($6.00). Replacement tags will be available for a fee of three dollars ($3.00). Said license is not transferable. Veterinarians are hereby authorized and required to collect the license fee, which is also known as a tag fee, on behalf of the City of Bartlett; retain one dollar ($1.00) per tag for their expense, and forward the net collections of license fees to the City of Bartlett Finance Department on a monthly basis. (Ord. #03-03, April 2003)

10-203. Animal control and animal shelter rules and regulations.[1] (1) The animal control division supervisor and his/her authorized animal control officers may capture and impound any animal found running at large in violation of § 10-104 and notify the owner, if known. Such animal, if in good health and not vicious, shall be held for at least three (3) business days at the city animal shelter, during which time the owner may identify and redeem the animal upon payment of impound fees, boarding charges, rabies vaccination and license fee if required. After three (3) business days of impoundment, the unclaimed animal will become the property of the City of Bartlett and may be designated for adoption, transferred to the Memphis Animal Shelter, or humanely put to sleep, at the discretion of the animal control division supervisor.

(2) At the time of capture, animals found to be in very poor health or seriously injured may be transported to a veterinary clinic for care at the owner's expense or humanely put to sleep, at the discretion of the animal control division supervisor.

(3) At the time of capture, animals found to be vicious may be isolated from other animals at the animal shelter, transported to the Memphis Animal Shelter or humanely put to sleep, at the discretion of the animal control division supervisor. (Ord. #03-02, April 2003)

10-204. Impound fees and boarding charges. (1) A fee will be charged to any owner who identifies and claims an animal, which has been impounded at the City of Bartlett Animal Shelter. The fee structure is as follows:

(a) Thirty dollars ($30.00) for the first impoundment;

(b) Sixty dollars ($60.00) for the second impoundment within a twelve (12) month period;

(c) Ninety dollars ($90.00) for the third and each subsequent impoundment within a twenty-four (24) month period.

(2) In addition to impound fees, the owner of the animal will be required to pay boarding fees of ten dollars ($10.00) per day for dogs and seven dollars ($7.00) per day for cats. (Ord. #03-02, April 2003)

10-205. Adoptions encouraged. (1) Adoption of unclaimed animals will be encouraged whenever possible. The general health, temperament, case history of the animal and space availability at the shelter will be considered in determining which animals are designated for adoption and how long they will be held for adoption. The adopter shall pay the City of Bartlett Animal Shelter

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[1]Municipal code reference

Special police officers authorized to issue citations in lieu of arrest: § 6-103.

an adoption fee of sixty-five dollars ($65.00) at the time of adoption of either a dog or cat. This fee will compensate the city for:

(a) In the case of a dog: canine distemper, hepatitis, adenovirus cough, parainfluenza, parvo virus and corona virus vaccinations; rabies vaccination and license, heartworm check, bordetella treatment and spay or neuter.

(b) In the case of a cat: panleukopenia, rhinotrachelitis, calcivirus and chlamydia vaccinations and rabies vaccination, leukemia tests and spay or neuter.

(2) The Mayor of the City of Bartlett has the sole authority to adjust the adoption fee for special promotions of adoptions. (Ord. #03-03, April 2003, as amended by Ord. #04-15, Oct. 2004)

10-206. Animals surrendered. Any resident of the City of Bartlett may surrender possession and ownership of any unwanted dog or cat to the City of Bartlett Animal Shelter by delivering it to the shelter and paying a surrender fee of twenty-five dollars ($25.00). Said animal may be designated for adoption, transferred to the Memphis Animal Shelter or humanely put to sleep, at the discretion of the animal control division supervisor. (Ord. #03-02, April 2003)

10-207. Forfeiture established. Any person cited for violating any provision of the ordinances regulating the keeping of animals and fowl may pay a forfeiture of thirty dollars ($30.00) to the city court clerk in lieu of court appearance. (Ord. #83-15, Aug. 1983, as amended by Ord. #90-18, Jan. 1991, Ord. #99-7, May 1999, and Ord. #03-02, April 2003)

TITLE 11

MUNICIPAL OFFENSES[1]

CHAPTER

CHAPTER 1

OFFENSES AGAINST THE PEACE AND QUIET

SECTION

11-101. Automobile radios and tape players and similar audio devices; volume limited. (1) It shall be unlawful for any person, while driving or operating a vehicle on a public street or highway, to play or permit a passenger to play any radio, tape player, compact disc player, loud speaker, or any other electrical device used for the amplification of sound so loudly that the driver cannot hear the audible warning signals of an approaching emergency vehicle.

(2) A violation of this section shall be punishable by a fine of no less than ten dollars ($10.00) nor more than fifty dollars ($50.00). (Ord. #86-19, Aug. 1986, modified)

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[1]Municipal code references
Alarm system standards: title 20, chapter 4.
Animal control: title 10.
Housing and utility codes: title 12.
Fireworks and explosives: title 7.
Traffic offenses: title 15.
Streets and sidewalks (non-traffic): title 16.

11-102. Noise curfew imposed. It shall be unlawful for any person, organization, corporation, group or agent or representative, invitee, or employee thereof to make any loud or disturbing noise in the City of Bartlett, particularly between the hours of 11:00 P.M. and 7:00 A.M. or at any time or place so as to annoy or disturb the quiet, comfort or repose of any person in the vicinity. (Ord. #71-3, Aug. 1971, as amended by Ord. #03-16, Aug. 2003)

11-103. Loud, disturbing and unnecessary noises generally. The creation of any unreasonably loud, disturbing and unnecessary noise within the limits of the city is prohibited. Any noise of such character, intensity or duration as to be detrimental to the life, or health of any individual, or in disturbance of the public peace and welfare is prohibited. (Ord. #71-3, Aug. 1971)

11-104. Muffler cutout prohibited. It shall be unlawful to use a muffler cutout on any motor vehicle upon any street or roadway of the City of Bartlett. (Ord. #71-3, Aug. 1971)

CHAPTER 2

FIREARMS, WEAPONS AND MISSILES

SECTION

11-201. Air rifles, etc. (1) It shall be unlawful to shoot air rifles, air pistols, carbon dioxide rifles and pistols within the corporate limits of the City of Bartlett, Tennessee.

(2) The penalty for the violation of the section shall be not less than five dollars ($5.00) nor more than fifty dollars ($50.00) for each offense, the fines to be imposed by the judge sitting in court. (Ord. #63-2, April 1963)

11-202. Discharge of firearms within the city limits prohibited.

(1) It shall be unlawful for any person to shoot or fire a firearm within the corporate limits of the City of Bartlett, Tennessee.

(2) A firearm is defined as any pistol or rifle of a 22 caliber or larger caliber, and a shotgun of 410 gauge or larger.

(3) Any person violating any provision of this section shall be guilty of a misdemeanor, and upon conviction, shall be fined not more than ten dollars ($10.00) for each offense. Each violation shall constitute a separate offense. (Ord. #58-1, Jan. 1958)

11-203. Shooting ranges and discharge of rifles, etc. permitted under certain circumstances. It shall not be prohibited to discharge a firearm at an approved practice range, after same shall be inspected and approved for operation by the chief of police, said approval not to be unreasonably withheld according to reasonable safety practices and construction and said approval may be revoked upon violation of said reasonable safety practices and construction, the action of the chief of police in refusing approval or revoking same being appealable for final determination by the board of mayor and aldermen. (Ord. #79-25, Aug. 1979)

CHAPTER 3

MISCELLANEOUS

SECTION

11-301. Abusive or insulting language. It shall be unlawful for any person to address any abusive or insulting language to another. (Ord. #71-3, Aug. 1971)

11-302. Curfews. (1) Definition. The following words and phrases, when used in this section, shall have the meanings respectively ascribed to them:

(2) Curfew established; exceptions; duties of apprehending authority.

(a) It is unlawful for any minor between seventeen (17) and eighteen (18) years of age to remain in or upon any public street, highway, park, vacant lot, establishment or other public place within the City of Bartlett during the following time frames:

(i) Monday through Thursday between the hours of eleven o'clock (11:00) P.M. to six o'clock (6:00) A.M.

(ii) Friday through Sunday between the hours of twelve o'clock (12:00) midnight to six o'clock (6:00) A.M.

(b) It is unlawful for any minor sixteen (16) years of age and under to remain in or upon any public street, highway, park, vacant lot, establishment or other public place within the City of Bartlett during the following time frames:

(i) Monday through Thursday between the hours of ten o'clock (10:00) P.M. to six o'clock (6:00) A.M.

(ii) Friday through Sunday between the hours of eleven o'clock (11:00) P.M. to six o'clock (6:00) A.M.

(c) It is unlawful for a parent or guardian of a minor to knowingly permit or by inefficient control to allow such minor to be or remain upon any street or establishment under circumstances not constituting an exception to, or otherwise beyond the scope of subsections (a) or (b). The term "knowingly" includes knowledge which a parent or guardian should reasonably be expected to have concerning the

whereabouts of a minor in that parent's legal custody. The term concerning "knowingly" is intended to continue to keep neglectful or careless parents up to a reasonable community standard of parental responsibility through an objective test. It is not a defense that a parent was completely indifferent to the activities or conduct or whereabouts of such minor child.

(d) The following are valid exceptions to the operation of the curfew:

(i) At any time, if a minor is accompanied by such minor's parent or guardian;

(ii) When accompanied by an adult authorized by a parent or guardian of such minor to take such parent or guardian's place in accompanying the minor for a designated period of time and purpose within a specified area;

(iii) Until the hour of twelve-thirty (12:30) A.M., if the minor is on an errand as directed by such minor's parent;

(iv) If the minor is legally employed, for the period of forty-five (45) minutes before to forty-five (45) minutes after work, while going directly between the minor's home and place of employment. This exception shall also apply if the minor is in a public place during the curfew hours in the course of the minor's employment. To come within this exception, the minor must carry written evidence of employment which is issued by the employer;

(v) Until the hour of twelve-thirty (12:30) A.M. if the minor is on the property of or the sidewalk directly adjacent to the place where such minor resides of the place immediately adjacent thereto, if the owner of the adjacent building does not communicate an objection to the minor and the law enforcement officer;

(vi) When returning home by a direct route from (and within thirty (30) minutes of the termination of) a school activity or an activity of a religious or other voluntary association, or a place of public entertainment, such as a movie, play or sporting event. This exception does not apply beyond one o'clock (1:00) A.M.

(vii) In the case of reasonable necessity, but only after such minor's parent has communicated to law enforcement personnel the facts establishing such reasonable necessity relating to specified streets at a designated time for a described purpose including place of origin and destination. A copy of such communication, or the record thereof, an appropriate notation of the time it was received and the names and addresses of such parent or guardian and minor constitute evidence of qualification under this exception;

(viii) When exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech and the right of assembly. A minor shall show evidence of the good faith of such exercise and provide notice to the city officials by first delivering to the appropriate law enforcement authority a written communication, signed by such minor, with the minor's home address and telephone number, addressed to the mayor of the city specifying when, where and in what manner the minor will be on the streets at night during hours when the curfew is still otherwise applicable to the minor in the exercise of a First Amendment right specified in such communication; and

(ix) When a minor is, with parental consent, in a motor vehicle engaged in good faith interstate travel. Each of the foregoing exceptions, and the limitations are severable.

(e) When any child is in violation of this section, the apprehending officer shall act in one (1) of the following ways:

(i) In the case of a first violation, and if the opinion of the officer, such action would be effective, take the child to the child's home and warn and counsel the parents or guardians;

(ii) Issue a summons to the child and/or parents or guardians to appear at the juvenile court; or

(iii) Bring the child into the custody of the juvenile court for disposition.

(f) (i) A minor violating the provisions of this section shall commit an unruly act disposition of which shall be governed pursuant to Tennessee Code Annotated, title 37.

(ii) Any parent, guardian, or other person having the care, custody and control of a minor violating the provisions of this section commits a Class C misdemeanor and shall be fined no more than fifty dollars ($50.00) for each offense; each violation of the provisions of this section shall constitute a separate offense. (Ord. #96-11, Sept. 1996)

11-303. Distribution of handbills regulated. (1) Any person, organization, corporation or group which wants to pass out, hand out or distribute handbills, place handbills on motor vehicles or distribute handbills, circulars or any form of paper writing or any item of any nature must first before entering upon privately owned public access property either for profit or not for profit, any person, organization, corporation or group must first obtain permission in writing from the owner, manager or supervisor of the property.

(2) Violation of this section shall be a misdemeanor and subject to misdemeanor fines and penalties. (Ord. #93-16, Aug. 1993)

11-304. Swimming, bathing, skating, sledding, etc. on any city-owned lake, pond, detention basin, or other public waterway prohibited.[1] (1) Swimming, bathing or wading in (or walking, skating or sledding on when frozen) any waters, ponds, lakes, detention basins or waterways on any city-owned or managed property is prohibited unless a permit is obtained from the City of Bartlett Chief of Police.

(2) Penalty. Violations of this section shall be a misdemeanor and subject to misdemeanor fines and penalties. (Ord. #00-12, July 2000)

11-305. Smoking prohibited in certain public places and areas.

(1) Definitions. (a) "Restaurant" means any eating place which is open to the public, having a seating capacity of fifty (50) individuals or more.

(b) "Smoking" includes carrying a lighted cigar, cigarette, cigarillo, pipe or any other lighted smoking material and/or equipment.

(2) Areas affected. Smoking in certain enclosed areas has been determined to be injurious to human health, to constitute a source of annoyance and discomfort to nonsmokers, and to be a public nuisance. Therefore:

(a) Smoking shall be unlawful and prohibited in:

(i) All public elevators;

(ii) Any theater, hall, hotel, public building, store, warehouse, factory, or on the premises of any establishment, public conveyance or anywhere that smoking is dangerous, provided signs of a suitable size are posted in such places where they can be seen;

(iii) All publicly or privately owned restaurants or other eating establishments, as defined herein, except that the prohibition shall not apply to any such eating establishment which maintains a nonsmoking area adequate to meet demand and which informs all patrons that a nonsmoking area is provided. At the request of the patron, the patron shall be seated in the nonsmoking area. This prohibition shall not apply to any rooms being used for private functions. Notwithstanding the provisions of this subsection, any owner or person in charge of a business activity hereby governed may designate the restaurant as a nonsmoking area in its entirety.

(iv) All enclosed areas open to the public in any shopping area of a retail merchandising store, including grocery stores, having more than five (5) employees; however, nothing herein shall prevent areas other than shopping areas from being established for "smoking" and "non-smoking" employees and/or patrons by posting proper signs.

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[1]Municipal code reference

Public swimming pools: title 9, chapter 8.

(b) Nonsmoking areas shall be designated by the person in charge of all hospital lobbies and waiting rooms. After such designation, smoking shall be unlawful and prohibited in such areas.

(3) Both the places described in the foregoing subsection (2)(a) and the areas designated as nonsmoking areas pursuant to foregoing subsection (2)(b) shall henceforth be referred to as "nonsmoking areas."

(a) Exception. This section is not intended to regulate smoking in retail stores whose sales consists principally of tobacco or tobacco related product sales.

(b) Note requirements. The proprietor or other person in charge of any of the places or areas described in subsection (2)(a) above shall post and maintain conspicuous signs in all nonsmoking areas, advising the public that smoking is prohibited therein, describing generally the perimeters of the nonsmoking area, and stating the penalty for violation of the prohibition in language similar to the following:

NO SMOKING
(general description of nonsmoking area)
Up to $50.00 fine

(c) Penalties. Any person or entity who fails to post and maintain the signs required by this section is guilty of a misdemeanor punishable by a fine of up to fifty dollars ($50.00) per required sign for each day during which a required sign is either not posted or not maintained. Any person who smokes or carries a lighted cigar, cigarette, cigarillo, pipe or any other lighted smoking material and/or equipment in a nonsmoking area is guilty of a misdemeanor punishable by a fine of up to fifty dollars ($50.00).

(d) Injunction. The director of the county health department, the director of city police services division, the director of the city fire services division, or any adversely affected party may institute an action to enjoin repeated violations of this section in any court of competent jurisdiction. (Ord. #89-13, Sept. 1989)

11-306. <u>Water crafts, boats, etc. on any city-owned lake, pond, detention basin or other public waterways prohibited</u>. (1) No person shall bring into or operate any motorized watercraft, excluding remote controlled model watercraft, upon any public waters, ponds, detention basins or any other publicly owned or managed waterway. The mayor shall have the authority to allow exceptions.

(2) <u>Penalty</u>. Violations of this section shall be a misdemeanor and subject to misdemeanor fines and penalties. (Ord. #00-11, July 2000, as amended by Ord. #17-08, Jan. 2018)

CHAPTER 4

TRESPASSING

SECTION

11-401. Trespassing. (1) On premises open to the public.

(a) It shall be unlawful for any person to defy a lawful order, personally communicated to him by the owner or other authorized person, not to enter or remain upon the premises of another, including premises which are at the time open to the public.

(b) The owner of the premises, or his authorized agent, may lawfully order another not to enter or remain upon the premises if such person is committing, or commits, any act which interferes with, or tends to interfere with, the normal, orderly, peaceful or efficient conduct of the activities of such premises.

(2) On premises closed or partially closed to public. It shall be unlawful for any person to knowingly enter or remain upon the premises of another which is not open to the public, notwithstanding that another part of the premises is at the time open to the public.

(3) Vacant buildings. It shall be unlawful for any person to enter or remain upon the premises of a vacated building after notice against trespass is personally communicated to him by the owner or other authorized person or is posted in a conspicuous manner.

(4) Lots and buildings in general. It shall be unlawful for any person to enter or remain on or in any lot or parcel of land or any building or other structure after notice against trespass is personally communicated to him by the owner or other authorized person or is posted in a conspicuous manner.

(5) Peddlers, etc. It shall also be unlawful and deemed to be a trespass for any peddler, canvasser, solicitor, transient merchant, or other person to fail to promptly leave the private premises of any person who requests or directs him to leave.

CHAPTER 5

DELETED

[this chapter was deleted by Ord. #18-01, March 2018]

CHAPTER 6

GAMBLING[1]

[1]State law reference
Gambling: Tennessee Code Annotated, §§ 39-17-501--39-17-509.

TITLE 12

BUILDING, UTILITY, ETC. CODES

CHAPTER

CHAPTER 1

BUILDING CODE[1]

SECTION

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[1]Municipal code references
Design review commission: title 2, chapter 1.
Fire protection, fireworks, and explosives: title 7.
Planning and zoning: title 14.
Streets and other public ways and places: title 16.
Subdivision regulations: Appendix B.
Utilities and services: titles 18 and 19.

12-101. Building code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of regulating the construction, alteration, repair, use, occupancy, location, maintenance, removal, and demolition of every building or structure or any appurtenance connected or attached to any building or structure, the International Building Code,[1] 2021 edition (with city amendments), as prepared and adopted by the International Code Council, is hereby adopted and incorporated by reference as a part of this code, and is hereinafter referred to as the building code. (Ord. #02-02, Feb. 2002, as amended by Ord. #07-11, Nov. 2007, Ord. #11-04, April 2011, Ord. #18-06, Nov. 2018 ***Ch7_12-08-20***, and Ord. #22-03, Aug. 2022 ***Ch8_08-09-22***)

12-102. Modifications. Definitions. Whenever the building code refers to the "Chief Appointing Authority" or the "Chief Administrator," it shall be deemed to be a reference to the board of mayor and aldermen. When the "Building Official" or "Director of Public Works" is named it shall, for the purposes of the building code, mean such person as the board of mayor and aldermen has appointed or designated to administer and enforce the provisions of the building code.

12-103. Available in clerk's office. Pursuant to the requirements of the Tennessee Code Annotated, § 6-54-502 one (1) copy of the building code has been placed on file in the clerk's office and shall be kept there for the use and inspection of the public.

12-104. Fees for amending permits. After a permit has been issued and an amendment or supplemental revision is applied for, the additional fee or service charge shall be as follows:

(1) For each and every amendment which involves additional work, not originally applied for to complete the entire project, the additional fee shall be the normal fee for the work contemplated and shall be computed disregarding

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[1]Copies of this code (and any amendments) may be purchased from the City of Bartlett's Code Enforcement Department.

the valuation of the work previously permitted. Fee for issuing a permit shall be four dollars ($4.00).

(2) For each and every amendment or supplement not involving additional work by square footage, volume, or dollar value, the minimum fees normally required for such work shall apply, even though the project dollar value or building volume may decrease (minimum fee of twenty dollars [$20.00]). (Ord. #02-02, Feb. 2002)

12-105. Work commencing before permit issuance. In case any work requiring a permit is started prior to obtaining said permit, as a penalty for violating this code, the total normal fee applicable shall be doubled. The payment of said fee shall not relieve any persons from fully complying with the requirements of this code for performance or execution of the work, nor from other penalties prescribed by law. (Section 104.7.2) (Ord. #02-02, Feb. 2002)

12-106. Special tax. The uncollected cost of repairing, vacating, or taking down and removing an unsafe building may be certified to the county trustee. It shall then be the duty of the county trustee to place the amount so certified on the bill for the county taxes assessed against the property on which said dangerous structure was located. It shall be the duty of the county trustee to collect as a special tax the amount so certified, which is hereby declared to be a special tax on said property. This special tax may be collected in the same manner as other general taxes are collected by the county. (Ord. #02-02, Feb. 2002)

12-107. Demolition of structures. (1) For permits to demolish structures as provided for in § 12-120, the fees shall be at the rate of eight dollars ($8.00) for each twenty-five thousand (25,000) cubic feet, or fraction thereof, with a minimum fee of sixty dollars ($60.00) and a maximum fee of five hundred dollars ($500.00).

(2) Imploded structures. For permits to implode structures as provided in § 12-120, the fees shall be at the rate of one thousand dollars ($1,000.00). (Ord. #02-02, Feb. 2002)

12-108. Removal or moving of structures. The permit fee to move or remove a structure, as provided in § 12-120, shall be two hundred dollars ($200.00). For the placement, repair and/or renovation of said structure, the fee shall be charged as in § 12-109. (Ord. #02-02, Feb. 2002)

12-109. <u>New construction and addition to buildings other than one-and two family dwellings</u>. (1) The fee for a building permit[1] for new construction, or for an addition to an existing structure, shall be based on the total construction cost (valuation) of said construction, addition, alteration, or repair, and shall be determined by the following subsections. However, the minimum permit fee shall be forty dollars ($40.00).

(2) When the valuation is less than twenty five thousand dollars ($25,000.00), the fee shall be four dollars ($4.00) per one thousand dollars ($1,000.00) of valuation or any fraction thereof.

(3) When the valuation is as much as twenty five thousand and one dollars ($25,001.00), but less than one million dollars ($1,000,000.00), the fee shall be one hundred dollars ($100.00) plus three dollars ($3.00) for each additional one thousand dollars ($1,000.00) of valuation or any fraction thereof above the valuation of twenty five thousand dollars ($25,000.00).

(4) When the valuation is as much as one million and one dollars ($1,000,001), but less than twenty-five million dollars ($25,000,000), the fee shall be three thousand and twenty-five dollars ($3,025.00) plus two dollars ($2.00) for each additional one thousand dollars ($1,000.00) of valuation or any fraction thereof above the valuation of one million dollars ($1,000,000).

(5) When the valuation is as much as twenty-five million and one dollars ($25,000,001), the fee shall be fifty-one thousand and twenty-five dollars ($51,000,025) plus one dollar and fifty cents ($1.50) for each additional one thousand dollars ($1,000.00) of valuation or any fraction thereof above the valuation of twenty-five million dollars ($25,000,000). (Ord. #02-02, Feb. 2002)

12-110. <u>One and two family dwellings</u>. (1) The permit fee for alterations or repairs to a one-two family dwelling, building or structure shall be based on the total construction cost (valuation) of alterations or repairs, and shall be charged at a rate of four dollars ($4.00) per one thousand dollars ($1,000.00) or fraction thereof. The minimum fee for any permit shall be forty dollars ($40.00)

(2) The permit fee for new construction, or addition of more than four hundred (400) square feet for one-two family dwelling, building or structure shall be charged at the rate of five cents ($0.05) per square foot or fraction thereof. The minimum fee for new construction of a one-two family dwelling, building or structure permit shall be one hundred twenty-five dollars ($125.00) and the minimum fee for addition of more than four hundred (400) square feet to an existing one-two family dwelling, building or structure permit shall be ninety dollars ($90.00). Minimum fee for addition of less than four hundred (400) square feet to an existing one-two family dwelling, building or structure permit shall be forty dollars ($40.00). All above areas shall include, but not be

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[1]Municipal code reference

Submittals of permit application to Design Review Commission: § 2-109.

limited to, living area, porches, carports, canopies, garages, and storage areas. The permit fee of one hundred twenty-five dollars ($125.00) includes the fees for the new installation of sidewalks and curb cuts.

(3) Exceptions. Detached one-story residential accessory buildings, carports, canopies, garages or patios not exceeding one hundred (100) square feet will have a minimum fee of twenty dollars ($20.00). Accessory buildings exceeding one hundred (100) square feet but not exceeding six hundred (600) square feet shall have a fee of thirty dollars ($30.00). Residential accessory buildings exceeding six hundred (600) square feet shall be calculated at five cents ($0.05) per square foot. (Ord. #02-02, Feb. 2002)

12-111. Fees for appurtenances to buildings and other structures and apparatus. The permit fee for the installation of the following shall not be less than sixty dollars ($60.00) for the first two hundred fifty thousand dollars ($250,000.00) of valuation, and one dollar ($1.00) for each one thousand dollars ($1,000.00) more than two hundred fifty thousand dollars ($250,000.00):

(1) Conveyor systems;
(2) Process piping systems;
(3) Racking systems/shelving. (Ord. #02-02, Feb. 2002)

12-112. Fees for miscellaneous construction. (1) The fee for a permit for the construction of a tower, wall, fence, stack, swimming pool, or other similar type structure; and the fee for a permit for the addition, alteration, or the repair to such structure shall be based on the total construction (valuation) of the work to be done and shall be eight dollars ($8.00) per one thousand dollars ($1,000.00) or fraction thereof. The minimum fee for any permit shall be sixty dollars ($60.00). Permits for fences for one-two family dwellings shall be ten dollars ($10.00).

(2) The permit fee for tents, special events, special sales promotions, beer check and amusement rides shall be sixty dollars ($60.00).

(3) The permit fee for temporary construction trailers (job shack) for a period of six (6) months shall be sixty dollars ($60.00).

(4) The fee for a permit for the repair, construction or installation of an automated gate, wall, fence, or other similar type structure or vehicular access control device; and the fee for a permit for the addition, alteration, or the repair of such structure shall be based on the total construction (valuation) of the work to be done. The fee shall be four dollars ($4.00) per one thousand dollars ($1,000.00) of valuation or any fraction thereof with a minimum fee of twenty dollars ($20.00).

(5) The fee for a permit for the construction of decks and spas, or other similar type structure; and the fee for a permit for the addition, alteration, or the repair to such structure shall be forty dollars ($40.00). (Ord. #02-02, Feb. 2002)

12-113. Curb cuts, driveway entrances and exits. (1) The fee for curb cuts on public property, either new or replacement, shall be six cents ($0.06) per square foot; however, no less than thirty dollars ($30.00) per permit will be charged.

Exception. The fee for new installation of curb cuts for one-two family dwellings is included under § 12-110(2).

(2) The fee for new sidewalks on public property shall be thirty dollars ($30.00).

Exception. The fee for new installation of sidewalks for one-two family dwellings is included under § 12-110(2).

(3) The fee for replacing existing sidewalks on residential property is hereby waived. (Ord. #02-02, Feb. 2002)

12-114. Refunds. Permit fees may be refunded if no work has commenced and a request for refunds is submitted to the building official in writing by the permittee within six (6) months of the date of issuance. The permit is surrendered when a request for refund is submitted. The amount of the refund will be two thirds (⅔) of the permit fee, but in no case will the amount retained by the City of Bartlett be less than sixty dollars ($60.000). (Ord. #02-02, Feb. 2002)

12-115. Certificates of use and occupancy. (1) No charge shall be made for a certificate of use and occupancy for a structure when it is issued upon the satisfactory completion of new construction, addition, alteration, or repair work under a valid permit. When a certificate is issued under the provisions of section 106, the fee shall be sixty dollars ($60.00). The fee charged for such certificates shall be in addition to those which may be required for any specific tests and/or inspections of special features or equipment which are otherwise required by this or any code.

(2) For hazardous occupancies, the certificate of occupancy will be limited to a twelve (12) month period. Upon approval by the building official and before issuance or re-issuance of said certificate, the applicant will pay a fee of two hundred dollars ($200.00). (Ord. #02-02, Feb. 2002)

12-116. Reinspection fee for excessive or unessential inspection calls. (1) An additional fee shall be charged for the first reinspection of thirty dollars ($30.00), and for each additional inspection thereafter, until the violation(s) is corrected, a fee of fifty dollars ($50.00) shall be charged.

EXCEPTION: Due to the complicated nature of a framing inspection, one free reinspection shall be given on each building permit. All reinspections occurring after this shall be charged as listed.

(2) Any person, firm, or corporation aggrieved by the assessment of any reinspection fee may appeal to the building official for a review of the facts involved and a possible reduction or dismissal of said fees. (Ord. #02-02, Feb. 2002)

12-117. Fees forfeited. The permit fees will be forfeited on any permit invalidated because work was not commenced as set forth in § 104.1.6. (Ord. #02-02, Feb. 2002)

12-118. Building permit valuations. If, in the opinion of the building official, the valuation of building, alteration, or structure appears to be underestimated on the application, the permit shall be denied unless the applicant can show detailed, estimated total construction costs to meet the approval of the building official. Permit valuations shall include total costs, such as plumbing, electrical, mechanical equipment, and other systems. As a guide line to determine an average construction cost per square foot, we will reference the building valuation data table published periodically by ICC. (Ord. #02-02, Feb. 2002)

12-119. Project review fee. Applications for building project review shall be accompanied by copies of drawings required in section 104.2 and a nonrefundable fee in accordance with the following schedule:

One-Two family dwellings	No Charge
All other building occupancies	
$0-$25,000 total valuation	$50.00
$25,001-$50,000 total valuation	$100.00
$50,001-$100,000 total valuation	$150.00
$100,001-$200,000 total valuation	$200.00
$200,001-$300,000 total valuation	$300.00
$300,001-$400,000 total valuation	$400.00
$400,001-$500,000 total valuation	$500.00
$500,001 and up	$600.00

(Ord. #02-02, Feb. 2002)

12-120. Building permit and inspection fees.

Section title	2002 Fees
Fees for Amending Permits	
Fees for Issuing Permits	$4.00
Work for commencing before the permit issuance (shall be doubled)	Double Fee
Demolition	
For each 25,000 cubic feet	$8.00
Minimum fee of	$60.00
Maximum fee of	$500.00
Imploded structures flat fee	$1,000.00
Removal or moving of structures	$200.00
New construction and additions to building other than one-two family dwelling	

Section title	2002 Fees
Minimum fee of	$40.00
<$25>$25,000 per $1,000	$4.00
$25,000<$1,000,000-$100 plus $3.00 for each additional $1,000 above $25,000	$3.00
$1,000,001<$25 million-$3025.00 plus $2.00 for each additional $1,000 above $1 million	$2.00
$25,000,001 and above-$51,025.00 plus $1.50 for each $1,000 above $25 million	$1.50
One and two family dwelling	
Alteration and repair-per $1,000	$4.00
Minimum fee of	$60.00
New construction of or addition to per square foot	$0.05
Minimum fee for new construction of a one-two family dwelling, building or structure	$125.00
Minimum fee for addition of more than 400 square feet to an existing one-two family dwelling, building or structure permit shall be $90.	$90.00
Minimum fee for addition not exceeding 400 square feet to an existing one-two family dwelling, building or structure permit shall be $40.	$40.00
Exception: minimum fee for detached one-story residential accessory building, carport, canopies, garage, or patio not exceeding 100 square feet	$20.00
Residential detached accessory building exceeding 100 square feet but not exceeding 600 square feet shall be $30.00	$30.00
Residential detached accessory building exceeding 600 square feet	$0.05
Permits required for appurtenances to building and other structures and apparatus; conveyor systems, process piping system, racking system per $1,000 ($60 for 1st $250,000; $1 for each additional $1,000 more than $250,000	$60/1st 250 $1.00 addl.
Fees for miscellaneous construction-$1,000	$8.00
Minimum fee for miscellaneous construction	$60.00
Minimum fee for one-two family dwelling fences	$10.00
Tents, special events, special sales promotions, beer checks, amusement rides, etc.	$60.00
Temporary construction trailer (6 months)	$60.00
Permit for the repair, construction or installation of automated gates, wall fence, or other similar type structure or vehicular access control device	$20 minimum $4/$1000
Permit for the construction, addition, alteration, or repair of decks and spas	$40.00

Section title	2002 Fees
Curb cuts, driveway entrances and exits	
Commercial curb cuts, driveway entrances and exits	$0.06/$30
Commercial sidewalks on public right-of-way	$30.00
Residential curb cuts, driveway entrances and exits installed with the construction of a new house	no charge
Replace existing	no charge
All others per square foot	$0.06/$30
Refunds 2/3 of fee-minimum fee	$60.00
Certificate of use and occupancy	
With an active building permit (issued)	$0
Without an active building permit (issued)	$60.00
Hazardous occupancies	$200.00
Re-inspection fees	
First re-inspection fee	$30.00
Additional re-inspection fee beyond the first	$50.00
Project review	
One-two family dwelling	No fee
$0-$25,000 total valuation	$50.00
$25,001-$50,000 total valuation	$100.00
$50,001-100,000 total valuation	$150.00
$100,001-$200,000 total valuation	$200.00
$200,001-$300,000 total valuation	$300.00
$300,001-$400,000 total valuation	$400.00
$400,001-$500,000 total valuation	$500.00
$500,001 and up	$600.00

(Ord. #02-02, Feb. 2002)

12-121. Violations and penalty. It shall be unlawful for any person to violate or fail to comply with any provision of the building code as herein adopted by reference and modified. The violation of any section of this chapter shall be punishable by a penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense.

CHAPTER 2

PLUMBING CODE[1]

SECTION

12-201. Plumbing code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506 and for the purpose of regulating plumbing installations, including alterations, repairs, equipment, appliances, fixtures, fittings, and the appurtenances thereto, within or without the city, when such plumbing is or is to be connected with the city water or sewerage system, the International Plumbing Code,[2] 2021 edition (with city amendments), and the International Residential Plumbing Code,[2] 2018 edition (with city amendments), as prepared and adopted by the International Code Council, are hereby adopted and incorporated by reference as a part of this code and is hereinafter referred to as the plumbing code. (Ord. #02-02, Feb. 2002, as amended by Ord. #07-11, Nov. 2007, Ord. #11-04, April 2011, Ord. #18-06, Nov. 2018 ***Ch7_12-08-20***, and Ord. #22-03, Aug. 2022 ***Ch8_08-09-22***)

12-202. Modifications. (1) Definitions. Wherever the plumbing code refers to the "Chief Appointing Authority," the "Administrative Authority," or the "Governing Authority," it shall be deemed to be a reference to the board of mayor and aldermen.

(2) Wherever "City Engineer," "Engineering Department," "Plumbing Official," or "Inspector" is named or referred to, it shall mean the person appointed or designated by the board of mayor and aldermen to administer and enforce the provisions of the plumbing code.

12-203. Available in clerk's office. Pursuant to the requirements of Tennessee Code Annotated, § 6-54-502 one (1) copy of the plumbing code has

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[1]Municipal code references
Cross connections: title 18.
Street excavations: title 16.
Wastewater treatment: title 18.
Water and sewer system administration: title 18.

[2]Copies of these codes (and any amendments) may be purchased from the City of Bartlett's Code Enforcement Department.

been placed on file in the clerk's office and shall be kept there for the use and inspection of the public.

12-204. Plumbing permit and inspection fees. (1) Fees for amending permits. After a permit has been issued and an amendment or supplemental revision is applied for, the additional fee or service charge shall be as follows:

(a) For each and every amendment which involves additional work, not originally applied for to complete the entire project, the additional fee shall be the normal fee for the work contemplated and shall be computed disregarding the valuation of the work previously permitted. Fee for issuing a permit shall be four dollars ($4.00).

(b) For each and every amendment or supplement not involving additional work by square footage, volume, or dollar value, the minimum fees normally required for such work shall apply, even though the project dollar value or building volume may decrease. A minimum fee of twenty dollars ($20.00) is required.

(2) Work commencing before permit issuance. In case any work requiring a permit is started prior to obtaining said permit, as a penalty for violating this chapter, the total normal fee applicable shall be doubled. The payment of said fee shall not relieve any persons from fully complying with the requirements of this chapter for performance or execution of the work, nor from other penalties prescribed by law. (Section 104.7.2).

(3) Schedule of fees. (a) The fee for each permit shall start with a base fee of seven dollars and fifty cents ($7.50) shall be computed as follows: for any installation or alteration of fixtures, including floor drains, deep seal trap, grease traps, roof drains, indirect waste openings, and other appurtenances connected to the plumbing system, the fee will be seven dollars and fifty cents ($7.50) for each fixture, but not less than the minimum fee.

(b) The fee for any alteration or replacement of more than fifty (50) percent or over twenty (20) feet of a house sewer or residential building sewer, or tap installation by other than a public agency, will be thirty dollars ($30.00). For commercial sewer this fee will be based on the valuation of the work. The fees shall be charged at eight dollars ($8.00) per one thousand dollar ($1,000.00) of valuation with a minimum fee of one hundred dollars ($100.00).

(c) The fee for the original installation of any water service pipe shall be twenty dollars ($20.00) when the diameter of the service is one (1) inch or less; thirty dollars ($30.00) when the diameter of the service is more than one (1) inch, but not more than two (2) inches; over two (2) inches shall be charged at eight dollars ($8.00) per one thousand dollars ($1,000.00) of valuation with a minimum fee of two hundred dollars ($200.00).

(d) Sewer turnaround fee shall be one thousand five hundred dollars ($1,500.00).

(4) Minimum permit fee. The minimum fee for any permit shall be fifteen dollars ($15.00).

(5) Filing application for board of appeals. Notice of board of appeals under section 108 shall be accompanied by a fee of one hundred dollars ($100.00).

(6) Refunds. Permit fees may be refunded if no work has commenced and a request for refunds is submitted to the building official in writing by the permittee within six (6) months of the date of issuance. The permit is surrendered when a request for refund is submitted. The amount of the refund will be two-thirds (⅔) of the permit fee, but in no case will the amount retained by the City of Bartlett be less than fifteen dollars ($15.00).

(7) Re-inspection fee for excessive or unessential inspection calls.

(a) An additional fee shall be charged for the first re-inspection of thirty dollars ($30.00), and for each additional inspection thereafter, until the violation(s) is corrected, a fee of fifty dollars ($50.00) shall be charged. NOTE: Re-inspection fees shall be paid before final inspection.

(b) Any person, firm, or corporation aggrieved by the assessment of any re-inspection fee may appeal to the building official for a review of the facts involved and a possible reduction or dismissal of said fees.

(8) Turnarounds. Fee shall be set forth in subsection (3) of this section.

(9) Sewer connection or replacement, residential. For each residential sewer connection or sewer replacement there is a fee of thirty dollars ($30.00) which must be added to the plumbing permit.

Section Title	2002 Fees
Fees for amending permit	
Fees for issuing permits	$4.00
Amendments-minimum fee	$20.00
Work commencing before the permit issuance	Double fee
Schedule of fees	
Installation or alteration of...for each fixture	$7.50
Alteration or replacement of <50% house sewer or <20' or tap installation	$30.00
Commercial sewer-replacement or alteration-$8/$1000 valuation-minimum fee $100	$8/$1000 or minimum $100
Original installation of water service	
> 1 inch	$20.00
< 1 inch > 2 inch	$30.00
<2 inch-$8/$1000 valuation-minimum fee $200	$8/$1000 or minimum $200
Sewer turnaround	$1,500
Minimum permit fee	$15.00
Filing to board of appeals	$100

Refunds 2/3 of fee-minimum fee	$15.00
Re-inspection fees	
First re-inspection fee	$30.00
Additional fee beyond the first	$50.00
Sewer turnaround	See subsection (3)(d)

(Ord. #02-02, Feb. 2002)

12-205. Violations and penalty. It shall be unlawful for any person to violate or fail to comply with any provision of the plumbing code as herein adopted by reference and modified. The violation of any section of this chapter shall be punishable by a penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense.

CHAPTER 3

ELECTRICAL CODE[1]

SECTION

12-301. Electrical code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506 and for the purpose of providing practical minimum standards for the safeguarding of persons and of buildings and their contents from hazards arising from the use of electricity for light, heat, power, radio, signaling, or for other purposes, the National Electrical Code,[2] 2017 edition (with city amendments), as prepared by the National Fire Protection Association, is hereby adopted and incorporated by reference as a part of this code and is hereinafter referred to as the electrical code. (Ord. #02-02, Feb. 2002, as amended by Ord. #07-11, Nov. 2007, Ord. #11-01, Feb. 2011, Ord. #18-06, Nov. 2018 ***Ch7_12-08-20***, and Ord. #22-03, Aug. 2022 ***Ch8_08-09-22***)

12-302. Modifications. Definitions. Whenever the electrical code refers to the "Chief Administrator," it shall be deemed to be a reference to the board of mayor and aldermen. When the "Building Official" is named it shall, for the purposes of the electrical code, mean such person as the board of mayor and aldermen has appointed or designated to administer and enforce the provisions of the electrical code.

12-303. Available in clerk's office. Pursuant to the requirements of Tennessee Code Annotated, § 6-54-502, one (1) copy of the electrical code has been placed on file in the clerk's office and shall be kept there for the use and inspection of the public.

12-304. Electrical permit and inspection fees. (1) Fees for amending permits. After a permit has been issued and an amendment or supplemental revision is applied for, the additional fee or service charge shall be as follows:

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[1]Municipal code reference
Fire protection, fireworks and explosives: title 7.

[2]Copies of this code (and any amendments) may be purchased from the National Fire Protection Association, 1 Batterymarch Park, Quincy, Massachusetts 02269-9101.

(a) For each and every amendment which involves additional work, not originally applied for to complete the entire project, the additional fee shall be the normal fee for the work contemplated and shall be computed disregarding the valuation of the work previously permitted. Fee for issuing a permit shall be four dollars ($4.00).

(b) For each and every amendment or supplement not involving additional work by square footage, volume, or dollar value, the minimum fees normally required for such work shall apply, even though the project dollar value or building volume may decrease. Minimum fee of twenty dollars ($20.00).

(c) Fee(s) for amendments or supplements shall be paid to re-inspection.

(2) Work commencing before permit issuance and penalty. (a) In case work requiring a permit is started prior to obtaining said permit, as a penalty for violating this code, the total normal fee applicable shall be doubled. The payment of said fee shall not relieve any persons from fully complying with the requirements of this code for performance or execution of the work, nor from other penalties prescribed by law.

(b) Penalty of the lump sum or total fee due shall accompany the electrical permit. Intentional failure to submit the proper amount or submit a permit shall result in a penalty of fifty percent (50%) of the original permit fee added to the amount not paid; this penalty could also apply if a permit is not submitted and the intent was not intentional.

(3) Minimum fees, payment and address assignment. (a) Wiring on each meter installation shall require a separate permit and fee; separate meter installations on apartment jobs may be listed on one permit so long as the apartments listed are for one address. No permit, initial or added after an inspection has been made shall be issued for a fee of less than fifteen dollars ($15.00).

(b) Full payment for all fees shall accompany any electrical permit submitted.

(c) Address assignments from MLGW will be the official address used by the City of Bartlett Code Enforcement Office.

(4) Refunds. Permit fees may be refunded if no work has commenced and a request for refunds is submitted to the building official in writing by the permittee within six (6) months of the date of the issuance. The permit is surrendered when a request for refund is submitted. The amount of the refund will be two-thirds (⅔) of the permit fee, but in no case will the amount retained by the City of Bartlett be less than fifteen dollars ($15.00).

(5) Re-inspection. (a) Fee for excessive or repeat calls:

(i) An additional fee shall be charged for the first re-inspection of thirty dollars ($30.00), and for each additional inspection thereafter, until the violation(s) is corrected, a fee of fifty dollars ($50.00) shall be charged. Re-inspection fee(s) are to be paid prior to electrical final inspection.

(ii) Any person, firm, or corporation aggrieved by the assessment of any re-inspection fee may appeal to the building official for a review of the facts involved and a possible reduction or dismissal of said fees.

(b) Interior wiring out of service for ninety (90) days or more. No system or installation of interior electrical wiring in any building which has been out of service ninety (90) days or more for commercial buildings and three hundred sixty five (365) days or more for residential buildings shall be used as an electrical conductor without re-inspection by or a certificate from the chief electrical inspector. In emergency situations, the inspector is authorized to issue a temporary certificate, until re-inspection can be made. A fee of fifty dollars ($50.00) shall be charged for a re-inspection or certificate required by this section. This section shall apply to new buildings which have never been occupied as well as buildings which are vacant after having been previously occupied.

(6) Residential fees. (a) New residential (multi-family, multi-occupancy). The fee for multi-family and multi-occupancy shall be one dollar ($1.00) per amp for the main overcurrent device(s) for each metered tenant. This fee will include low voltage installations if they are listed on the permit. This fee provides three inspections; additional inspections shall be thirty dollars ($30.00) for the first and fifty dollars ($50.00) for each additional inspection thereafter.

(i) New residential (1 and 2 family dwellings). The fee for 1 and 2 family dwellings shall be as follows:

Service Size	Fee
0-150 Amps	$70.00
151-400 Amps	$125.00
Over 400 Amps	$250.00

(ii) This fee shall include low voltage installations if they are listed on the permit; and will provide three (3) inspections. Additional inspections shall be thirty dollars ($30.00) for the first and fifty dollars ($50.00) for each additional inspection thereafter. The payment of the above lump sum fees shall accompany the written request for an electrical permit.

(b) Existing residential occupancies. (i) The following fees shall apply to circuits only; new or existing:

1 to 5 circuits	$30.00
Over 5 circuits	$45.00

(ii) This fee will provide two (2) inspections; additional inspections shall be thirty dollars ($30.00) for the first and fifty dollars ($50.00) for each additional inspection thereafter.

(c) Service, feeder, and panel replacement. The fee for service, feeder, or panel replacement shall be fifty dollars ($50.00). This fee shall

apply if one or all three (3) replacements are done; and if replacement(s) are for like equipment and conductors.

(d) Swimming pools. The fee for residential in-ground pools shall be one hundred dollars ($100.00) and will cover circuits for pool equipment only. This fee will provide three (3) inspections; additional inspections shall be thirty dollars ($30.00) for the first and fifty dollars ($50.00) for each additional inspection thereafter. The fee for residential above ground pools shall be the same as set forth in subsection (b) above. This fee will provide two (2) inspections; additional inspections shall be thirty dollars ($30.00) for the first and fifty dollars ($50.00) for each additional inspection thereafter.

(e) Residential low voltage. The fee for low voltage installed in a one (1) or two (2) family dwelling by a licensed and/or registered low voltage contractor shall be thirty dollars ($30.00); this fee shall apply only if the installation is in at the time of the electrical rough-in. If installed after the electrical rough-in, a fifty dollar ($50.00) fee will be assessed. The fee for multi-family or multi-occupancy buildings, three (3) floors or less shall be thirty dollars ($30.00) per system, per building, if they are installed at the time of the electrical rough-in. If installed after the electrical rough-in, an additional fifty dollar ($50.00) fee (per building) will be assessed.

(f) Manufactured (mobile) homes. The fee for mobile homes shall be fifty dollars ($50.00) and will include the A/C connection if it is listed on the permit. This fee applies to mobile home parks only; installations other than a mobile home park shall be as set forth in subsection (a) of this section.

(g) Concealed wiring. Wiring in all type residential (new or existing) occupancies shall not be concealed until approved inspections have been received for both low voltage and line voltage installations. Concealed wiring shall be uncovered in its entirety.

(h) Residential temporary meter center. The fee for temporary meter centers used only for the construction of new one (1) and two (2) family dwellings shall be twenty-five dollars ($25.00).

(7) Permit fees for installations other than residential--new services or feeders. The permit fees listed below shall cover the installation of a new service or feeder including all circuits and current consuming equipment and devices connected thereto when installed concurrently with the service or feeder.

(a) 120 volt single phase, 120/240 volt single phase, or 120/208 volt three phase; or 277/480 volt three (3) phase; the fee shall be two dollars ($2.00) per ampere of service or feeder size.

(b) Delete Shelby County Electrical Code Amendment.

(c) 277 volt single phase, 480 volt single phase, 480 volt three (3) phase; the fee shall be one dollar ($1.00) per ampere of service or feeder size.

(d) Buildings or premises that are supplied by electrical services with voltage in excess of 480 volts; the fee shall be as follows:

(i) One dollar and fifty cents ($1.50) per KVA for the first ten thousand (10,000) KVA.

(ii) Fifty cents ($0.50) for each additional KVA above ten thousand (10,000) KVA and up to fifty thousand (50,000).

(iii) Twenty-five cents ($0.25) for each additional KVA above fifty thousand (50,000) KVA.

(e) The capacity of a service or feeder shall be the over current device or buss size.

(f) The permit fee shall be based on the current device(s) or buss size on each metered service or feeder.

(g) The payment of the lump sum fee shall accompany the written request for the electrical permit.

(8) Increase of service size. (a) The permit fee for the increase of the size of a service shall be computed as set forth in subsection (7), this fee will cover work associated with the service increase (new panels and circuits). Circuits in existing panels not associated with the increase that are to be reconfigured in existing panels or relocated shall be assessed as set forth in subsection (12). The increase in the service size only shall be used in calculating the permit fee, (i.e. increasing an 800 ampere service to 1200 ampere will be computed as a 400 ampere fee).

(b) The payment if the entire fee shall accompany the written request for the electrical permit.

(9) Remodeling of existing buildings. (a) Where an existing building is completely remodeled and the existing service is of adequate capacity, the permit fee shall be seventy-five percent (75%) of the fee as set forth in subsection (7) for a new service or feeder.

(b) The payment of the entire fee shall accompany the written request for the electrical permit.

(10) Service, feeder, and panel replacement (non residential). Replacement of existing services, feeders, or panels shall be permitted at twenty-five percent (25%) of the fee shown under the appropriate voltage figured in subsection (7). Replacement(s) shall be for like equipment and conductors. This fee shall apply if one or all three replacements are done for an individual service, feeder, or panel.

(11) Emergency power systems. The installation of an emergency stand by system (generator, UPS, etc.) required or non-required shall be twenty-five percent (25%) of the fee as set forth in subsection (7), at the appropriate voltage. This fee applies to installations not associated with new construction.

(12) Non-residential fees for circuits below fifty (50) amperes. The fee for circuits below fifty (50) amperes shall be figured at twenty-five percent (25%) of the over current device at the appropriate voltage. All others shall be figured as set forth in subsection (7).

(13) Empty conduits. (a) Empty conduit system for services, feeders, branch circuits, and low voltage systems shall be permitted for a fee of ten dollars ($10.00) for each fifty (50) feet of conduit or bank of conduits.

(b) Termination of services for multi-occupancy services shall be made on terminal blocks in the service trough and shall be permitted for a fee of ten dollars ($10.00) for each fifty (50) feet of conduit or bank of conduits.

(14) Inspection and permit procedure for amusement rides and special events. The procedure listed herein for the inspection of all electrical wiring and components, associated with the installation, construction, alteration, repair, removal, and use of amusement rides and devices and wiring for special events, are in conformance with the requirements of Chapter 30 of the building code and the City of Bartlett.

(a) A permit shall be required for each location for amusement rides or special events that require wiring.

(b) Permits shall be issued only to licensed or registered contractors, as set forth in the licensing section of the Electrical Code and the City of Bartlett.

(c) Permit fees shall be based on the service, or if power is received from generators, the ampere rating of the over current device(s) protecting the circuit(s); the fee shall be figured at twenty-five percent (25%) of the amps at the appropriate voltage as set forth in subsection (7). If over current device(s) are not available; KW will be converted to amps and the fee figured accordingly.

(d) All wiring and grounding shall be in accordance with the requirements of the electrical code and the NEC.

(15) Low voltage (non-residential). All low voltage systems shall be figured as follows:

(a) Fifteen dollars ($15.00) per system; per floor. This fee will cover a permit for that category on a single floor or tenant space; and will provide two (2) inspections.

(b) If additional inspections are required, they shall be thirty dollars ($30.00) for the first and fifty dollars ($50.00) for each additional inspection thereafter. Installations installed by unlicensed/unregistered contractors or installed without a proper permit shall be charged a double fee.

(16) Temporary meter center (non-residential). The fee for temporary meter centers above one hundred (100) amperes other than residential one (1) and two (2) family shall be twenty-five percent (25%) of the ampacity at the appropriate voltage as set forth in subsection (7), all below shall be twenty-five dollars ($25.00).

(17) Filing of board of appeals. Notice of board of appeals under section 108-4 shall be accompanied by a fee of one hundred dollars ($100.00).

(18) Contractor for MLG&W. The contractor shall obtain a permit for the work to be installed under contract with MLG&W Division and shall pay a full permit fee as set forth elsewhere in the fee schedule.

(19) General inspection. For general examination of a wiring system when requested by the owner, a fee of fifty dollars ($50.00) shall be charged. This fee shall not apply to investigations of complaints.

(20) Termination of permits. Electrical permits issued for any project shall terminate thirty (30) days after the building section has issued the certificate of occupancy. The chief electrical inspector may grant an extension beyond the thirty (30) day interval, but not to exceed one (1) year from the date of the certificate of occupancy on the presentation of adequate reasons for the extension.

(21) Miscellaneous fees. (a) Fire Rulings (Section 727.4), $50.00.

(b) Relocated houses (Section 727.4), $50.00.

(c) Modular Res. Buildings (Section 730.3), $50.00.

(22) Lighting and convenience outlet circuits. For each lighting circuit and sockets supplied thereby, and for each convenience outlet circuit and the outlets supplied thereby, a fee of four dollars ($4.00) shall be charged. NOTE: A three (3) wire circuit shall be noted as equivalent of two (2) wire circuits. Permit fee will be charged for each circuit worked on other than the replacement of panels in the same location.

(23) Circuits for equipment with capacity of more than one kilowatt. For all circuits supplying ranges, heaters, appliances, or other equipment which have a capacity of more than 1 KW, the fee for each appliance circuit shall be five dollars ($5.00) for the first 5 KW of rated capacity or fraction thereof, and three dollars ($3.00) for each additional unit of 5 KW.

(24) Miscellaneous fees. (a) For each electric welder, a fee of twenty-five dollars will be charged.

(b) For each 208/240 volt X-ray unit installation, a fee of fifty dollars ($50.00). For each 120 volt X-ray unit installation, a fee of fifteen dollars ($15.00) will be charged.

(c) For each motion picture machine, a fee of thirty dollars ($30.00) will be charged.

(d) For each battery charger up to 100 amperes charging capacity, a fee of fifteen dollars ($15.00). For all in excess of 100 amperes, a fee of fifteen dollars ($15.00) will be charged.

(e) For each power rectifier, a fee of fifteen dollars ($15.00) will be charged, for the first 100 amperes of output capacity, and three dollars ($3.00) for each unit of 100 amperes output capacity in excess of 100 amperes.

(25) Convenience outlets or floor box outlets. The permit fee for circuits supplying convenience outlets or floor boxes shall include the installation of complete receptacles.

(26) Panels. Replacement of panels, including integral circuit breakers or fuses, individual switches or breakers in the same location, a fee of fifteen

dollars ($15.00) will be charged. Where the panels are relocated more than five (5) feet from the original location, a permit fee will be charged for each circuit in panel.

(27) Transformers and capacitors. (a) For transformers or capacitors, or banks of transformers or capacitors having a total of 100 watts, up to and including 5 KVA, a fee of fifteen dollars ($15.00) will be charged, and each additional KVA over 5 KVA, a fee of fifty cents ($0.50) per KVA will be charged.

(b) For replacement of faulty and/or damaged transformers or capacitors at the same location, a fee of twenty dollars ($20.00) shall apply.

(28) Sign and decorative circuits. The fee for electric sign circuits, outline decorative circuits, flood-lighting circuits and festoon lighting circuits shall be six dollars ($6.00) for the first circuit, and four dollars ($4.00) for each additional circuit. Where conduit only is installed for sign circuit, the fee shall be fifteen dollars ($15.00).

(29) Reconnecting signs. The fee for reconnecting signs to existing outlets or circuits shall be fifteen dollars ($15.00) for the first circuit and two dollars ($2.00) for each additional circuit.

(30) Mercury vapor light P.O.L. For each mercury vapor light P.O.L., a fee of fifteen dollars ($15.00) will be charged.

(31) Installed motors. For motors, the first H.P. six dollars ($6.00), and one dollar ($1.00) for each additional H.P. will be charged.

(32) Motors and generators combined. Where electrical motors size and generators capacity are combined as motor generator sets, the permit fee shall be based on the sum of the motor and generator and the fee shall be as required in subsection (23) above. For motor generators consisting of internal combustion engine or turbine type prime movers and electrical generators, the fee shall be based on the generator capacity only and shall be as required in subsection (27) above. Motor generator capacity shall not be combined with other motors but shall be calculated as a separate unit.

(33) Motors moved at same address. For moving and/or connecting motors to properly sized and protected existing circuits without change of address, a fee of fifteen dollars ($15.00) will be charged.

(34) Fuel pumps. For each gasoline or other fuel pump and/or dispenser, a fee of twenty dollars ($20.00) will be charged.

(35) Miscellaneous items.

Meter Put Backs	$15.00
Recalls	$15.00
Low Voltage Systems (per system)	$15.00
Underground or overhead low voltage cable, including optical fiber as defined by NEC 770: per 100 ft	$20.00

Electrical contractors who install low voltage systems are required to list the installation on original permits to be considered included in the fee for new services and feeders provided in subsection (7).

Section Title	2002 Fees
Fees for amending permits	
Fee for issuing permits	$4.00
Amending permit--minimum fee	$20.00
Work commencing before permit issued	Double fee
Minimum permit fee	$15.00
Refunds	$15.00
Re-inspection fees	
First re-inspection fee	$30.00
Additional re-inspection fee beyond the first	$50.00
Re-inspection of interior wiring out of service for 90 days or more	$50.00
New residential installations only	
New residential (multi-family/multi-occupancy)	$1 per amp
New residential (1 & 2 family dwellings)	
0-150 amperes	$70.00
151-400 amperes	$125.00
Over 400 amperes	$250.00
Existing residential occupancies	
1 to 5 circuits	$30.00
Over 5 circuits	$45.00
Service, feeder, & panel replacement (residential)	$50.00
Swimming pools	
Inground pools	$100.00
Above ground pools	See Existing residential occupancies
Residential low voltage	
Before electrical-roughin	$30.00
After electrical-roughin	$50.00
Mobile homes (manufactured)	$50.00
Residential temporary meter center	$25.00
120, 120/240 volt single phase, or 120/240 three phase	$1.00
277, 480 volt single phase, or 480, 277/480 three phase	$2.00
Voltage excess of 480 volts per KVA first 10,000 KVA	$1.50/KVA
Each additional KVA over 10,000 up to 50,000	$0.50 each
Each additional KVA above 50,000	$0.25 each
Empty conduits	$10.00
Low voltage (non-residential) per system	$15.00
Filing of board of appeals	$100
General inspection (not a complaint)	$50.00

Section Title	2002 Fees
Miscellaneous fees	
Fire ruling	$50.00
Relocated houses	$50.00
Modular res. buildings	$50.00
Lighting and convenience outlet circuits	$4.00
Circuits for equipment with capacity of more than 1 KW for the first 5 KW	$5.00
For each additional KW	$3.00
Miscellaneous fees	$25.00
Electric welder	$50.00
X-ray unit-208/240 volt	$50.00
X-ray unit 120 volt	$15.00
Motion picture machine	$30.00
Battery charger up to 100 amperes	$15.00
Battery charger--more than 100 amperes	$15.00
Power rectifier-up to 100 amperes	$15.00
Power rectifier-more than 100 amperes	$3/each unit
Panels	$15.00
Transformers & capacitors	
Installations 100 watts up to 5 KVA	$15.00
Installations-each additional > 5 KVA	$0.50
Replacement	$20.00
Signs and decorative circuits	
1st circuit	$6.00
For each additional circuit	$4.00
Where conduit only is installed for the sign circuit	$15.00
Reconnecting signs	
1st circuit	$15.00
Each additional circuit	$2.00
Mercury vapor light P.O.L.	$15.00
Installed motors	
1st H.P.	$6.00
Each additional H.P.	$1.00
Motors moved at same address	$15.00
Fuel pumps	$20.00
Miscellaneous items	
Meter put back	$15.00
Recalls	$15.00
Low voltage systems (per system-non residential)	$15.00
Underground or overhead low voltage cable, including optical fiber as defined by NEC 770: per 100 ft	$20.00

(Ord. #02-02, Feb. 2002)

12-305. Violations and penalty. It shall be unlawful for any person to do or authorize any electrical work or to use any electricity in such manner or under such circumstances as not to comply with this chapter and/or the requirements and standards prescribed by the electrical code. The violation of any section of this chapter shall be punishable by a penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense.

CHAPTER 4

FUEL GAS CODE

SECTION

12-401. Fuel gas code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506 and for the purpose of providing minimum standards, provisions, and requirements for safe installation of consumer's gas piping and gas appliances, the International Fuel Gas Code,[1] 2021 edition (with city amendments), and the International Residential Gas and Mechanical Code,[1] 2018 edition (with city amendments), which are hereby incorporated by reference and made a part of this chapter as if fully set forth herein. (Ord. #02-02, Feb. 2002, as amended by Ord. #07-11, Nov. 2007, Ord. #11-04, April 2011, Ord. #18-06, Nov. 2018 ***Ch7_12-08-20***, and Ord. #22-03, Aug. 2022 ***Ch8_08-09-22***)

12-402. Modifications.Definitions. Whenever the gas code refers to the "Chief Administrator," it shall be deemed to be a reference to the board of mayor and aldermen. When the "Building Official" is named it shall, for the purposes of the gas code, mean such person as the board of mayor and aldermen has appointed or designated to administer and enforce the provisions of the gas code.

12-403. Available in clerk's office. Pursuant to the requirements of Tennessee Code Annotated, § 6-54-502, one (1) copy of the gas code has been placed on file in the clerk's office and shall be kept there for the use and inspection of the public.

12-404. Gas permit and inspection fees. (1) Fees for amending permits. After a permit has been issued and an amendment or supplemental revision is applied for, the additional fee or service charge shall be as follows:

(a) For each and every amendment which involves additional work, not originally applied for to complete the entire project, the additional fee shall be the normal fee for the work contemplated and shall be computed disregarding the valuation of the work previously permitted. Fees for issuing a permit shall be four dollars ($4.00).

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[1]Copies of these codes (and any amendments) may be purchased from the City of Bartlett's Code Enforcement Department.

(b) For each and every amendment or supplement not involving additional work by square footage, volume, or dollar value, the minimum fees normally required for such work shall apply, even though the project dollar value or building volume may decrease. (Minimum fee of $20.00).

(2) Work commencing before permit issuance. In case any work requiring a permit is started prior to obtaining said permit, as a penalty for violating this code, the total normal fee applicable shall be doubled. The payment of said fee shall not relieve any persons from fully complying with the requirements of this code for performance or execution of the work, nor from other penalties prescribed by law. (Section 104.7.2).

(3) Schedule of permit fees. On all gas systems requiring a gas permit, a fee for each gas permit shall be paid as required at the time of filing the application, in accordance with the following.

On all installations requiring a permit, as set forth in this section, a fee for each permit shall be paid as required at the time of filing the application, in accordance with the following schedule:

(a) For one dollar ($1.00) to one thousand dollars ($1,000.00) value of installation, the fee shall be fifteen dollars ($15.00) with minimum permit fee of fifteen dollars ($15.00).

(b) When the estimated cost exceeds one thousand dollars ($1,000.00), the additional fee shall be eight dollars ($8.00) per each additional one thousand dollars ($1,000.00) of valuation.

(c) The fee for installing a water heater will be fifteen dollars ($15.00) for the first one thousand dollars ($1,000.00) and eight dollars ($8.00) per each additional one thousand dollars ($1,000.00) of valuation.

(d) If a gas meter put back is required, an additional fee of fifteen dollars ($15.00) will be charged.

(e) Single family residence only--additional fee for each gas outlet shall be two dollars and fifty cents ($2.50). Gas piping permit fees shall be based on total valuation (contract price). All other gas permits shall be based on total valuation (contract price).

(4) Minimum permit fee. The minimum fee for any permit shall be fifteen dollars ($15.00).

(5) Filing application for board of appeals. Notice of board of appeals under section 108 shall be accompanied by a fee of one hundred dollars ($100.00).

(6) Refunds. Permit fees may be refunded if no work has commenced and a request for refunds is submitted to the building official in writing by the permittee within six (6) months of the date of issuance. The permit is surrendered when a request for refund is submitted. The amount of the refund will be two-thirds (⅔) of the permit fee, but in no case will the amount retained by the City of Bartlett be less than fifteen dollars ($15.00).

(7) Re-inspection fee for excessive or unessential inspection calls.

(a) An additional fee of thirty dollars ($30.00) shall be charged for the first re-inspection; and for each additional inspection thereafter,

until the violation(s) is corrected, a fee of fifty dollars ($50.00) shall be charged.

(b) Any person, firm, or corporation aggrieved by the assessment of any re-inspection fee may appeal to the building official for a review of the facts involved and a possible reduction or dismissal of said fees.

Gas Permit and Inspection Fees

Section Title	2002 Fees
Fees for amending permits	
Fees for issuing permits	$4.00
Amendment--minimum fee	$20.00
Work commencing before the permit issuance	Double Fee
Schedule of permit fees	
For $1 to $1,000 valuation of installation	$15.00
Per each additional $1,000	$8.00
Water heater--1st $1,000	$15.00
Per each additional $1,000	$8.00
Gas meter put back	$15.00
For each gas outlet	$2.50
Minimum permit fee	$15.00
Filing application for board of appeals	$100.00
Refunds 2/3 of fee--minimum fee	$15.00
Re-inspection fees	
First re-inspection fee	$30.00
Additional fee beyond the first	$50.00

(Ord. #02-02, Feb. 2002)

12-405. Violations and penalty. The violation of any section of this chapter shall be punishable by a penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense.

CHAPTER 5

MECHANICAL CODE

SECTION

12-501. Mechanical code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of regulating the installation of mechanical systems, including alterations, repairs, replacement, equipment, appliances, fixtures, fittings and/or appurtenances thereto, including ventilating, heating, cooling, air conditioning, and refrigeration systems, incinerators, and other energy-related systems, the International Mechanical Code,[1] 2021 edition (with city amendments), as prepared and adopted by the International Code Council, is hereby adopted and incorporated by reference as a part of this code and is hereinafter referred to as the mechanical code. (Ord. #02-02, Feb. 2002, as amended by Ord. #07-11, Nov. 2007, Ord. #11-04, April 2011, Ord. #18-06, Nov. 2018 ***Ch7_12-08-20***, and Ord. #22-03, Aug. 2022 ***Ch8_08-09-22***)

12-502. Modifications. Definitions. Wherever the mechanical code refers to the "Building Department," "Mechanical Official," or "Building Official," or "Inspector" it shall mean the person appointed or designated by the board of mayor and aldermen to administer and enforce the provisions of the mechanical code.

12-503. Available in clerk's office. Pursuant to the requirements of Tennessee Code Annotated, § 6-54-502, one (1) copy of the mechanical code has been placed on file in the city clerk's office and shall be kept there for the use and inspection of the public.

12-504. Mechanical permit and inspection fees. (1) Fees for amending permits. After a permit has been issued and an amendment or supplemental revision is applied for, the additional fee for service charge shall be as follows:

(a) For each and every amendment which involves additional work not originally applied for to complete the entire project, the additional fee shall be the normal fee for the work contemplated and shall

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[1]Copies of this code (and any amendments) may be purchased from the City of Bartlett's Code Enforcement Department.

be computed disregarding the valuation of the work previously permitted. Fee for issuing a permit shall be four dollars ($4.00).

(b) For each and every amendment or supplement not involving additional work by square footage, volume, or dollar value, the minimum fees normally required for such work shall apply, even though the project dollar value or building volume may decrease. Minimum fee of twenty dollars ($20.00).

(2) Work commencing before permit issuance. In case any work requiring a permit is started prior to obtaining said permit, as a penalty for violating this code, the total normal fee applicable shall be doubled. The payment of said fee shall not relieve any persons from fully complying with the requirements of this code for performance or execution of the work, nor from other penalties prescribed by law. (Section 104.7.2)

(3) Schedule of permit fees. On all mechanical systems requiring a mechanical permit, a fee for each mechanical permit shall be paid as required at the time of filing the application, in accordance with the following:

(a) The fee for each permit shall be not less than fifteen dollars ($15.00) for the first one thousand dollars ($1,000.00) valuation for the installation of heating, ventilating, duct work, air conditioning and refrigeration systems or any mechanical system. And eight dollars ($8.00) for each additional one thousand dollars ($1,000.00) of value less than one million dollars ($1,000,000.00) and three dollars ($3.00) for each one thousand dollars ($1,000.00) more than one million dollars ($1,000,000.00).

(b) Single family residence only--mechanical permit fees shall be based on total valuation (contract price) based on a minimum one thousand dollars ($1,000.00) per ton. All other mechanical permits shall be based on total valuation (contract price).

(c) The fee for each permit for a sprinkler system shall be sixteen dollars ($16.00) for the first one thousand dollars ($1,000.00) valuation; and nine dollars ($9.00) for each additional one thousand dollars ($1,000.00) of value less than one million dollars ($1,000,000.00), and three dollars ($3.00) for each one thousand dollars ($1,000.00) more than one million dollars ($1,000,000.00).

(4) Minimum permit fee. The minimum permit fee for any permit shall be fifteen dollars ($15.00).

(5) Filing application for board of appeals. Notice of board of appeals under section 108 shall be accompanied by a fee of one hundred dollars ($100.00).

(6) Refunds. Permit fees may be refunded if no work has commenced and a request for refunds is submitted to the building official in writing by the permittee within six (6) months of the date of issuance. The permit is surrendered when a request for refund is submitted. The amount of the refund will be two-thirds (⅔) of the permit fee, but in no case will the amount retained by the City of Bartlett be less than fifteen dollars ($15.00).

(7) Re-inspection fee for excessive or unessential inspection calls.

(a) An additional fee shall be charged for the first re-inspection of thirty dollars ($30.00), and for each additional inspection thereafter, until the violation(s) is corrected, a fee of fifty dollars ($50.00) shall be charged.

(b) Any person, firm, or corporation aggrieved by the assessment for any re-inspection fee may appeal to the building official for a review of the facts involved and a reduction or dismissal of said fees.

Section Title	2002 Fees
Fees for amending permits	
Fees for issuing permits	$4.00
Amendment-min. fee	$20.00
Work commencing before the permit issuance	Double Fee
For first $1,000	$15.00
For each additional $1,000 < $1,000,000	$8.00
For each additional $1,000 > $1,000,000	$3.00
Sprinkler system--for first $1,000	$16.00
For each additional $1,000 < $1,000,000	$9.00
For each additional $1,000 > $1,000,000	$3.00
Minimum permit fee	$15.00
Filing for board of appeals	$100.00
Refunds 2/3 of fee-minimum fee	$15.00
Re-inspection fees	
First re-inspection fee	$30.00
Additional fee beyond the first	$50.00

(Ord. #02-02, Feb. 2002)

12-505. Violations. It shall be unlawful for any person to violate or fail to comply with any provision of the mechanical code as herein adopted by reference and modified.

CHAPTER 6

ENERGY CONSERVATION CODE[1]

SECTION

12-601. Energy conservation code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of regulating the design of buildings for adequate thermal resistance and low air leakage and the design and selection of mechanical, electrical, water-heating and illumination systems and equipment which will enable the effective use of energy in new building construction, the International Energy Conservation Code,[2] 2021 edition (with city amendments), as prepared and maintained by the International Code Council, is hereby adopted and incorporated by reference as a part of this code, and is hereinafter referred to as the energy code. (Ord. #02-02, Feb. 2002, as amended by Ord. #07-11, Nov. 2007, Ord. #11-04, April 2011, Ord. #18-06, Nov. 2018 ***Ch7_12-08-20***, and Ord. #22-03, Aug. 2022 ***Ch8_08-09-22***)

12-602. Modifications. Whenever the energy code refers to the "responsible government agency," it shall be deemed to be a reference to the City of Bartlett. When the "building official" is named it shall, for the purposes of the energy code, mean such person as the board of mayor and aldermen shall have appointed or designated to administer and enforce the provisions of the energy code.

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[1]State law reference

Tennessee Code Annotated, § 13-19-106 requires Tennessee cities either to adopt the Model Energy Code, 1992 edition, the 2000 International Energy Conservation Code with 2002 amendments, or to adopt local standards equal to or stricter than the standards in the energy code.

Municipal code references

Fire protection, fireworks, and explosives: title 7.
Planning and zoning: title 14.
Streets and other public ways and places: title 16.
Utilities and services: titles 18 and 19.

[2]Copies of this code (and any amendments) may be purchased from the City of Bartlett's Code Enforcement Department.

12-603. Available in clerk's office. Pursuant to the requirements of the Tennessee Code Annotated, § 6-54-502, one (1) copy of the energy code has been placed on file in the clerk's office and shall be kept there for the use and inspection of the public.

12-604. Violation and penalty. It shall be a civil offense for any person to violate or fail to comply with any provision of the energy code as herein adopted by reference and modified. The violation of any section of this chapter shall be punishable by a penalty of up to fifty dollars ($50.00) for each offense. Each day a violation is allowed to continue shall constitute a separate offense.

CHAPTER 7

DISABILITY CODE[1]

SECTION

12-701. Disability code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of allowing a person with a physical disability to independently get to, enter, and use a site, facility, building, or element, the North Carolina State Handicap Code,[2] 2002 edition with 2004 amendments, is hereby adopted and incorporated by reference as a part of this code, and is hereinafter referred to as the disability code. (Ord. #02-02, Feb. 2002, as amended by Ord. #07-11, Nov. 2007)

12-702. Available in clerk's office. Pursuant to the requirements of the Tennessee Code Annotated, §§ 6-54-502, one (1) copy of the disability code has been placed on file in the city clerk's office and shall be kept there for the use and inspection of the public.

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[1]Municipal code reference
Fair housing: title 20, chapter 2.

[2]Copies of this code (and any amendments) may be purchased from the City of Bartlett's Code Enforcement Department.

CHAPTER 8

SPRINKLERS IN COMMERCIAL BUILDINGS

SECTION

12-801. Sprinklers in commercial buildings. (1) This chapter requires sprinklers in occupancies classified in subsection (5), ten thousand (10,000) total gross square feet or larger and requirements for additions to existing buildings that meet or exceed ten thousand (10,000) total gross square feet. This chapter shall apply to any building permits applied for after January 1, 1999. This chapter shall not cause any building built prior to January 1, 1999 to be retrofitted with an automatic sprinkler system.

(2) Total gross square feet shall be defined as the square footage measured on the exterior of building. Multi-story buildings shall include the gross square footage of each floor added together to obtain the total gross square feet.

(3) Where there is a discrepancy between the adopted building code and this chapter, the most stringent code shall apply. When a new occupancy must meet the requirements of NFPA 101 Life Safety Code, i.e., schools and daycare, the most stringent code shall apply.

(4) Any reference made to or pertaining to code requirements shall be from the current building code as adopted by the city. Any reference to National Fire Protection Code (NFPA)[1] shall be the most current code available. Contractors of sprinkler installations shall meet all applicable requirements of the Tennessee Code Annotated. All sprinkler installations shall be installed, maintained, and supervised per NFPA and the building code. It shall be the building owner's responsibility to maintain the minimum requirements of NFPA 25 Standard for the Inspection, Testing, and Maintenance of Water-Based Fire Protection Systems.

(5) Assembly, business, educational, factory, institutional, hazardous, mercantile, and storage occupancies shall be sprinklered per NFPA 13 Standard for the Installation of Sprinkler Systems if the total gross square footage is ten thousand (10,000) square feet or greater. An approved sprinkler system shall be provided in Group R1 occupancies and Group R2 occupancies as defined by the Standard Building Code; three (3) or more stories in height regardless of square footage. All sprinkler and fire alarm systems required by this chapter or as a requirement of the building code shall be supervised in accordance with NFPA 72 National Fire Alarm Code.

Group R occupancies shall include, among others, the following:

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[1]Municipal code reference

Fire code adopted: § 7-101.

R1: Boarding housing
Hotels
Motels

R2: Apartments
Convents
Fraternities and sororities
Monasteries
Rectories
Rooming houses (not transient)

Dormitory facilities, which accommodate six or more persons of more than two and one-half (2 ½) years of age, who stay more than twenty-four (24) hours.

(6) For additions to existing buildings that will meet or exceed the limits outlined in subsection (5) the +- following shall apply:

Separate new construction from existing building with two (2) hour wall meeting requirements of the building code, and sprinkler new addition. Any doors or windows in the two (2) hour firewall shall be rated for use in that wall.

(7) Any building, or building addition, for which a building permit was issued after January 1, 1999 shall meet the requirements as set forth in this chapter. (Ord. #99-5, May 1999)

CHAPTER 9

ELEVATOR PERMIT AND INSPECTION FEES

SECTION

12-901. Permit and inspection fees. (1) Fees for amending permits. After a permit has been issued and an amendment or supplemental revision is applied for, the additional fee or service charge shall be as follows:

(a) For each and every amendment which involves additional work not originally applied for to complete the entire project, the additional fee shall be the normal fee for the work contemplated, and shall be computed disregarding the valuation of the work previously permitted. Fee for issuing permits shall be four dollars ($4.00).

(b) For each and every amendment or supplement not involving additional work by square footage, volume, or dollar value, the minimum fees normally required for such work shall apply, even though the project dollar value or building volume may decrease. (Minimum fee of twenty dollars [$20.00]).

(2) Work commencing before permit issuance. In case any work requiring a permit is started prior to obtaining said permit, as a penalty for violating this code, the total normal fee applicable shall be doubled. The payment of said fee shall not relieve any persons from fully complying with the requirements of this code for performance or execution of the work, nor from other penalties prescribed by law. (Section 104.7.2).

(3) Amusement rides. (a) Installation--permit and inspection per ride, thirty dollars ($30.00).

(b) Re-inspection--per ride, thirty dollars ($30.00).

(4) Transfer devices. For one dollar ($1.00) to one thousand dollars ($1,000.00) value of installation, the fee shall be fifteen dollars ($15.00). When the estimated cost exceeds one thousand dollars ($1,000.00), the additional fee shall be per each additional one thousand dollars ($1,000.00) of valuation or fraction thereof with a minimum permit fee of forty dollars ($40.00).

(5) Minimum permit fee. The minimum fee for any permit shall be forty dollars ($40.00).

(6) Filing application for board of appeals. Notice of board of appeals under section 108 shall be accompanied by a fee of one hundred dollars ($100.00).

(7) Refunds. Permit fees may be refunded if no work has commenced and a request for refunds is submitted to the building official in writing by the permittee within six (6) months of the date of issuance. The permit is surrendered when a request for refund is submitted. The amount of the refund will be two-thirds (⅔) of the permit fee, but in no case will the amount retained by the City of Bartlett be less than fifteen dollars ($15.00).

(8) Operating certificates. All elevators, escalators, dumbwaiters, moving walks, chair lifts, automatic transfer devices, monorails, and tramways shall be assigned an operating permit, which fee shall be fifty dollars ($50.00).

(9) Re-inspection fee for excessive or unessential inspection calls.

(a) An additional fee shall be charged for the first re-inspection of thirty dollars ($30.00) and for each additional inspection thereafter, until the violation(s) is corrected, a fee of fifty dollars ($50.00) shall be charged.

(b) Any person, firm, or corporation aggrieved by the assessment of any re-inspection fee may appeal to the building official for a review of the facts involved and a possible reduction or dismissal of said fees.

ELEVATOR PERMIT AND INSPECTION FEES

Section Title	2002 Fees
Fees for amending permits	
Fees for issuing permits	$4.00
Amendment--minimum fee	$20.00
Work commencing before the permit issuance	Double Fee
Amusement rides	
Installation permit & inspection per ride	$30.00
Re-inspection per ride	$30.00
Transfer devices	
For $1.00 to $1,000.00 fee	$15.00
For each additional $1,000 fee	$8.00
Minimum permit fee	$40.00
Filing for board of appeals	$100.00
Refunds 2/3 of fee--minimum fee	$15.00
Operating certificates	$50.00
Reinspection fees	
First re-inspection fee	$30.00
Additional fee beyond the first	$50.00

(Ord. #02-02, Feb. 2002)

CHAPTER 10

BOILER, PRESSURE VESSELS AND PROCESS PIPING PERMIT AND INSPECTION FEES

SECTION

12-1001. Permit and inspection fees. (1) Fees for amending permits. After a permit has been issued and an amendment or supplemental revision is applied for, the additional fee or service charge shall be as follows:

(a) For each and every amendment which involves additional work, not originally applied for to complete the entire project, the additional fee shall be the normal fee for the work contemplated and shall be computed disregarding the valuation of the work previously permitted. Fee for issuing a permit fee shall be four dollars ($4.00).

(b) For each and every amendment or supplement not involving additional work by square footage, volume, or dollar value, the minimum fees normally required for such work shall apply, even though the project dollar value or building volume may decrease. (Minimum fee of $20.00).

(2) Work commencing before permit issuance. In case any work requiring a permit is started prior to obtaining said permit, as a penalty for violating this code, the total normal fee applicable shall be doubled. This payment of said fee shall not relieve any persons from fully complying with the requirements of this code for performance or execution of the work, nor from other penalties prescribed by law. (Section 104.7.2)

(3) Installation of process piping. The fee for permit for the installation of processed piping shall be no less than sixty dollars ($60.00) for the first two hundred fifty thousand dollars ($250,000.00) of valuation, and one dollar ($1.00) for each one thousand dollars ($1,000.00) more than two hundred fifty thousand dollars ($250,000.00).

(4) Minimum permit fee. The minimum fee for any permit shall be forty dollars ($40.00).

(5) Refunds. Permit fees may be refunded if no work has commenced and a request for refunds is submitted to the building official in writing by the permittee within six (6) months of the date of issuance. The permit is surrendered when a request for refund is submitted. The amount of the refund will be two-thirds (⅔) of the permit fee, but in no case will the amount retained by the City of Bartlett be less than fifteen dollars ($15.00).

(6) Re-inspection fee for excessive or unessential inspection calls.

(a) An additional fee shall be charged for the first re-inspection of thirty dollars ($30.00), and for each additional inspection thereafter, until the violation(s) is corrected, a fee of fifty dollars ($50.00) shall be charged.

(b) Any person, firm, or corporation aggrieved by the assessment of any re-inspection fee may appeal to the building official for a review of the facts involved and a possible reduction or dismissal of said fees.

Boiler and Pressure Vessel Permit and Inspection Fees

Section Title	2001 Fees
Fees for amending permits	
Fees for issuing permits	$4.00
Amendment--minimum fee	$20.00
Work commencing before the permit issuance	Double Fee
Installation of process piping	
For the first $250,000 of valuation	$60.00
$1.00 for each additional $1,000<$250,000	$1.00
Minimum permit fee	$40.00
Refunds 2/3 of fee--minimum fee	$15.00
Re-inspection fee	
First re-inspection fee	$30.00
For each additional re-inspection	$50.00

Boiler permits and inspections are to be handled by Martin Toth, Chief Boiler Inspector, State of Tennessee, 710 James Robinson Pkwy.--Gateway Plaza 3rd floor--Nashville, TN 615-741-2123. (Ord. #02-02, Feb. 2002)

CHAPTER 11

RESIDENTIAL CODE

SECTION

12-1101. International residential code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of providing building, plumbing, mechanical and electrical provisions, the International Residential Code,[1] 2018 edition (with city amendments), as prepared and adopted by the International Code Council, is hereby adopted and incorporated by reference as a part of this code, and is hereinafter referred to as the residential code. (as added by Ord. #07-11, Nov. 2007, and amended by Ord. #11-04, April 2011, and Ord. #18-06, Nov. 2018 ***Ch7_12-08-20***, and Ord. #22-03, Aug. 2022 ***Ch8_08-09-22***)

12-1102. Available in clerk's office. Pursuant to the requirements of the Tennessee Code Annotated, § 6-54-502, one (1) copy of the residential code has been placed on file in the clerk's office and shall be kept there for the use and inspection of the public. (as added by Ord. #07-11, Nov. 2007)

12-1103. Violations and penalty. It shall be unlawful for any person to violate or fail to comply with any provision of the residential code as herein adopted by reference and modified. The violation of any section of this chapter shall be punishable by a penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense. (as added by Ord. #07-11, Nov. 2007)

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[1]Copies of this code (and any amendments) may be purchased from the City of Bartlett's Code Enforcement Department.

CHAPTER 12

ADDITIONAL CODES ADOPTED BY REFERENCE[1]

SECTION

12-1201. Existing building code adopted. The International Building Code, 2021 edition (with any amendments), is hereby adopted and incorporated by reference as part of this code. (as added by Ord. #18-06, Nov. 2018 ***Ch7_12-08-20***, and amended by Ord. #22-03, Aug. 2022 ***Ch8_08-09-22***)

12-1202. Accessibility code adopted. The Accessibility Code, 2017 edition (with any amendments), is hereby adopted and incorporated by reference as part of this code. (as added by Ord. #18-06, Nov. 2018 ***Ch7_12-08-20***, and amended by Ord. #22-03, Aug. 2022 ***Ch8_08-09-22***)

12-1203. Property maintenance code adopted. The International Property Maintenance Code, 2021 edition (with any amendments), is hereby adopted and incorporated by reference as part of this code. (as added by Ord. #18-06, Nov. 2018 ***Ch7_12-08-20***, and amended by Ord. #22-04, Aug. 2022 ***Ch8_08-09-22***)

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[1]Copies of theses codes (and any amendments) may be purchased from the City of Bartlett's Code Enforcement Department.

TITLE 13

PROPERTY MAINTENANCE REGULATIONS[1]

CHAPTER

CHAPTER 1

PROPERTY MAINTENANCE CODE

SECTION

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[1]Municipal code references
Animal control: title 10.
Neighborhood protection ordinance: title 20, chapter 6.

13-101. Generally. (1) Title. These regulations shall be known as the Property Maintenance Code of the City of Bartlett, hereinafter referred to as "this code."

(2) Scope. The provisions of this code shall apply to all existing residential and nonresidential structures and all existing premises and constitute minimum requirements and standards for premises, structures, equipment and facilities for light, ventilation, space, heating, sanitation, protection from the elements, life safety, safety from fire and other hazards, and for safe and sanitary maintenance; the responsibility of owners, operators and occupants; the occupancy of existing structures and premises, and for administration, enforcement and penalties.

(3) Intent. This code shall be construed to secure its expressed intent, which is to ensure public health, safety and welfare in so far as they are affected by the continued occupancy and maintenance of structures and premises. Existing structures and premises that do not comply with these provisions shall be altered or repaired to provide a minimum level of health and safety as required herein.

(4) Severability. If a section, subsection, sentence, clause or phrase of this code is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this code. (Ord. #64-1, July 1968, as amended by Ord. #03-10, Aug. 2003, and replaced by Ord. #07-01, Feb. 2007)

13-102. Applicability. (1) General. The provisions of this code shall apply to all matters affecting or relating to structures and premises, as set forth in § 13-101. Where, in a specific case, different sections of this code specify different requirements, the most restrictive shall govern.

(2) Maintenance. Equipment, systems, devices and safeguards required by this code or a previous regulation or code under which the structure or premises was constructed, altered or repaired shall be maintained in good working order. No owner, operator or occupant shall cause any service, facility, equipment or utility which is required under this section to be removed from or shut off from or discontinued for any occupied dwelling, except for such temporary interruption as necessary while repairs or alterations are in progress. The requirements of this code are not intended to provide the basis for removal or abrogation of fire protection and safety systems and devices in existing structures. Except as otherwise specified herein, the owner or the owner's designated agent shall be responsible for the maintenance of buildings, structures and premises.

(3) Application of other codes. Repairs, additions or alterations to structure, or changes of occupancy, shall be done in accordance with the

procedures and provisions of the City of Bartlett's currently adopted building code, fuel gas code, mechanical code and National Electrical Code. Nothing in this code shall be construed to cancel, modify or set aside any provision of the City of Bartlett Zoning Ordinances.

(4) Existing remedies. The provisions in this code shall not be construed to abolish or impair existing remedies of the jurisdiction or its officers or agencies relating to the removal or demolition of any structure which is dangerous, unsafe and insanitary.

(5) Workmanship. Repairs, maintenance work, alterations or installations which are caused directly or indirectly by the enforcement of this code shall be executed and installed in a workmanlike manner and installed in accordance with the manufacturer's installation instructions.

(6) Historic buildings. The provisions of this code shall not be mandatory for existing buildings or structures designated as historic buildings when such buildings or structures are judged by the code official to be safe and in the public interest of health, safety and welfare.

(7) Referenced codes and standards. The codes and standards referenced in this code shall be those that are listed in § 13-124 and considered part of the requirements of this code to the prescribed extent of each such reference. Where differences occur between provisions of this code and the referenced standards, the provisions of this code shall apply.

(8) Requirements not covered by code. Requirements necessary for the strength, stability or proper operation of an existing fixture, structure or equipment, or for the public safety, health and general welfare, not specifically covered by this code, shall be determined by the code official. (Ord. #03-10, Aug. 2003, as replaced by Ord. #07-01, Feb. 2007)

13-103. Department of property maintenance inspection.

(1) General. The department of property maintenance inspection is hereby created and the executive official in charge thereof shall be known as the code official.

(2) Appointment. The code official shall be appointed by the mayor and shall serve at his will and pleasure.

(3) Liability. The code official, officer or employee charged with the enforcement of this code, while acting for the jurisdiction, shall not thereby be rendered liable personally, and is hereby relieved from all personal liability for any damage accruing to persons or property as a result of an act required or permitted in the discharge of official duties.

Any suit instituted against any officer or employee because of an act performed by that officer or employee in the lawful discharge of duties and under the provisions of this code shall be defended by the legal representative of the jurisdiction until the final termination of the proceedings. The code official or any subordinate shall not be liable for costs in an action, suit or proceeding that is instituted in pursuance of the provisions of this code; and any officer of

the department of property maintenance inspection, acting in good faith and without malice, shall be free from liability for acts performed under any of its provisions or by reason of any act or omission in the performance of official duties in connection therewith.

(4) Fees. The fees for activities and services performed by the department in carrying out its responsibilities under this code shall be as indicated in the code enforcement fee schedule. Copies of the fee schedule are available in the code enforcement office. (Ord. #03-10, Aug. 2003, as replaced by Ord. #07-01, Feb. 2007)

13-104. Duties and powers of the code official. (1) General. The code official shall enforce the provisions of this code.

(2) Rule-making authority. The code official shall have authority as necessary in the interest of public health, safety and general welfare, to adopt procedures; to interpret and implement the provisions of this code; to secure the intent thereof; and to designate requirements applicable because of local climatic or other conditions. Such rules shall not have the effect of waiving structural or fire performance requirements specifically provided for in this code, or of violating accepted engineering methods involving public safety.

(3) Inspection. The code official or his designee shall make all of the required inspections, or shall accept reports of inspection by approved agencies or individuals. All reports of such inspections shall be in writing and be certified by a responsible officer of such approved agency or by the responsible individual. The code official is authorized to engage such expert opinion as deemed necessary to report upon unusual technical issues that arise, subject to the approval of the mayor.

(4) Right of entry. The code official is authorized to enter the structure or premises at reasonable times to inspect subject to constitutional restrictions on unreasonable searches and seizures. If entry is refused or not obtained, the code official is authorized to pursue recourse as provided by law.

(5) Identification. The code official shall carry proper identification when inspecting structures or premises in the performance of duties under this code.

(6) Notices and orders. The code official shall issue all necessary notices or orders to ensure compliance with this code.

(7) Department records. The code official shall keep official records of all business and activities of the department specified in the provisions of this code. Such records shall be retained in the official records as long at the building or structure to which such records relate remains in existence, unless otherwise provided for by other regulations. (Ord. #03-10, Aug. 2003, as replaced by Ord. #07-01, Feb. 2007)

13-105. Approval. (1) Modifications. Whenever there are practical difficulties involved in carrying out the provisions of this code, the code official

shall have the authority to grant modifications for individual cases, provided the code official shall first find that special individual reason makes the strict letter of this code impractical and the modification is in compliance with the intent and purpose of this code and that such modification does not lessen health, life and fire safety requirements. The details of action granting modifications shall be recorded and entered in the department files.

(2) Alternative materials, methods and equipment. The provisions of this code are not intended to prevent the installation of any material or to prohibit any method of construction not specifically prescribed by this code, provided that any such alternative has been approved. An alternative material or method of construction shall be approved where the code official finds that the proposed design is satisfactory and complies with the intent of the provisions of this code, and that the material, method or work offered is, for the purpose intended, at least the equivalent of that prescribed in this code in quality, strength, effectiveness, fire resistance, durability and safety.

(3) Required testing. Whenever there is insufficient evidence of compliance with the provisions of this code, or evidence that a material or method does not conform to the requirements of this code, or in order to substantiate claims for alternate materials or methods, the code official shall have the authority to require tests to be made as evidence of compliance at no expense to the jurisdiction.

(a) Test methods. Test methods shall be as specified in this code or by other recognized test standards. In the absence of recognized and accepted test methods, the code official shall be permitted to approve appropriate testing procedures performed by an approved agency.

(b) Test reports. Reports of tests shall be retained by the code official for the period required for retention of public records.

(4) Material and equipment reuse. Materials, equipment and devices shall not be reused unless such elements are in good repair or have been reconditioned and tested when necessary, placed in good and proper working condition and approved. (Ord. #03-10, Aug. 2003, as replaced by Ord. #07-01, Feb. 2007)

13-106. Violations. (1) Unlawful acts. It shall be unlawful for a person, firm or corporation to be in conflict with or in violation of any of the provisions of this code.

(2) Notice of violation. The code official shall serve a notice of violation or order in accordance with § 13-107.

(3) Prosecution of violation. Any person failing to comply with a notice of violation or order served in accordance with § 13-107 shall be deemed guilty of a misdemeanor or civil infraction as determined by the local municipality, and the violation shall be deemed a strict liability offense. If the notice of violation is not complied with, the code official shall institute the appropriate proceeding at law or in equity to restrain, correct or abate such violation, or to require the

removal or termination of the unlawful occupancy of the structure in violation of the provisions of this code or of the order or direction made pursuant thereto. Any action or repairs taken by the authority having jurisdiction on such premises shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate.

All repair costs are to include but not necessarily be limited to the following:

(a) Construction cost including removal and disposal, temporary repairs and barricading, materials and labor cost.

(b) Administrative cost of one hundred dollars ($100.00) or fifteen percent (15%), whichever is greater.

If the property owner does not complete the necessary sidewalk repairs within sixty (60) days and the city undertakes the repairs, the property owner has the option of paying within thirty (30) days of completion of the repair work, wherein the administrative fee will be waived. If the property owner is unable to pay within the allotted thirty (30) days, he can pay via a 12-month payment plan set by the finance department.

(4) Tax lien. That the cost of any improvements required by the board of mayor and aldermen shall be assessed against the owner or owners of the abutting property and where such cost has not been paid within thirty (30) days of notice by registered mail, the public works department or the code enforcement department shall certify to the City of Bartlett Finance Department said assessment for filing against the taxes of the property.

(5) Violation penalties. Any person who shall violate a provision of this code, or fail to comply therewith, or with any of the requirements thereof, shall be prosecuted within the limits provided by state or local laws. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

(6) Abatement of violation. The imposition of the penalties herein prescribed shall not preclude the legal officer of the jurisdiction from instituting appropriate action to restrain, correct or abate a violation, or to prevent illegal occupancy of a building, structure or premises, or to stop an illegal act, conduct, business or utilization of the building, structure or premises.

(7) Fines. Any person, firm or corporation violating any provision of this chapter shall be fined not less than five dollars ($5.00) or more than fifty dollars ($50.00) for each offense, and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues. (Ord. #03-10, Aug. 2003, as replaced by Ord. #07-01, Feb. 2007)

13-107. Notices and orders. (1) Notice to person responsible. Whenever the code official determines that there has been a violation of this code or has grounds to believe that a violation has occurred, notice shall be given in the manner prescribed in subsections (1) and (3) to the person responsible for

the violation as specified in this code. Notices for condemnation procedures shall also comply with § 13-108(3).

(2) Form. Such notice prescribed in § 13-107(1) shall be in accordance with all of the following:

(a) Be in writing;

(b) Include a description of the real estate sufficient for identification;

(c) Include a statement of the violation or violations and why the notice is being issued;

(d) Include a correction order allowing a reasonable time to make the repairs and improvements required to bring the dwelling unit or structure into compliance with the provisions of this code;

(e) Inform the property owner of the right to appeal;

(f) Include a statement of the right to file a lien in accordance with § 13-106(3).

(3) Method of service. Such notice shall be deemed to be properly served if a copy thereof is:

(a) Delivered personally;

(b) Sent by certified or first-class mail addressed to the last known address; or

(c) In addition to the foregoing, the notice of violation shall be posted on the property where the violation exists by taping or affixing on or near the front door of the dwelling, or, in the case of a vacant lot, by placing a sign containing the notice on the property.

(4) Penalties. Penalties for noncompliance with orders and notices shall be as set forth in § 13-106(5).

(5) Transfer of ownership. It shall be unlawful for the owner of any dwelling unit or structure who has received a compliance order or upon whom a notice of violation has been served to sell, transfer, mortgage, lease or otherwise dispose of such dwelling unit or structure to another until the provisions of the compliance order or notice of violation have been complied with, or until such owner shall first furnish the grantee, transferee, mortgagee or lessee a true copy of any compliance order or notice of violation issued by the code official and shall furnish to the code official a signed and notarized statement from the grantee, transferee, mortgagee or lessee, acknowledging the receipt of such compliance order or notice of violation and fully accepting the responsibility without condition for making the corrections or repairs required by such compliance order or notice of violation. (Ord. #03-10, Aug. 2003, as replaced by Ord. #07-01, Feb. 2007, and amended by Ord. #17-02, March 2017)

13-108. Unsafe structures and equipment. (1) General. When a structure or equipment is found by the code official to be unsafe, or when a structure is found unfit for human occupancy, or is found unlawful, such structure shall be condemned pursuant to the provisions of this code.

(a) Unsafe structures. An unsafe structure is one that is found to be dangerous to the life, health, property or safety of the public or the occupants of the structure by not providing minimum safeguards to protect or warn occupants in the event of fire, or because such structure contains unsafe equipment or is so damaged, decayed, dilapidated, structurally unsafe or of such faulty construction or unstable foundation, that partial or complete collapse is possible.

(b) Unsafe equipment. Unsafe equipment includes any boiler, heating equipment, elevator, moving stairway, electrical wiring or device, flammable liquid containers or other equipment on the premises or within the structure which is in such disrepair or condition that such equipment is a hazard to life, health, property or safety of the public or occupants of the premises or structure.

(c) Structure unfit for human occupancy. A structure is unfit for human occupancy whenever the code official finds that such structure is unsafe, unlawful or, because of the degree to which the structure is in disrepair or lacks maintenance, is unsanitary, vermin or rat infested, contains filth and contamination, or lacks ventilation, illumination, sanitary or heating facilities or other essential equipment required by this code, or because the location of the structure constitutes a hazard to the occupants of the structure or to the public.

(d) Unlawful structure. An unlawful structure is one found in whole or in part to be occupied by more persons than permitted under this code, or was erected, altered or occupied contrary to law.

(2) Closing of vacant structures. If the structure is vacant and unfit for human habitation and occupancy, and is not in danger of structural collapse, the code official is authorized to post a placard of condemnation on the premises and order the structure closed up so as not to be an attractive nuisance. Upon failure of the owner to close up the premises within the time specified in the order, the code official shall cause the premises to be closed and secured through any available public agency or by contract or arrangement by private persons and the cost thereof shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate and may be collected by any other legal resource.

(3) Notice. Whenever the code official has condemned a structure or equipment under the provisions of this section, notice shall be posted in a conspicuous place in or about the structure affected by such notice and served on the owner or the person or persons responsible for the structure or equipment in accordance with § 13-107(3). If the notice pertains to equipment, it shall also be placed on the condemned equipment. The notice shall be in the form prescribed in § 13-107(2).

(4) Placarding. Upon failure of the owner or person responsible to comply with the notice provisions within the time given, the code official shall post on the premises or on defective equipment a placard bearing the word

"Condemned" and a statement of the penalties provided for occupying the premises, operating the equipment or removing the placard.

(a) Placard removal. The code official shall remove the condemnation placard whenever the defect or defects upon which the condemnation and placarding action were based have been eliminated. Any person who defaces or removes a condemnation placard without the approval of the code official shall be subject to the penalties provided by this code.

(5) Prohibited occupancy. Any occupied structure condemned and placarded by the code official shall be vacated as ordered by the code official. Any person who shall occupy a placarded premises or shall operate placarded equipment, and any owner or any person responsible for the premises who shall let anyone occupy a placarded premises or operate placarded equipment shall be liable for the penalties provided by this code. (as added by Ord. #07-01, Feb. 2007)

13-109. Emergency measures. (1) Imminent danger. When, in the opinion of the code official, there is imminent danger of failure or collapse of a building or structure which endangers life, or when any structure or part of a structure has fallen and life is endangered by the occupation of the structure, or when there is actual or potential danger to the building occupants or those in the proximity of any structure because of explosives, explosive fumes or vapors or the presence of toxic fumes, gases or materials, or operation of defective or dangerous equipment, the code official is hereby authorized and empowered to order and require the occupants to vacate the premises forthwith. The code official shall cause to be posted at each entrance to such structure a notice reading as follows: "This Structure is Unsafe and Its Occupancy Has Been Prohibited by the Code Official." It shall be unlawful for any person to enter such structure except for the purpose of securing the structure, making the required repairs, removing the hazardous condition or of demolishing the same.

(2) Temporary safeguards. Notwithstanding other provisions of this code, whenever, in the opinion of the code official, there is imminent danger due to an unsafe condition, the code official shall order the necessary work to be done, including the boarding up of openings, to render such structure temporarily safe whether or not the legal procedure herein described has been instituted; and shall cause such other action to be taken as the code official deems necessary to meet such emergency.

(3) Closing streets. When necessary for public safety, the code official shall temporarily close structures and close, or order the authority having jurisdiction to close, sidewalks, streets, public ways and places adjacent to unsafe structures, and prohibit the same from being utilized.

(4) Emergency repairs. For the purposes of this section, the code official shall employ the necessary labor and materials to perform the required work as expeditiously as possible.

(5) Costs of emergency repairs. Costs incurred in the performance of emergency work shall be paid by the City of Bartlett. The legal counsel of the city shall institute appropriate action against the owner of the premises where the unsafe structure is or was located for the recovery of such costs.

(6) Hearing. Any person ordered to take emergency measures shall comply with such order forthwith. Any affected person shall thereafter, upon petition directed to the code appeals board, be afforded a hearing as described in this code. (as added by Ord. #07-01, Feb. 2007)

13-110. Demolition. (1) General. The code official shall order the owner of any premises upon which is located any structure, which in the code official's judgment is so old, dilapidated or has become so out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human habitation or occupancy, and such that it is unreasonable to repair the structure, to demolish and remove such structure; or if such structure is capable of being made safe by repairs, to repair and make safe and sanitary or to demolish and remove at the owner's option; or where there has been a cessation of normal construction of any structure for a period of more than two (2) years, to demolish and remove such structure.

(2) Notices and orders. All notices and orders shall comply with § 13-107.

(3) Failure to comply. If the owner of a premises fails to comply with a demolition order within the time prescribed, the code official shall cause the structure to be demolished and removed, either through an available public agency or by contract or arrangement with private persons, and the cost of such demolition and removal shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate.

(4) Salvage materials. When any structure has been ordered demolished and removed, the governing body or other designated officer under said contract or arrangement aforesaid shall have the right to sell the salvage and valuable materials at the highest price obtainable. The net proceeds of such sale, after deducting the expenses of such demolition and removal, shall be promptly remitted with a report of such sale or transaction, including the items of expenses and the amounts deducted, for the person who is entitled thereto, subject to any order of a court. If such a surplus does not remain to be turned over, the report shall so state. (as added by Ord. #07-01, Feb. 2007)

13-111. Means of appeal. (1) Application for appeal. Any person directly affected by a decision of the code official or a notice or order issued under this code shall have the right to appeal to the code appeals board, provided that a written application for appeal is filed within ten (10) days after the day the decision, notice or order was served. An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not

fully apply, or the requirements of this code are adequately satisfied by other means.

(2) Membership of board. The code appeals board shall consist of a minimum of three (3) members who are qualified by experience and training to pass on matters pertaining to property maintenance and who are not employees of the jurisdiction. The code official shall be an ex-officio member but shall have no vote on any matter before the board. The board shall be appointed by the mayor, and shall serve staggered and overlapping terms.

(a) Chairman. The board shall annually select one of its members to serve as chairman.

(b) Disqualification of member. A member shall not hear an appeal in which that member has a personal, professional or financial interest.

(c) Secretary. The mayor shall designate a qualified staff member to serve as secretary to the board. The secretary shall file a detailed record of all proceedings in the office of the code department.

(d) Compensation of members. Members shall serve without compensation.

(3) Notice of meeting. The board shall meet upon notice from the chairman, within twenty (20) days of the filing of an appeal, or at stated periodic meetings.

(4) Open hearing. All hearings before the board shall be open to the public. The appellant, the appellant's representative, the code official and any person whose interests are affected shall be given an opportunity to be heard. A quorum shall consist of not less than two-thirds (2/3) of the board membership.

(a) Procedure. The board shall adopt and make available to the public through the secretary procedures under which a hearing will be conducted. The procedures shall not require compliance with strict rules of evidence, but shall mandate that only relevant information be received.

(5) Postponed hearing. When a quorum is not present to hear an appeal, either the appellant or the appellant's representative shall have the right to request a postponement of the hearing.

(6) Board decision. The board shall modify or reverse the decision of the code official only by a concurring vote of a majority of those present.

(a) Records and copies. The decision of the board shall be recorded. Copies shall be furnished to the appellant and to the code official.

(b) Administration. The code official shall take immediate action in accordance with the decision of the board.

(7) Stays of enforcement. Appeals of notice and orders (other than imminent danger notices) shall stay the enforcement of the notice and order until the appeal is heard by the code appeals board. (as added by Ord. #07-01, Feb. 2007, and amended by Ord. #17-01, March 2017)

13-112. Definitions. (1) Scope. Unless otherwise expressly stated, the following terms shall, for the purpose of this code, have the meanings shown in this chapter.

(2) Interchangeability. Words stated in the present tense include the future; words stated in the masculine gender include the feminine and neuter; the singular number includes the plural and the plural, the singular.

(3) Terms defined in other codes. Where terms are not defined in this code and are defined in the building code, fire prevention code, Bartlett Zoning Ordinance, plumbing code, mechanical code or the electrical code as adopted by the City of Bartlett, such terms shall have the meanings ascribed to them as stated in those codes.

(4) Terms not defined. Where terms are not defined through the methods authorized by this section, such terms shall have ordinarily accepted meanings such as the context implies.

(5) Parts. Whenever the words "dwelling unit," "dwelling," "premises," "building," "rooming house," "rooming unit," "housekeeping unit" or "story" are stated in this code, they shall be construed as though they were followed by the words "or any part thereof."

(6) Definitions. (a) "Approved." Approved by the code official.

(b) "Basement." That portion of a building which is partly or completely below grade.

(c) "Bathroom." A room containing plumbing fixtures including a bathtub or shower.

(d) "Bedroom." Any room or space used or intended to be used for sleeping purposes in either a dwelling or sleeping unit.

(e) "Blighted areas." Areas (including slum areas) with buildings or improvements which, by reason of dilapidation, obsolescence, overcrowding, faulty arrangement or design, lack of ventilation, light and sanitary facilities, excessive land coverage, deleterious land use, or obsolete layout, or any combination of these or other factors, are detrimental to the safety, health, morals, or welfare of the community.

(f) "Code official." The official who is charged with the administration and enforcement of this code, or any duly authorized representative.

(g) "Condemn." To adjudge unfit for occupancy.

(h) "Dilapidation." Extreme deterioration and decay due to lack of repairs to and care of the area.

(i) "Dwelling unit." A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

(j) "Easement." That portion of land or property reserved for present or future use by a person or agency other than the legal fee owner(s) of the property. The easement shall be permitted to be for the use under, on or above a said lot or lots.

(k) "Exterior property." The open space on the premises and on adjoining property under the control of owners or operators of such premises.

(l) "Extermination." The control and elimination of insects, rats or other pests by eliminating their harborage places; by removing or making inaccessible materials that serve as their food; by poison spraying, fumigating, trapping or by any other approved pest elimination methods.

(m) "Garbage." The animal or vegetable waste resulting from the handling, preparation, cooking and consumption of food.

(n) "Guard." A building component or a system of building components located at or near the open sides of elevated walking surfaces that minimizes the possibility of a fall from the walking surface to a lower level.

(o) "Habitable space." Space in a structure for living, sleeping, eating or cooking. Bathrooms, toilet rooms, closets, halls, storage or utility spaces, and similar areas are not considered habitable spaces.

(p) "Housekeeping unit." A room or group of rooms forming a single habitable space equipped and intended to be used for living, sleeping, cooking and eating which does not contain, within such a unit, a toilet, lavatory and bathtub or shower.

(q) "Imminent danger." A condition which could cause serious or life-threatening injury or death at any time.

(r) "Infestation." The presence, within or contiguous to, a structure or premises of insects, rats, vermin or other pests.

(s) "Inoperable motor vehicle." A vehicle which cannot be driven upon the public streets for reason including but not limited to being unlicensed, wrecked, abandoned, in a state of disrepair, or incapable of being moved under its own power.

(t) "Labeled." Devices, equipment, appliances, or materials to which has been affixed a label, seal, symbol or other identifying mark of a nationally recognized testing laboratory, inspection agency or other organization concerned with product evaluation that maintains periodic inspection of the production of the above-labeled items and by whose label the manufacturer attests to compliance with applicable nationally recognized standards.

(u) "Let for occupancy or let." To permit, provide or offer possession or occupancy of a dwelling, dwelling unit, rooming unit, building, premise or structure by a person who is or is not the legal owner of record thereof, pursuant to a written or unwritten lease, agreement or license, or pursuant to a recorded or unrecorded agreement of contract for the sale of land.

(v) "Occupancy." The purpose for which a building or portion thereof is utilized or occupied.

(w) "Occupant." Any individual living or sleeping in a building, or having possession of a space within a building.

(x) "Openable area." That part of a window, skylight or door which is available for unobstructed ventilation and which opens directly to the outdoors.

(y) "Operator." Any person who has charge, care or control of a structure or premises which is let or offered for occupancy.

(z) "Owner." Any person, agent, operator, firm or corporation having a legal or equitable interest in the property; or recorded in the official records of the state, county or municipality as holding title to the property; or otherwise having control of the property, including the guardian of the estate of any such person, and the executor or administrator of the estate of such person if ordered to take possession of real property by a court.

(aa) "Person." An individual, corporation, partnership or any other group acting as a unit.

(bb) "Premises." A lot, plot or parcel of land, easement or public way, including any structures thereon.

(cc) "Public way." Any street, alley or similar parcel of land essentially unobstructed from the ground to the sky, which is deeded, dedicated or otherwise permanently appropriated to the public for public use.

(dd) "Rooming house." A building arranged or occupied for lodging, with or without meals, for compensation and not occupied as a one- or two-family dwelling.

(ee) "Rooming unit." Any room or group of rooms forming a single habitable unit occupied or intended to be occupied for sleeping or living, but not for cooking purposes.

(ff) "Rubbish." Combustible and noncombustible waste materials, except garbage; the term shall include the residue from the burning of wood, coal, coke and other combustible materials, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, crockery and dust and other similar materials.

(gg) "Sleeping unit." A room or space in which people sleep, which can also include permanent provisions for living, eating and either sanitation or kitchen facilities, but not both. Such rooms and spaces that are also part of a dwelling unit are not sleeping units.

(hh) "Strict liability offense." An offense in which the prosecution in a legal proceeding is not required to prove criminal intent as a part of its case. It is enough to prove that the defendant either did an act which was prohibited, or failed to do an act which the defendant was legally required to do.

(ii) "Structure." That which is built or constructed or a portion thereof.

(jj) "Tenant." A person, corporation, partnership or group, whether or not the legal owner of record, occupying a building or portion thereof as a unit.

(kk) "Toilet room." A room containing a water closet or urinal but not a bathtub or shower.

(ll) "Urban." Relating to a city; but in a more general sense it signifies relating to houses.

(mm) "Ventilation." The natural or mechanical process of supplying conditioned or unconditioned air to, or removing such air from, any space.

(nn) "Workmanlike." Executed in a skilled manner; e.g., generally plumb, level, square, in line, undamaged and without marring adjacent work.

(oo) "Yard." An open space on the same lot with a structure. (as added by Ord. #07-01, Feb. 2007)

13-113. Exterior property areas. (1) General. (a) Scope. The provisions of this section shall govern the minimum conditions and the responsibilities of persons for maintenance of structures, equipment and exterior property.

(b) Responsibility. The owner of the premises shall maintain the structures and exterior property in compliance with these requirements, except as otherwise provided for in this code. A person shall not occupy as owner-occupant or permit another person to occupy premises which are not in a sanitary and safe condition and which do not comply with the requirements of this chapter. Occupants of a dwelling unit, rooming unit or housekeeping unit are responsible for keeping in a clean, sanitary and safe condition that part of the dwelling unit, rooming unit, housekeeping unit or premises which they occupy and control.

(c) Vacant structures and land. All vacant structures and premises thereof or vacant land shall be maintained in a clean, safe, secure and sanitary condition as provided herein so as not to cause a blighting problem or adversely affect the public health or safety.

(d) Applicable to all buildings and premises. Every residential, nonresidential or mixed occupancy building and the land on which it is situated, used or intended to be used for dwelling, commercial, business or industrial occupancy shall comply with the provisions of this code, whether or not such building shall have been constructed, altered or repaired before or after the enactment of this code, and irrespective of any permits or licenses which shall have been issued for the use or occupancy of the building or premises for the construction or repair of the building, or for the installation or repair of equipment or facilities prior to the

effective date of this code. This code shall also apply to mobile home parks.

(2) Exterior property areas. (a) Sanitation. All exterior property and premises shall be maintained in a clean, safe and sanitary condition. The occupant shall keep that part of the exterior property which such occupant occupies or controls in a clean and sanitary condition.

(b) Grading and drainage. All premises shall be graded and maintained to prevent the erosion of soil and to prevent the accumulation of stagnant water thereon, or within any structure located thereon. Exception: Approved retention areas and reservoirs.

(c) Sidewalks and driveways. All sidewalks, walkways, stairs, driveways, parking spaces and similar areas shall be kept in a proper state of repair, and maintained free from hazardous conditions.

(i) Duty of property owners. It shall be the duty of the property owners of all property within the City of Bartlett to keep the sidewalks abutting their property in good repair. The Code Enforcement Department of the City of Bartlett, when it determines, that a portion or all of a sidewalk or driveway apron or inlet, is in need of repair as authorized by the board of mayor and aldermen, may on its own motion, order the same to be done.

(ii) Notice to repair. That the order of the Board of Mayor and Aldermen of the City of Bartlett by resolution duly adopted, direct the Building Official of the City of Bartlett or his delegates to serve notice in writing upon the owner, or owners, of the property abutting the improvement to make such repairs as requested within ninety (90) days from the date of notification, such repair to conform to all standards currently adopted and enforced through the subdivision regulations of the City of Bartlett and the building codes and other related technical codes.

(iii) Failure to comply. The Building Official of the City of Bartlett shall report to the department of public works any owner or owners of property abutting the deteriorated sidewalks and/or drive aprons that have failed or who have refused or neglected to comply with the notice pertaining to their sidewalks and/or driveway aprons, and the department of public works shall thereupon, request the repair to be done either by its crews or by contract.

(iv) Right of appeal. The board of mayor and aldermen shall appoint a committee to hear and determine protest, appeals or hardship cases. The code appeals board shall have the power to waive administrative costs in the event a hardship is proven by the property owner.

(v) Transfer of property. The code enforcement department shall provide to the finance department a record of

damaged sidewalks and inlets as they are inspected. Such notice shall be filed on the tax records for the property and will provide a notification of such to all parties requesting tax data during the sale or transfer of the property.

(vi) Handicap ramps. When a sidewalk section must be replaced that is in the location where a handicap ramp is required, the City of Bartlett shall replace the sidewalk section at the time the city installs the handicap ramp. Said replacement and installation will be at the city's cost.

(d) Weeds. All premises and exterior property shall be maintained free from weeds or plant growth in excess of nine (9) inches. All noxious weeds shall be prohibited. Weeds shall be defined at all grasses, annual plants and vegetation, other than trees or shrubs provided; however, this term shall not include cultivated flowers and gardens.

Upon failure of the owner or agent having charge of a property to cut and destroy weeds after service of a notice of violation, they shall be subject to prosecution in accordance with § 13-106(3) and as prescribed by the authority having jurisdiction. Upon failure to comply with the notice of violation, any duly authorized employee of the jurisdiction or contractor hired by the jurisdiction shall be authorized to enter upon the property in violation and cut and destroy the weeds growing thereon.

(i) Landscaping. Premises with landscaping and lawns, trees and shrubs shall be kept trimmed and maintained so as not to imperil public health or safety or cause damage to any structure or premises or utility services.

(e) Rodent harborage. All structures and exterior property shall be kept free from rodent harborage and infestation. Where rodents are found, they shall be promptly exterminated by approved processes which will not be injurious to human health. After extermination, proper precautions shall be taken to eliminate rodent harborage and prevent re-infestation.

(f) Exhaust vents. Pipes, ducts, conductors, fans or blowers shall not discharge gases, steam, vapor, hot air, grease, smoke, odors or other gaseous or particulate wastes directly upon abutting or adjacent public or private property or that of another tenant.

(g) Accessory structures. All accessory structures, including detached garages, fences and walls, shall be maintained structurally sound and in good repair.

(h) Motor vehicles. Except as provided for in other regulations, no inoperative or unlicensed motor vehicle shall be parked, kept or stored on any premises, and no vehicle shall at any time be in a state of major disassembly, disrepair, or in the process of being stripped or dismantled, unless parked within the confines of an enclosed structure. Painting of

vehicles is prohibited unless conducted inside an approved spray booth. Exception: A vehicle of any type is permitted to undergo major overhaul, including body work, provided that such work is performed inside a structure or similarly enclosed area designed and approved for such purposes.

(i) Defacement of property. No person shall willfully or wantonly damage, mutilate or deface any exterior surface of any structure or building on any private or public property by placing thereon any marking, carving or graffiti. It shall be the responsibility of the owner to restore said surface to an approved state of maintenance and repair.

(j) Storage of commercial and industrial material. There shall not be stored or used at a location equipment and materials relating to commercial or industrial use unless permitted under the zoning ordinance for the premises. (as added by Ord. #07-01, Feb. 2007)

13-114. Swimming pools, spas and hot tubs. (1) Swimming pools. Swimming pools shall be maintained in a clean and sanitary condition, and in good repair.

(2) Enclosures. Private swimming pools, hot tubs and spas, containing water more than twenty-four (24) inches (610 mm) in depth shall be completely surrounded by a fence or barrier at least forty-eight (48) inches (1219 mm) in height above the finished ground level measured on the side of the barrier away from the pool. Gates and doors in such barriers shall be self-closing and self-latching. Where the self-latching device is less than fifty-four (54) inches (1372 mm) above the bottom of the gate, the release mechanism shall be located on the pool side of the gate. Self-closing and self-latching gates shall be maintained such that the gate will positively close and latch when released from an open position of six (6) inches (152 mm) from the gatepost. No existing pool enclosure shall be removed, replaced or changed in a manner that reduces its effectiveness as a safety barrier. Exception: Spas or hot tubs with a safety cover that complies with ASTM F 1346 shall be exempt from the provisions of this section. (as added by Ord. #07-01, Feb. 2007)

13-115. Exterior structure. (1) General. The exterior of a structure shall be maintained in good repair, structurally sound and sanitary so as not to pose a threat to the public health, safety or welfare.

(2) Protective treatment. All exterior surfaces, including but not limited to, doors, door and window frames, cornices, porches, trim, balconies, decks and fences shall be maintained in good condition. Exterior wood surfaces, other than decay resistant woods, shall be protected from the elements and decay by painting or other protective covering or treatment.

Peeling, flaking and chipped paint shall be eliminated and surfaces repainted. All siding and masonry joints as well as those between the building

envelope and the perimeter of windows, doors, and skylights shall be maintained weather resistant and water tight. All metal surfaces subject to rust or corrosion shall be coated to inhibit such rust and corrosion and all surfaces with rust or corrosion shall be stabilized and coated to inhibit future rust and corrosion. Oxidation stains shall be removed from exterior surfaces. Surfaces designed for stabilization by oxidation are exempt from this requirement.

(3) Premises identification. Building shall have approved address numbers placed in a position to be plainly legible and visible from the street or road fronting the property. These numbers shall contrast with their background. Address numbers shall be Arabic numerals or alphabet letters. Numbers shall be a minimum of four (4) inches (102 mm) high with a minimum stroke width of 0.5 inch (12.7 mm).

(4) Structural members. All structural members shall be maintained free from deterioration, and shall be capable of safely supporting the imposed dead and live loads.

(5) Foundation walls. All foundation walls shall be maintained plumb and free from open cracks and breaks and shall be kept in such condition so as to prevent the entry of rodents and other pests.

(6) Exterior walls. All exterior walls shall be free from holes, breaks, and loose or rotting materials; and maintained weatherproof and properly surface coated where required to prevent deterioration.

(7) Roofs and drainage. The roof and flashing shall be sound, tight and not have defects that admit rain. Roof drainage shall be adequate to prevent dampness or deterioration in the walls or interior portion of the structure. Roof drains, gutters and downspouts shall be maintained in good repair and free from obstructions. Roof water shall not be discharged in a manner that creates a public nuisance.

(8) Decorative features. All cornices, belt courses, corbels, terra cotta trim, wall facings and similar decorative features shall be maintained in good repair with proper anchorage and in a safe condition.

(9) Overhang extensions. All overhang extensions including, but not limited to canopies, marquees, signs, metal awnings, fire escapes, standpipes and exhaust ducts shall be maintained in good repair and be properly anchored so as to be kept in a sound condition. When required, all exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic application of weather-coating materials, such as paint or similar surface treatment.

(10) Stairways, decks, porches and balconies. Every exterior stairway, deck, porch and balcony, and all appurtenances attached thereto, shall be maintained structurally sound, in good repair, with proper anchorage and capable of supporting the imposed loads.

(11) Chimneys and towers. All chimneys, cooling towers, smoke stacks, and similar appurtenances shall be maintained structurally safe and sound, and in good repair. All exposed surfaces of metal or wood shall be protected from the

elements and against decay or rust by periodic application of weather coating materials, such as paint or similar surface treatment.

(12) Handrails and guards. Every handrail and guard shall be firmly fastened and capable of supporting normally imposed loads and shall be maintained in good condition.

(13) Window, skylight and door frames. Every window, skylight, door and frame shall be kept in sound condition, good repair and weather tight.

(a) Glazing. All glazing materials shall be maintained free from cracks and holes.

(b) Openable windows. Every window, other than a fixed window, shall be easily openable and capable of being held in position by window hardware.

(14) Doors. All exterior doors, door assemblies and hardware shall be maintained in good condition. Locks at all entrances to dwelling units and sleeping units shall tightly secure the door. Locks on means of egress doors shall be in accordance with § 13-123(2)(c).

(15) Basement hatchways. Every basement hatchway shall be maintained to prevent the entrance of rodents, rain and surface drainage water.

(16) Guards for basement windows. Every basement window that is openable shall be supplied with rodent shields, storm windows or other approved protection against the entry of rodents.

(17) Building security. Doors, windows or hatchways for dwelling units, room units or housekeeping units shall be provided with devices designed to provide security for the occupants and property within.

(a) Doors. Doors providing access to a dwelling unit, rooming unit or housekeeping unit that is rented, leased or let shall be equipped with a deadbolt lock designed to be readily openable from the side from which egress is to be made without the need for keys, special knowledge or effort and shall have a lock throw of not less than one (1) inch (25 mm). Such deadbolt locks shall be installed according to the manufacturer's specifications and maintained in good working order. For the purpose of this section, a sliding bolt shall not be considered an acceptable deadbolt lock.

(b) Windows. Openable windows located in whole or in part within six (6) feet (1828 mm) above ground level or a walking surface below that provide access to a dwelling unit, rooming unit or housekeeping unit that is rented, leased or let shall be equipped with a window sash locking device.

(c) Basement hatchways. Basement hatchways that provide access to a dwelling unit, rooming unit or housekeeping unit that is rented, leased or let shall be equipped with devices that secure the units from unauthorized entry. (as added by Ord. #07-01, Feb. 2007)

13-116. Interior structure. (1) General. The interior of a structure and equipment therein shall be maintained in good repair, structurally sound and in a sanitary condition. Occupants shall keep that part of the structure which they occupy or control in a clean and sanitary condition. Every owner of a structure containing a rooming house, housekeeping units, a hotel, a dormitory, two (2) or more dwelling units or two (2) or more nonresidential occupancies, shall maintain, in a clean and sanitary condition, the shared or public areas of the structure and exterior property.

(2) Structural members. All structural members shall be maintained structurally sound, and be capable of supporting the imposed loads.

(3) Interior surfaces. All interior surfaces, including windows and doors, shall be maintained in good, clean and sanitary condition. Peeling, chipping, flaking or abraded paint shall be repaired, removed or covered. Cracked or loose plaster, decayed wood and other defective surface conditions shall be corrected.

(4) Stairs and walking surfaces. Every stair, ramp, landing, balcony, porch, deck or other walking surface shall be maintained in sound condition and good repair.

(5) Handrails and guards. Every handrail and guard shall be firmly fastened and capable of supporting normally imposed loads and shall be maintained in good condition.

(6) Interior doors. Every interior door shall fit reasonably well within its frame and shall be capable of being opened and closed by being properly and securely attached to jambs, headers or tracks as intended by the manufacturer of the attachment hardware. (as added by Ord. #07-01, Feb. 2007)

13-117. Handrails and guardrails. (1) General. Every exterior and interior flight of stairs having more than four (4) risers shall have a handrail on one side of the stair and every open portion of a stair, landing, balcony, porch, deck, ramp or other walking surface which is more than thirty (30) inches (762 mm) above the floor or grade below shall have guards. Handrails shall not be less than thirty (30) inches (762 mm) high or more than forty-two (42) inches (1067 mm) high measured vertically above the nosing of the tread or above the finished floor of the landing or walking surfaces. Guards shall not be less than thirty (30) inches (762 mm) high above the floor of the landing, balcony, porch, deck, or ramp or other walking surface. Exception: Guards shall not be required where exempted by the adopted building code. (as added by Ord. #07-01, Feb. 2007)

13-118. Rubbish and garbage. (1) Accumulation of rubbish or garbage. All exterior property and premises, and the interior of every structure, shall be free from any accumulation of rubbish or garbage.

(2) Disposal of rubbish. Every occupant of a structure shall dispose of all rubbish in a clean and sanitary manner by placing such rubbish in approved containers.

(a) Rubbish storage facilities. The owner of every occupied premises shall supply approved covered containers for rubbish, and the owner of the premises shall be responsible for the removal of rubbish.

(b) Refrigerators. Refrigerators and similar equipment not in operation shall not be discarded, abandoned or stored on premises without first removing the doors.

(3) Disposal of garbage. Every occupant of a structure shall dispose of garbage in a clean and sanitary manner by placing such garbage in an approved garbage disposal facility or approved garbage containers.

(a) Garbage facilities. The owner of every dwelling shall supply one of the following: an approved mechanical food waste grinder in each dwelling unit; an approved incinerator unit in the structure available to the occupants in each dwelling unit; or an approved leak proof, covered outside garbage container.

(b) Containers. The operator of every establishment producing garbage shall provide, and at all times cause to be utilized, approved leak proof containers provided with close-fitting covers for the storage of such materials until removed from the premises for disposal. (as added by Ord. #07-01, Feb. 2007)

13-119. Extermination. (1) Infestation. All structures shall be kept free from insect and rodent infestation. All structures in which insects or rodents are found shall be promptly exterminated by approved processes that will not be injurious to human health. After extermination, proper precautions shall be taken to prevent reinfestation.

(2) Owner. The owner of any structure shall be responsible for extermination within the structure prior to renting or leasing the structure.

(3) Single occupant. The occupant of a one-family dwelling or of a single-tenant nonresidential structure shall be responsible for extermination on the premises.

(4) Multiple occupancy. The owner of a structure containing two (2) or more dwelling units, a multiple occupancy, a rooming house or a nonresidential structure shall be responsible for extermination in the public or shared areas of the structure and exterior property. If infestation is caused by failure of an occupant to prevent such infestation in the area occupied, the occupant shall be responsible for extermination.

(a) Maintenance service. In every building containing three (3) or more dwelling units or rooming units, or combination thereof, the owner shall provide or designate a maintenance service or maintenance person who shall at all times maintain the premises in compliance with this code and keep the premises free from filthy garbage, refuse and

rubbish. The owner shall provide each tenant with the name and telephone number of the maintenance service or maintenance person. The owner shall also provide the name and telephone of an alternate service or person to be available when the service or maintenance person cannot be reached. The owner shall also furnish such names and telephone numbers, including the alternates to the code enforcement department of the city. Additionally, the owner or operator shall register the name, address and telephone number of said owner or operator with the public officer.

(5) Occupant. The occupant of any structure shall be responsible for the continued rodent and pest-free condition of the structure. Exception: Where the infestations are caused by defects in the structure, the owner shall be responsible for extermination. (as added by Ord. #07-01, Feb. 2007)

13-120. Light, ventilation and occupancy limitations. (1) General.

(a) Scope. The provisions of this section shall govern the minimum conditions and standards for light, ventilation and space for occupying a structure.

(b) Responsibility. The owner of the structure shall provide and maintain light, ventilation and space conditions in compliance with these requirements. A person shall not occupy as owner-occupant, or permit another person to occupy, any premises that do not comply with the requirements of this chapter.

(c) Alternative devices. In lieu of the means for natural light and ventilation herein prescribed, artificial light or mechanical ventilation complying with the city's currently adopted building code shall be permitted.

(2) Light. (a) Habitable spaces. Every habitable space shall have at least one window of approved size facing directly to the outdoors or to a court. The minimum total glazed area for every habitable space shall be eight percent (8%) of the floor area of such room. Wherever walls or other portions of a structure face a window of any room and such obstructions are located less than three (3) feet (914 mm) from the window and extend to a level above that of the ceiling of the room, such window shall not be deemed to face directly to the outdoors nor to a court and shall not be included as contributing to the required minimum total window area for the room.

Exception: Where natural light for rooms or spaces without exterior glazing areas is provided through an adjoining room, the unobstructed opening to the adjoining room shall be at least eight percent (8%) of the floor area of the interior room or space, but not less than twenty-five (25) square feet (2.33 m2). The exterior glazing area shall be based on the total floor area being served.

(b) Common halls and stairways. Every common hall and stairway in residential occupancies, other than in one- and two-family dwellings, shall be lighted at all times with at least a 60-watt standard incandescent light bulb for each two hundred (200) square feet (19 m2) of floor area or equivalent illumination, provided that the spacing between lights shall not be greater than thirty (30) feet (9144 mm). In other than residential occupancies, means of egress, including exterior means of egress, stairways shall be illuminated at all times the building space served by the means of egress is occupied with a minimum of one (1) footcandle (11 lux) at floors, landings and treads.

(c) Other spaces. All other spaces shall be provided with natural or artificial light sufficient to permit the maintenance of sanitary conditions, and the safe occupancy of the space and utilization of the appliances, equipment and fixtures.

(3) Ventilation. (a) Habitable spaces. Every habitable space shall have at least one (1) openable window. The total openable area of the window in every room shall be equal to at least forty-five percent (45%) of the minimum glazed area required in § 13-120(2)(a).

Exception: Where rooms and spaces without openings to the outdoors are ventilated through an adjoining room, the unobstructed opening to the adjoining room shall be at least eight percent (8%) of the floor area of the interior room or space, but not less than twenty-five (25) square feet (2.33 m2). The ventilation openings to the outdoors shall be based on a total floor area being ventilated.

(b) Bathrooms and toilet rooms. Every bathroom and toilet room shall comply with the ventilation requirements for habitable spaces as required by this subsection, except that a window shall not be required in such spaces equipped with a mechanical ventilation system. Air exhausted by a mechanical ventilation system from a bathroom or toilet room shall discharge to the outdoors and shall not be recirculated.

(c) Cooking facilities. Unless approved through the certificate of occupancy, cooking shall not be permitted in any rooming unit or dormitory unit, and a cooking facility or appliance shall not be permitted to be present in the rooming unit or dormitory unit.

(i) Where specifically approved in writing by the code official;

(ii) Devices such as coffee pots and microwave ovens shall not be considered cooking appliances.

(d) Process ventilation. Where injurious, toxic, irritating or noxious fumes, gases, dusts or mists are generated, a local exhaust ventilation system shall be provided to remove the contaminating agent at the source. Air shall be exhausted to the exterior and not be recirculated to any space.

(e) Clothes dryer exhaust. Clothes dryer exhaust systems shall be independent of all other systems and shall be exhausted in accordance with the manufacturer's instructions.

(4) Occupancy limitations. (a) Privacy. Dwelling units, hotel units, housekeeping units, rooming units and dormitory units shall be arranged to provide privacy and be separate from other adjoining spaces.

(b) Minimum room widths. A habitable room, other than a kitchen, shall not be less than seven (7) feet (2134 mm) in any plan dimension. Kitchens shall have a clear passageway of not less than three (3) feet (914 mm) between counterfronts and appliances or counterfronts and walls.

(c) Minimum ceiling heights. Habitable spaces, hallways, corridors, laundry areas, bathrooms, toilet rooms and habitable basement areas shall have a clear ceiling height of not less than seven (7) feet (2134 mm).

Exceptions. (i) In one- and two-family dwellings, beams or girders spaced not less than four (4) feet (1219 mm) on center and projecting not more than six (6) inches (152 mm) below the required ceiling height.

(ii) Basement rooms in one- and two-family dwellings occupied exclusively for laundry, study or recreation purposes, having a ceiling height of not less than six (6) feet eight (8) inches (2033 mm) with not less than six (6) feet four (4) inches (1932 mm) of clear height under beams, girders, ducts and similar obstructions.

(iii) Rooms occupied exclusively for sleeping, study or similar purposes and having a sloped ceiling over all or part of the room, with a clear ceiling height of at least seven (7) feet (2134 mm) over not less than one-third (1/3) of the required minimum floor area. In calculating the floor area of such rooms, only those portions of the floor area with a clear ceiling height of five (5) feet (1524 mm) or more shall be included.

(d) Bedroom and living room requirements. Every bedroom and living room shall comply with the requirements of subsections (i) through (v) below:

(i) Room area. Every living room shall contain at least one hundred twenty (120) square feet (11.2m2) and every bedroom shall contain at least seventy (70) square feet (6.5 m2).

(ii) Access from bedrooms. Bedrooms shall not constitute the only means of access to other bedrooms or habitable spaces and shall not serve as the only means of egress from other habitable spaces. Exception: Units that contain fewer than two (2) bedrooms.

(iii) Water closet accessibility. Every bedroom shall have access to at least one (1) water closet and one (1) lavatory without passing through another bedroom. Every bedroom in a dwelling unit shall have access to at least one (1) water closet and lavatory located in the same story as the bedroom or an adjacent story.

(iv) Prohibited occupancy. Kitchens and nonhabitable spaces shall not be used for sleeping purposes.

(v) Other requirements. Bedrooms shall comply with the applicable provisions of this code including, but not limited to, the light, ventilation, room area, ceiling height and room width requirements of this chapter; the plumbing facilities and water-heating facilities requirements of § 13-121; the heating facilities and electrical receptacle requirements of § 13-122; and the smoke detector and emergency escape requirements of § 13-123.

(e) Overcrowding. The number of persons occupying a dwelling unit shall not create conditions that, in the opinion of the code official, endanger the life, health, safety or welfare of the occupants.

(f) Efficiency unit. Nothing in this section shall prohibit an efficiency living unit from meeting the following requirements:

(i) A unit occupied by not more than two (2) occupants shall have a clear floor area of not less than two hundred twenty (220) square feet (20.4m2). A unit occupied by three (3) occupants shall have a clear floor area of not less than three hundred twenty (320) square feet (29.7 m2). These required areas shall be exclusive of the areas required by subsections (ii) and (iii).

(ii) The unit shall be provided with a kitchen sink, cooking appliance and refrigeration facilities, each having a clear working space of not less than thirty (30) inches (762 mm) in front. Light and ventilation conforming to this code shall be provided.

(iii) The unit shall be provided with a separate bathroom containing a water closet, lavatory and bathtub or shower.

(iv) The maximum number of occupants shall be three (3).

(g) Food preparation. All spaces to be occupied for food preparation purposes shall contain suitable space and equipment to store, prepare and serve foods in a sanitary manner. There shall be adequate facilities and services for the sanitary disposal of food wastes and refuse, including facilities for temporary storage. (as added by Ord. #07-01, Feb. 2007)

13-121. Plumbing facilities and fixture requirements. (1) General.

(a) Scope. The provisions of this chapter shall govern the minimum plumbing systems, facilities and plumbing fixtures to be provided.

(b) Responsibility. The owner of the structure shall provide and maintain such plumbing facilities and plumbing fixtures in compliance with these requirements. A person shall not occupy as owner-occupant or permit another person to occupy any structure or premises which does not comply with the requirements of this chapter.

(2) Required facilities. (a) Dwelling units. Every dwelling unit shall contain its own bathtub or shower, lavatory, water closet and kitchen sink which shall be maintained in a sanitary, safe working condition. The lavatory shall be placed in the same room as the water closet or located in close proximity to the door leading directly into the room in which water closet is located. A kitchen sink shall not be used as a substitute for the required lavatory.

(b) Rooming houses. At least one water closet, lavatory and bathtub or shower shall be supplied for each four (4) rooming units.

(c) Hotels. Where private water closets, lavatories and baths are not provided, one (1) water closet, one (1) lavatory and one (1) bathtub or shower having access from a public hallway shall be provided for each ten (10) occupants.

(d) Employees' facilities. A minimum of one (1) water closet, one (1) lavatory and one (1) drinking facility shall be available to employees.

(e) Drinking facilities. Drinking facilities shall be a drinking fountain, water cooler, bottled water cooler or disposable cups next to a sink or water dispenser. Drinking facilities shall not be located in toilet rooms or bathrooms.

(3) Toilet rooms. (a) Privacy. Toilet rooms and bathrooms shall provide privacy and shall not constitute the only passageway to a hall or other space, or to the exterior. A door and interior locking device shall be provided for all common or shared bathrooms and toilet rooms in a multiple dwelling.

(b) Location. Toilet rooms and bathrooms serving hotel units, rooming units or dormitory units or housekeeping units, shall have access by traversing not more than one (1) flight of stairs and shall have access from a common hall or passageway.

(c) Location of employee toilet facilities. Toilet facilities shall have access from within the employees' working area. The required toilet facilities shall be located not more than one (1) story above or below the employees' working area and the path of travel to such facilities shall not exceed a distance of five hundred (500) feet (152 m). Employee facilities shall either be separate facilities or combined employee and public facilities.

Exception: Facilities that are required for employees in storage structures or kiosks, which are located in adjacent structures under the same ownership, lease or control, shall not exceed a travel distance of five

hundred (500) feet (152 m) from the employees' regular working area to the facilities.

(d) Floor surface. In other than dwelling units, every toilet room floor shall be maintained to be a smooth, hard, nonabsorbent surface to permit such floor to be easily kept in a clean and sanitary condition.

(4) Plumbing systems and fixtures. (a) General. All plumbing fixtures shall be properly installed and maintained in working order, and shall be kept free from obstructions, leaks and defects and be capable of performing the function for which such plumbing fixtures are designed. All plumbing fixtures shall be maintained in a safe, sanitary and functional condition.

(b) Fixture clearances. Plumbing fixtures shall have adequate clearances for usage and cleaning.

(c) Plumbing system hazards. Where it is found that a plumbing system in a structure constitutes a hazard to the occupants or the structure by reason of inadequate service, inadequate venting, cross connection, back siphonage, improper installation, deterioration or damage or for similar reasons, the code official shall require the defects to be corrected to eliminate the hazard.

(5) Water system. (a) General. Every sink, lavatory, bathtub or shower, drinking fountain, water closet or other plumbing fixture shall be properly connected to either a public water system or to an approved private water system. All kitchen sinks, lavatories, laundry facilities, bathtubs and showers shall be supplied with hot or tempered and cold running water in accordance with the city's currently adopted plumbing code.

(b) Contamination. The water supply shall be maintained free from contamination, and all water inlets for plumbing fixtures shall be located above the flood-level rim of the fixture. Shampoo basin faucets, janitor sink faucets and other hose bibs or faucets to which hoses are attached and left in place, shall be protected by an approved atmospheric-type vacuum breaker or an approved permanently attached hose connection vacuum breaker.

(c) Supply. The water supply system shall be installed and maintained to provide a supply of water to plumbing fixtures, devices and appurtenances in sufficient volume and at pressures adequate to enable the fixtures to function properly, safely, and free from defects and leaks.

(d) Water heating facilities. Water heating facilities shall be properly installed, maintained and capable of providing an adequate amount of water to be drawn at every required sink, lavatory, bathtub, shower and laundry facility at a temperature of not less than 110°F (43°C). A gas-burning water heater shall not be located in any bathroom, toilet room, bedroom or other occupied room normally kept closed, unless

adequate combustion air is provided. An approved combination temperature and pressure-relief valve and relief valve discharge pipe shall be properly installed and maintained on water heaters.

(6) Sanitary drainage system. (a) General. All plumbing fixtures shall be properly connected to either a public sewer system or to an approved private sewage disposal system.

(b) Maintenance. Every plumbing stack, vent, waste and sewer line shall function properly and be kept free from obstructions, leaks and defects. (as added by Ord. #07-01, Feb. 2007)

13-122. Mechanical and electrical requirements. (1) General.

(a) Scope. The provisions of this section shall govern the minimum mechanical and electrical facilities and equipment to be provided.

(b) Responsibility. The owner of the structure shall provide and maintain mechanical and electrical facilities and equipment in compliance with these requirements. A person shall not occupy as owner-occupant or permit another person to occupy any premises which does not comply with the requirements of this chapter.

(2) Heating facilities. (a) Facilities required. Heating facilities shall be provided in structures as required by this subsection.

(b) Residential occupancies. Dwellings shall be provided with heating facilities capable of maintaining a room temperature of 68° F (20° C) in all habitable rooms, bathrooms and toilet rooms based on the winter outdoor design temperature for the locality indicated in Appendix D of the International Plumbing Code. Cooking appliances shall not be used to provide space heating to meet the requirements of this section.

Exception: In areas where the average monthly temperature is above 30° F (-1°C), a minimum temperature of 65°F (18°C) shall be maintained.

(c) Heat supply. Every owner and operator of any building who rents, leases or lets one or more dwelling units or sleeping units on terms, either expressed or implied, to furnish heat to the occupants thereof shall supply heat to maintain a temperature of not less than 68°F (20°C) in all habitable rooms, bathrooms, and toilet rooms.

(i) When the outdoor temperature is below the winter outdoor design temperature for the locality, maintenance of the minimum room temperature shall not be required provided that the heating system is operating at its full design capacity.

(ii) In areas where the average monthly temperature is above 30°F (-1°C) a minimum temperature of 65°F (18°C) shall be maintained.

(d) Occupiable work spaces. Indoor occupiable work spaces shall be supplied with heat to maintain a temperature of not less than 65°F (18°C) during the period the spaces are occupied. Exceptions:

(i) Processing, storage and operation areas that require cooling or special temperature conditions.

(ii) Areas in which persons are primarily engaged in vigorous physical activities.

(e) Room temperature measurement. The required room temperature shall be measured three (3) feet (914 mm) above the floor near the center of the room and two (2) feet (610 mm) inward from the center of each exterior wall.

(3) Mechanical equipment. (a) Mechanical appliances. All mechanical appliances, fireplaces, solid fuel-burning appliances, cooking appliances and water heating appliances shall be properly installed and maintained in a safe working condition, and shall be capable of performing the intended function.

(b) Removal of combustion products. All fuel-burning equipment and appliances shall be connected to an approved chimney or vent.

Exception: Fuel-burning equipment and appliances which are labeled for unvented operation.

(c) Clearances. All required clearances to combustible materials shall be maintained.

(d) Safety controls. All safety controls for fuel-burning equipment shall be maintained in effective operation.

(e) Combustion air. A supply of air for complete combustion of the fuel and for ventilation of the space containing the fuel-burning equipment shall be provided for the fuel-burning equipment.

(f) Energy conservation devices. Devices intended to reduce fuel consumption by attachment to a fuel-burning appliance, to the fuel supply line thereto, or to the vent outlet or vent piping therefrom, shall not be installed unless labeled for such purpose and the installation is specifically approved.

(4) Electrical facilities. (a) Facilities required. Every occupied building shall be provided with an electrical system in compliance with the requirements of this section and subsection (5).

(b) Service. The size and usage of appliances and equipment shall serve as a basis for determining the need for additional facilities in accordance with the National Electrical Code. Dwelling units shall be served by a three-wire 120/240 volt, single-phase electrical service having a rating of not less than sixty (60) amperes.

(c) Electrical system hazards. Where it is found that the electrical system in a structure constitutes a hazard to the occupants or the structure by reason of inadequate service, improper fusing,

insufficient receptacle and lighting outlets, improper wiring or installation, deterioration or damage, or for similar reasons, the code official shall require the defects to be corrected to eliminate the hazard.

(5) Electrical equipment. (a) Installation. All electrical equipment, wiring and appliances shall be properly installed and maintained in a safe and approved manner.

(b) Receptacles. Every habitable space in a dwelling shall contain at least two (2) separate and remote receptacle outlets. Every laundry area shall contain at least one (1) grounded-type receptacle or a receptacle with a ground fault circuit interrupter. Every bathroom shall contain at least one (1) receptacle. Any new bathroom receptacle outlet shall have ground fault circuit interrupter protection.

(c) Luminaires. Every public hall, interior stairway, toilet room, kitchen, bathroom, laundry room, boiler room and furnace room shall contain at least one (1) electric luminaire.

(6) Elevators, escalators and dumbwaiters. (a) General. Elevators, dumbwaiters and escalators shall be maintained in compliance with ASME A17.1. The most current certification of inspection shall be on display at all times within the elevator or attached to the escalator or dumbwaiter, or the certificate shall be available for public inspection in the office of the building operator. The inspection and tests shall be performed at not less than the periodical intervals listed in ASME A17.1, appendix N, except where otherwise specified by the authority having jurisdiction.

(b) Elevators. In buildings equipped with passenger elevators, at least one (1) elevator shall be maintained in operation at all times when the building is occupied.

Exception: Buildings equipped with only one (1) elevator shall be permitted to have the elevator temporarily out of service for testing or servicing.

(7) Duct systems. (a) General. Duct systems shall be maintained free of obstructions and shall be capable of performing the required function. (as added by Ord. #07-01, Feb. 2007)

13-123. Fire safety requirements. (1) General. (a) Scope. The provisions of this section shall govern the minimum conditions and standards for fire safety relating to structures and exterior premises, including fire safety facilities and equipment to be provided.

(b) Responsibility. The owner of the premises shall provide and maintain such fire safety facilities and equipment in compliance with these requirements. A person shall not occupy as owner-occupant or permit another person to occupy any premises that do not comply with the requirements of this section.

(2) Means of egress. (a) General. A safe, continuous and unobstructed path of travel shall be provided from any point in a building or structure to the public way. Means of egress shall comply with the city's currently adopted building code.

(b) Aisles. The required width of aisles in accordance with the city's currently adopted building code shall be unobstructed.

(c) Locked doors. All means of egress doors shall be readily openable from the side from which egress is to be made without the need for keys, special knowledge or effort, except where the door hardware conforms to that permitted by the city's currently adopted building code.

(d) Emergency escape openings. Required emergency escape openings shall be maintained in accordance with the code in effect at the time of construction, and the following. Required emergency escape and rescue openings shall be operational from the inside of the room without the use of keys or tools. Bars, grilles, grates or similar devices are permitted to be placed over emergency escape and rescue openings provided the minimum net clear opening size complies with the code that was in effect at the time of construction and such devices shall be releasable or removable from the inside without the use of a key, tool or force greater than that which is required for normal operation of the escape and rescue opening.

(3) Fire-resistance ratings. (a) Fire-resistance-rated assemblies. The required fire resistance rating of fire-resistance-rated walls, fire stops, shaft enclosures, partitions and floors shall be maintained.

(b) Opening protectives. Required opening protectives shall be maintained in an operative condition. All fire and smokestop doors shall be maintained in operable condition. Fire doors and smoke barrier doors shall not be blocked or obstructed or otherwise made inoperable.

(4) Fire protection systems. (a) General. All systems, devices and equipment to detect a fire, actuate an alarm, or suppress or control a fire or any combination thereof shall be maintained in an operable condition at all times in accordance with the city's currently adopted fire code.

(b) Smoke alarms. Single or multiple-station smoke alarms shall be installed and maintained in all residential occupancies and in dwellings not regulated in specific residential occupancies, regardless of occupant load at all of the following locations:

(i) On the ceiling or wall outside of each separate sleeping area in the immediate vicinity of bedrooms.

(ii) In each room used for sleeping purposes.

(iii) In each story within a dwelling unit, including basements and cellars but not including crawl spaces and uninhabitable attics. In dwellings or dwelling units with split levels and without an intervening door between the adjacent levels, a smoke alarm installed on the upper level shall suffice for

the adjacent lower level provided that the lower level is less than one (1) full story below the upper. Single or multiple-station smoke alarms shall be installed in other groups in accordance with the city's currently adopted fire prevention code.

(c) Power source. In residential occupancies and in dwellings not regulated as residential occupancies, single-station smoke alarms shall receive their primary power from the building wiring provided that such wiring is served from a commercial source and shall be equipped with a battery backup. Smoke alarms shall emit a signal when the batteries are low. Wiring shall be permanent and without a disconnecting switch other than as required for over current protection.

Exception: Smoke alarms are permitted to be solely battery operated in buildings where no construction is taking place, buildings that are not served from a commercial power source and in existing areas of buildings undergoing alterations or repairs that do not result in the removal of interior wall or ceiling finishes exposing the structure, unless there is an attic, crawl space or basement available which could provide access for building wiring without the removal of interior finishes.

(d) Interconnection. Where more than one (1) smoke alarm is required to be installed within an individual dwelling unit in residential occupancies and in dwellings not regulated as residential occupancies, the smoke alarms shall be interconnected in such a manner that the activation of one alarm will activate all of the alarms in the individual unit. The alarm shall be clearly audible in all bedrooms over background noise levels with all intervening doors closed.

Exceptions: (i) Interconnection is not required in buildings which are not undergoing alterations, repairs, or construction of any kind.

(ii) Smoke alarms in existing areas are not required to be interconnected where alterations or repairs do not result in the removal of interior wall or ceiling finishes exposing the structure, unless there is an attic, crawl space or basement available which could provide access for interconnection without the removal of interior finishes. (as added by Ord. #07-01, Feb. 2007)

13-124. <u>Standards</u>. This section lists the standards that are referenced in various sections of this document. The standards are listed herein by the promulgating agency of the standard, the standard identification, the effective date and title and the section or sections of this document that reference the standard. The application of the referenced standards shall be as specified in § 13-102(7).

ASME	American Society of Mechanical Engineers Three Park Avenue New York, NY 10016-5990	
Standard reference number	Title	Referenced in code section number
A17.1--2000	Safety Code for Elevators and Escalators with A17.1a 2002 Addenda	606.1
ASTM	ASTM International 100 Barr Harbor Drive West Conshohocken, PA 19428-2959	
Standard reference number	Title	Referenced in code section number
F1346--91(2003)	Performance Specifications for Safety Covers and Labeling Requirements for all Covers for Swimming Pools, Spas and Hot Tubs	303.2
ICC	International Code Council 5203 Leesburg Pike, Suite 600 Falls Church, VA 22041	
Standard reference number	Title	Referenced in code section number
NEC	National Electric Code--Administrative Provisions	201.3, 604.2
SBCCI	*Standard Building Code®	102.3, 201.3, 401.3, 702.1, 702.2, 702.3
SBCCI	*Standard Fire Prevention Code	201.3, 704.1, 704.2
SBCCI	*Standard Gas Code	102.3
SBCCI	*Standard Mechanical Code	102.3, 201.3
IPC-06	*Standard Plumbing Code	201.3, 505.1, 602.2, 602.3
IZC-06	Bartlett Zoning Ordinance	102.3, 201.3

*Or most recently adopted code by International Code Council.
(as added by Ord. #07-01, Feb. 2007)

CHAPTER 2

MISCELLANEOUS

SECTION

13-201. Open burning permits. (5) A request is filed with the Shelby County Air Pollution Officer giving the reason why no method except open burning can be employed to dispose of the material involved, the amount and kind of material to be burned, the exact location where the burning will take place, and the dates when the open burning will be done.

(6) Approval is received from the Shelby County Air Pollution Officer, permission must be secured from the City of Bartlett Fire Department by obtaining an approved Bartlett Fire Department permit.

(7) The burning will be done between the hours of 9:00 A.M. and 4:00 P.M., or as authorized by the health officer. (Ord. #89-12, July 1989)

13-202. Accumulation and storage of abandoned, wrecked, junked, partially dismantled or inoperable motor tools, equipment, household goods, or building materials. The accumulation and storage of abandoned, wrecked, junked, partially dismantled or inoperable motor tools, equipment, household goods, or building materials on public and private property is hereby found to create an unsightly condition upon said property tending to reduce the value thereof, to invite plundering, to create fire hazards to the health and safety of minors. Such accumulation and storage of tools, equipment, or building materials is further found to promote urban blight and deterioration in the community; to violate the zoning regulations of the city in many instances, particularly where such tools, equipment, or building materials are maintained in the required yard areas of residential property; and that such wrecked, junked, abandoned, or partially dismantled or inoperative tools, equipment, or building materials are in the nature of rubbish, litter, and unsightly debris in violation of health and sanitation laws. Therefore, the accumulation and storage of such tools, equipment, or building materials on public and private property, except as expressly hereinafter permitted, is hereby declared to constitute a public nuisance which may be abated as such, which remedy shall be in addition to any other remedy provided in the city code. (Ord. #86-11, June 1986)

CHAPTER 3

JUNKED VEHICLES

SECTION

13-301. Definitions. For the purpose of the interpretation and application of this chapter, the following words and phrases shall have the indicated meanings:

(1) "Person" shall mean any natural person, or any firm, partnership, association, corporation or other organization of any kind and description.

(2) "Private property" shall include all property that is not public property, regardless of how the property is zoned or used.

(3) "Traveled portion of any public street or highway" shall mean the width of the street from curb to curb, or where there are no curbs, the entire width of the paved portion of the street, or where the street is unpaved, the entire width of the street in which vehicles ordinarily use for travel.

(4) (a) "Vehicle" shall mean any machine propelled by power other than human power, designed to travel along the ground by the use of wheels, treads, self-laying tracks, runners, slides or skids, including but not limited to automobiles, trucks, motorcycles, motor scooters, go-carts, campers, tractors, trailers, tractor-trailers, buggies, wagons, and earth-moving equipment, and any part of the same.

(b) "Junk vehicle" shall mean a vehicle of any age that is damaged or defective in any one or combination of any of the following ways that either makes the vehicle immediately inoperable, or would prohibit the vehicle from being operated in a reasonably safe manner upon the public streets and highways under its own power if self-propelled, or while being towed or pushed, if not self-propelled:

(i) Flat tires, missing tires, missing wheels, or missing or partially or totally disassembled tires and wheels;

(ii) Missing or partially or totally disassembled essential part or parts of the vehicle's drive train, including, but not limited to, engine, transmission, transaxle, drive shaft, differential, or axle.

(iii) Extensive exterior body damage or missing or partially or totally disassembled essential body parts, including,

but not limited to, fenders, doors, engine hood, bumper or bumpers, windshield, or windows.

(iv) Missing or partially or totally disassembled essential interior parts, including, but not limited to, driver's seat, steering wheel, instrument panel, clutch, brake, gear shift lever.

(v) Missing or partially or totally disassembled parts essential to the starting or running of the vehicle under its own power, including, but not limited to, starter, generator or alternator, battery, distributor, gas tank, carburetor or fuel injection system, spark plugs, or radiator.

(vi) Interior is a container for metal, glass, paper, rags or other cloth, wood, auto parts, machinery, waste or discarded materials in such quantity, quality and arrangement that a driver cannot be properly seated in the vehicle;

(vii) Lying on the ground (upside down, on its side, or at other extreme angle), sitting on block or suspended in the air by any other method.

(viii) General environment in which the vehicle sits, including, but not limited to, vegetation that has grown up around, in or through the vehicle, the collection of pools of water in the vehicle, and the accumulation of other garbage or debris around the vehicle.

13-302. Violations a civil offense. It shall be unlawful and a civil offense for any person:

(1) To park and or in any other manner place and leave unattended on the traveled portion of any public street or highway a junk vehicle for any period of time, even if the owner or operator of the vehicle did not intend to permanently desert or forsake the vehicle.

(2) To park or in any other manner place and leave unattended on the untraveled portion of any street or highway, or upon any other public property, a junk vehicle for more than forty-eight (48) continuous hours, even if the owner or operator of the vehicle did not intend to permanently desert or forsake the vehicle.

(3) To park, store, keep, maintain on private property a junk vehicle unless parked within the confines of an enclosed structure.

13-303. Exceptions. (1) It shall be permissible for a person to park, store, keep and maintain a junked vehicle on private property under the following conditions:

(a) The junk vehicle is completely enclosed within a building where neither the vehicle nor any part of it is visible from the street or from any other abutting property. However, this exception shall not exempt the owner or person in possession of the property from any

zoning, building, housing, property maintenance, and other regulations governing the building in which such vehicle is enclosed.

(b) The junk vehicle is parked or stored on property lawfully zoned for business engaged in wrecking, junking or repairing vehicles. However, this exception shall not exempt the owner or operator of any such business from any other zoning, building, fencing, property maintenance and other regulations governing business engaged in wrecking, junking or repairing vehicles.

(2) No person shall park, store, keep and maintain on private property a junk vehicle for any period of time if it poses an immediate threat to the health and safety of citizens of the city.

13-304. Notice to remove. Whenever it shall appear that a violation of the provisions of this chapter exists, the building inspector shall give, or cause to be given, notice to the registered owner of any motor vehicle which is in violation of this chapter, and he shall give such notice to the owner or person in lawful possession or control of the property upon which such motor vehicle is located, advising that said motor vehicle violates the provisions of this chapter and directing that said motor vehicle be moved to a place of lawful storage within seventy-two (72) hours. Such notice shall be served upon the owner of the vehicle by leaving a copy of said notice on or within the vehicle. Notice to the owner or person in lawful possession or control of the property upon which such motor vehicle is located may be served by conspicuously posting said notice upon the premises. In the case of publicly owned property, notice to the owner of the property where the vehicle is found is hereby dispensed with. (Ord. #74-9, June 1974)

13-305. Enforcement. Pursuant to Tennessee Code Annotated, § 7-63-101, the building inspector is authorized, when necessary, to issue ordinance summons for violations of this ordinance on private property. The building inspector shall upon the complaint of any citizen, or acting on his own information, investigate complaints of junked vehicles on private property. If after such investigation the building inspector finds a junked vehicle on private property, he shall issue an ordinance summons. The ordinance summons shall be served upon the owner or owners of the property, or upon the person or persons apparently in lawful possession of the property, and shall give notice to the same to appear and answer the charges against him or them. If the offender refuses to sign the agreement to appear, the building inspector may (1) request the city judge to issue a summons, or (2) request a police officer to witness the violation. The police officer who witnesses the violation may issue the offender a citation in lieu of arrest as authorized by Tennessee Code Annotated, § 7-63-101 et seq., or if the offender refuses to sign the citation, may arrest the offender for failure to sign the citation in lieu of arrest.

13-306. Penalty for violations. Any person violating this ordinance shall be subject to a civil penalty of fifty dollars ($50.00) plus court costs for each separate violation of this ordinance. Each day the violation of this ordinance continues shall be considered a separate violation.

CHAPTER 4

[DELETED]

(as deleted by Ord. #22-04, Aug. 2022 ***Ch8_08-09-22***)

CHAPTER 5

NUISANCE CONTROL

SECTION

13-501. Designation of health officer. The Director of the Memphis and Shelby County Health Department, his designees and assigns, is hereby designated and empowered as the Health Officer for the City of Bartlett and pursuant to the terms of this chapter is granted authority within the City of Bartlett and its jurisdictional limits to enforce the health ordinances of the City of Bartlett including but not limited to the provisions of this chapter and whenever the term health officer is used in this and other chapters it is intended to refer to the said director. (Ord. #79-14, June 1979)

13-502. Nuisances prohibited. No person shall cause, keep or permit any material, substance or condition which is, or is likely to become, a public nuisance, by the emission of odors, fumes, dusts, vapors, or gases that are offensive, providing a harborage for mosquitoes or rodents, or which may imperil or affect the comfort, health or life of other persons. Any such person creating or maintaining such a nuisance within the city limits or within one (1) mile thereof shall be guilty of a misdemeanor. (Ord. #79-14, June 1979)

13-503. Abatement of nuisances and other conditions. It shall be the duty of the health department, through the health officer, engineers, assistants, environmentalists or other employees, to serve notice in writing upon the owner, occupant or agent of any lot, building or premises in or upon which any nuisance or violation of this chapter, or regulations or orders of the health department may be found, or upon the person maintaining any nuisance, or aiding therein, requiring him to abate or correct the same in such manner as the health department shall prescribe, within a reasonable time. It shall not be necessary in any case for the health officer to specify in his notice the manner in which a nuisance shall be abated unless he shall deem it advisable to do so. Such notices may be given or served by engineers, assistants, environmentalists or other employees of the health department, as well as by the health officer. If the person to whom such notice is lawfully directed shall fail, neglect or refuse to comply with the requirements of such order, within the time specified, he

shall be guilty of a misdemeanor, and each day's violation shall constitute a separate offense. Upon the failure of such person to comply with such requirements, it shall be the duty of the department of health, whenever public necessity requires it, to proceed at once, upon the expiration of the time specified in such notice, to cause such nuisance to be abated.

Whenever the owner, occupant, or agent of any premises or person maintaining or aiding in the maintenance of a nuisance is unknown or cannot be found, the department of health shall proceed to abate the nuisance without notice.

In the event any nuisance is abated by the department of health, it shall keep an itemized account thereof and shall certify a bill thereof to the city attorney, whose duty it shall be to collect the same according to law. (Ord. #79-14, June 1979)

13-504. Assistance of police in enforcing health laws. Whenever necessary to carry out the provisions of the health and sanitary laws, the health officer shall have the power to call upon the chief of police for a detail of men, and the chief of police shall furnish such men, and the men so detailed shall act under the direction of the health officer for the time being, for the purpose of carrying out the provisions of any health or sanitary law or regulation, and for the power to enter buildings and abate nuisances therein conferred upon the department of health. (Ord. #79-14, June 1979)

13-505. Obedience to regulations and orders of health department. Every person shall observe and obey every special regulation and every order of the department of health, the health officer and engineers, assistants, environmentalists or other employees of the health department that is or may be made for the purpose of carrying into effect the provisions of the public health and sanitary laws and ordinances. (Ord. #79-14, June 1979)

13-506. Right of entry of health department personnel. For the purpose of carrying out the requirements of this chapter and other laws and ordinances relating to public health and sanitation; and the regulations of the health department, the health officer and his authorized representatives, including engineers, assistants, environmentalists and other employees, shall be permitted at all reasonable times to enter into any manufacturing plants, business buildings or other buildings, and all lots, grounds and premises, in order to thoroughly examine any item in relation to public health and sanitation and other conditions thereon and therein. (Ord. #79-14, June 1979)

13-507. Penalties. Should any person be convicted of violating any provision of this chapter there shall be assessed a fine not less than ten dollars ($10.00) nor more than fifty dollars ($50.00) for each day that the nuisance, after

the time of notice specified under § 13-503 hereinbefore, shall remain unabated. (Ord. #79-14, June 1979)

CHAPTER 6

[**DELETED**]

(Ord. #92-15, Oct. 1992, as deleted by Ord. #07-01, Feb. 2007)

CHAPTER 7

UNSAFE BUILDING ABATEMENT CODE

SECTION

13-701. Unsafe building abatement code adopted. Pursuant to the authority granted by Tennessee Code Annotated, § 13-21-101, et seq. this chapter to be known as the "Unsafe Building Abatement Code," for the purpose of insuring the safety of the citizens of Bartlett from the structures which are unfit for human occupation or use, is hereby adopted. (as added by Ord. #06-22, Oct. 2006)

13-702. Definitions. The following terms whenever used or referred to in this chapter shall have the following respective meanings for the purposes of this chapter unless a different meaning clearly appears from the context:

(3) "Building" means any building, dwelling, or structure, or part thereof, used or intended to be used for human occupancy, and includes any accessory structures belonging thereto or usually enjoyed therewith.

(4) "City" means the City of Bartlett, Tennessee.

(5) "Director" means the director of the code enforcement department (also known as code enforcement official) of the city, or his authorized agent.

(6) "Owner" means the holder(s) of the legal title in fee simple and every mortgagee of record.

(7) "Party in interest" means any individual, association, corporation or others who have interest of record in a building and who are in possession thereof.

(8) "Public authority" means any officer who is in charge of any department of the City of Bartlett, Shelby County or the State of Tennessee relating to health, fire, building regulations, public safety, or other activities concerning the structures in the city and the public safety.

(9) "Unsanitary" means any nuisance which is a danger to the health, safety and welfare of the public.

(10) "Nuisance" means anything which in injurious to health, indecent or offensive to the senses, or an obstruction to the free use of property, to interfere with the comfortable enjoyment of life or property.

The use of the singular number in this chapter shall be deemed to include the plural and the plural the singular. The use of either gender shall apply to both genders. (as added by Ord. #06-22, Oct. 2006)

13-703. Enforcement. The person responsible for enforcement of this chapter shall be the director of code enforcement. (as added by Ord. #06-22, Oct. 2006)

13-704. Powers of the director. The director is authorized to exercise such powers as may be necessary or convenient to carry out and effectuate the purposes and provisions of this chapter including the following powers in addition to others herein granted:

(1) To investigate the conditions of buildings in the city in order to determine which are unsafe;

(2) To administer oaths, affirmations, examine witnesses and receive evidence;

(3) To enter upon premises for the purposes of making inspections provided that such entries shall be made in such manner as to cause the least possible inconvenience to the persons in possession;

(4) To appoint and fix the duties of such officers, agents and employees as he deems necessary to carry out the purposes of this chapter;

(5) To delegate any of his functions and powers under this chapter to such officers and agents as he may designate. (as added by Ord. #06-22, Oct. 2006)

13-705. Conditions rendering a building unsafe. An unsafe building shall include any building that has any of the following conditions, such that the life, health, property or safety of its occupants or the general public are endangered:

(1) Any means of egress or ingress or portion thereof is not of adequate size or is not arranged to provide a safe path of travel in case of fire or panic.

(2) Any means of egress or ingress or portion thereof, such as but not limited to fire doors, closing devices and fire resistive ratings, are in disrepair or in a dilapidated or non-working condition such that the means of egress or ingress could be rendered unsafe in case of fire or panic.

(3) The stress in any material, member or portion thereof due to all imposed loads including dead load exceed the stresses allowed in the International Building Code.

(4) The building has been damaged by fire, flood, earthquake, wind or other cause, to the extent that the structural integrity of the building is less than it was prior to the damage and is less than the minimum requirements established by the International Building Code.

(5) The building has an exterior appendage or portion thereof not securely fastened, attached or anchored such that it is capable of resisting wind, seismic or similar loads as required by the International Building Code.

(6) The building is manifestly unsafe or unsanitary for the purpose for which it is being used.

(7) The building as a result of decay, deterioration or dilapidation is likely to fully or partially collapse.

(8) The building has been constructed or maintained in violation of a specific requirement of the standard codes of the city, county, state or federal law.

(9) The building is in such a condition as to constitute a public nuisance.

(10) The building is unsafe, unsanitary or not provided with adequate ingress or egress or constitutes a fire hazard, or is otherwise dangerous to human life, or in relation to existing use, constitutes a hazard to safety or health by reason of inadequate maintenance, dilapidation, obsolescence or abandonment.

(11) The building is unfit for human occupation or use due to dilapidation, defects increasing the hazards of fire, accident or other calamities, lack of ventilation, light or sanitary facilities, or due to other conditions rendering such building unsafe or unsanitary or dangerous or detrimental to the health, safety or morals or otherwise harmful to the welfare of the residents of the City of Bartlett. (as added by Ord. #06-22, Oct. 2006)

13-706. Inspection and owner notification. (1) Inspection. The director shall inspect or cause to be inspected any building under the following circumstances:

(a) A public authority requests an inspection.

(b) An inspection may be made by the director when he has reason to believe the structure is unfit or unsafe.

(2) Notification. If the director inspects a building and determines it to be unsafe as defined in this chapter, the director shall:

(a) Serve a certified letter of complaint on the owner and any party in interest stating the basis upon which the building has been determined unsafe. The letter of complaint shall contain notice of a time and date for a hearing before the director (or his designated agent), said date being not more than thirty (30) days, nor less than ten (10) days from the date the letter of complaint is served. Service shall be complete upon mailing.

(b) If the whereabouts of the owner is unknown and the same cannot be ascertained by the director in the exercise of reasonable diligence, the director shall make affidavit to that effect, and publish a notice of the complaint and hearing once each week for two (2) consecutive weeks in a newspaper of general circulation in the city. A notice shall also be posted in a conspicuous place on the premises affected by the letter of complaint. (as added by Ord. #06-22, Oct. 2006)

13-707. Hearing. The hearing before the director shall give the owner and a party in interest the opportunity to respond to the letter of complaint as follows:

(1) The owner and a party in interest shall be given the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the place and time fixed in the letter of complaint.

(2) The rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the director. (as added by Ord. #06-22, Oct. 2006)

13-708. Condemnation. If, after such notice and hearing, the director determines that the building is unsafe, he shall state, in writing, his findings of fact in support of such determination and shall serve a certified letter of condemnation to the owner, which shall contain an order to:

(1) Vacate and close and/or repair, alter or improve the building or structure in such a manner as to make it safe and fit for human occupation or demolish the structure.

(2) If the repair, alteration, or improvement cost is substantial, the director may order the structure to be removed or demolished.

(3) The letter of condemnation shall contain a time limitation of not less than sixty (60) days to be determined by the director based on the condition of the building and the potential for rehabilitation.

(4) If the director finds a building to be unsafe and if, after the director has ordered the building repaired, improved, demolished, vacated or closed and if the owner does not take such action, the director may post signs stating that "THIS BUILDING IS UNSAFE AND UNFIT FOR HUMAN USE. THE USE OR OCCUPATION OF THE BUILDING FOR HUMAN OCCUPATION OR USE IS PROHIBITED AND UNLAWFUL." The director may take such action as he deems necessary to protect the public from the structural failure of any building or structure, including but not limited to closing streets, walks, erecting barricades, etc.

(5) At any time after the initial inspection, the director may cause the utilities (gas, water, and electricity) to be disconnected, should they, in his opinion, pose a threat to the public safety. (as added by Ord. #06-22, Oct. 2006)

13-709. Condemnation appeal. The owner or any party in interest may appeal the decision of the director in accordance with the following:

(1) The decision of the director may be appealed to the City of Bartlett Code Appeals Board or its successor. The appeal shall be made within ten (10) days of the date of the letter of condemnation.

(2) If the board agrees with the director's finding, the building shall be repaired, altered, improved or demolished as provided in the letter of condemnation within not less than sixty (60) days after the board makes its written findings, a copy of which shall be served on the owner or party in interest. (as added by Ord. #06-22, Oct. 2006)

13-710. Repair, improvement or demolition by city. (1) If the owner fails to comply with the letter of condemnation, and after the time allowed expires, or if the board agrees with the letter of condemnation, and after the time allowed for appeals expires, or if the board agrees with the director, the director may cause the building or structure to be repaired, altered, removed, or demolished.

(2) The amount of the cost of such repairs, alterations, or improvements, or vacating and closing, or removal or demolition shall be determined by the director and shall be a lien against said real property. These costs shall be placed upon the tax rolls of the City of Bartlett as a lien and shall be added to property tax bills to be collected at the same time and in the same manner as property taxes are collected. If the owner fails to pay the costs, they may be collected at the same time and in the same manner as delinquent property taxes are collected and shall be subject to the same penalty and interests as delinquent property taxes. Notice of such lien shall be filed in the office of the Register of Shelby County. If the building is removed or demolished by the director, he shall sell the materials of such structure and shall credit the proceeds of such sale against the costs of the removal or demolition and any balance remaining shall be deposited in the circuit court. (as added by Ord. #06-22, Oct. 2006)

13-711. Judicial review. Any person affected by an order issued by the director may file a bill in Chancery Court for Shelby County as provided in Tennessee Code Annotated,§ 13-21-106. (as added by Ord. #06-22, Oct. 2006)

13-712. Immediate dangers to the public. No provision of this chapter shall limit the director in taking any action authorized in other sections of this chapter to protect the public from immediate hazards or dangers posed by any building. (as added by Ord. #06-22, Oct. 2006)

TITLE 14

ZONING AND LAND USE CONTROL[1]

CHAPTER

CHAPTER 1

ZONING ORDINANCE

SECTION

14-101. Land use to be governed by zoning ordinance. Land use within the City of Bartlett shall be governed by the City of Bartlett Zoning Ordinance.[2]

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[1]Municipal code reference
Subdivision regulations: Appendix B.

[2]The zoning ordinance is included in this Municipal Code as Appendix A.

CHAPTER 2

STORMWATER MANAGEMENT AND POLLUTION CONTROL PROGRAM

SECTION

14-201. General provisions. (1) Objectives. The objectives of this chapter are to:

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

(b) Enable the city to comply with the National Pollution Discharge Elimination System (NPDES) General Permit for Discharges from Small Municipal Separate Storm Sewer Systems (MS4) and applicable regulations, 40 CFR 122.26 for stormwater discharges;

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

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

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

(iii) Establish standards to regulate stormwater discharges and to regulate stormwater contaminants as may be necessary to protect water quality;

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

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

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

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

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

(d) Eliminate any non-allowable discharges to the MS4 that adversely impact water quality;

(e) Provide for the sound use and development of all flood-prone areas in such a manner as to maximize beneficial use without increasing flood hazard potential or diminishing the quality of the natural stormwater resources;

(f) Provide for sound fiscal management of the city and maintain a stable tax base by providing appropriate fees and other dedicated funding sources for the administration of the watershed management program;

(g) Increase the awareness of the public, property owners and potential homebuyers regarding stormwater impacts (i.e. flooding, erosion);

(h) Minimize prolonged business interruptions;

(i) Minimize damage to public facilities and utilities such as water and gas mains; electric, telephone, storm and sanitary sewer lines; and streets and bridges;

(j) Promote a functional public and private stormwater management system that will not result in excessive maintenance costs;

(k) Encourage the use of natural and aesthetically pleasing design that maximizes preservation of natural areas;

(l) Promote the use of comprehensive watershed management plans;

(m) Encourage preservation of floodplains, floodways and open spaces; and

(n) Encourage community stewardship of the city's water resources.

(2) Administering entity. The city's director of engineering and utilities (referred herein as the director) and, in the event of the director's absence or a vacancy in the office of director, the deputy director shall administer the provisions of this chapter.

(3) Stormwater ordinance. The intended purpose of the ordinance comprising this chapter is to safeguard property and public welfare by regulating stormwater drainage and requiring temporary and permanent provisions for its control. If any requirement specified herein conflicts with requirements in other city ordinances, regulations or policies, the more stringent requirements for the safeguard of human life, property or water quality shall apply. Design, planning and engineering companies should use this chapter to facilitate their designs for control of stormwater in new and re-development. (Ord. #04-14, Oct. 2004, as replaced by Ord. #12-13, Nov. 2012)

14-202. Jurisdiction. The provisions of this chapter apply to the area within the jurisdictional boundaries of the City of Bartlett. (Ord. #04-14, Oct. 2004, as replaced by Ord. #12-13, Nov. 2012)

14-203. Definitions. For the purpose of this chapter, unless specifically defined below, words or phrases shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most effective application. Words in the singular shall include the plural, and words in the plural shall include the singular. Words used in the present tense shall include the future tense. The word "shall" connotes mandatory and not discretionary; the word "may" is permissive.

(1) "Accidental discharges" means a discharge prohibited by this chapter into the MS4 and that occurs by chance and without planning or consideration prior to occurrence.

(2) "As-built plans" means drawings depicting conditions as they were actually constructed.

(3) "Best Management Practices (BMPs)" means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants to waters of the state. BMPs also include treatment requirements, operating procedures, and practices to control runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

(4) "Brownfield" means real property, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant or contaminant.

(5) "Buffer zone, water quality buffer or waterway buffer" means a setback from the top of the water body's bank of undisturbed vegetation, including trees, shrubs, herbaceous vegetation, enhanced or restored vegetation, or the re-establishment of native vegetation bordering streams, ponds, wetlands, springs, reservoirs or lakes from buildings and/or structures and other land uses that alter habitat, geomorphology, water quality, and hydrology. Waterway buffers may also act as floodplain storage and a passage drainage way.

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

(7) "Clean Water Act (CWA)" or "the Act" means the Clean Water Act of 1977 or the Federal Water Pollution Control Act.

(8) "Chronic violator" means a violator that commits two (2) or more of any violation within a six (6) month period.

(9) "Commercial" means property devoted in whole or part to commerce, that is, the exchange and buying and selling of commodities or services. The term shall include, by way of example, but not be limited to the following businesses: amusement establishments, animal clinics or hospitals, automobile service stations, automobile dealerships for new or used vehicles, automobile car washes, automobile and vehicular repair shops, banking establishments, beauty and barber shops, bowling alleys, bus terminals, and repair shops, camera shops, dental offices or clinics, day care centers, department stores, drug stores, funeral homes, furniture stores, gift shops, grocery stores, hardware stores, hotels, jewelry stores, laboratories, laundries, and dry cleaning establishments, liquor stores, medical offices and clinics, motels, movie theaters, office buildings, paint stores or shops, parking lots, produce markets, professional offices, radio stations, repair establishments, retail stores, television stations and production facilities, theaters, truck or construction equipment service stations, truck or construction equipment dealerships for new or used vehicles, truck or construction equipment washing facilities and truck or construction equipment repair shops.

(10) "Common plan of development or sale" broadly means any announcement or documentation (including a sign, public notice or hearing, sales pitch, advertisement, drawing, permit application, zoning request, computer design, etc.) or physical demarcation (including boundary signs, lot stakes, surveyor markings, etc.) indicating construction activities may occur on a specific plot. A common plan of development or sale identifies a situation in which multiple areas of disturbance are occurring on contiguous areas. This applies because activities may take place at different times, on different schedules, by different operators.

(11) "Compliance inspection" means an inspection of a construction activity for the purpose of determining the adherence to and effectiveness of approved BMPs.

(12) "Construction activity" means any clearing, grading, filling and excavating, or other similar construction activities that result in the disturbance

of one (1) acre or more of total land area or less than one (1) acre of land disturbance at a site that is part of a larger common plan of development or sale that comprise at least one (1) acre of land disturbance. The term shall not include:

(a) Such minor construction activities as home gardens and individual home landscaping, home repairs, home maintenance work and other related activities that result in minor soil erosion;

(b) Individual service and sewer connections for single or two (2) family residences;

(c) Agricultural practices involving the establishment, cultivation or harvesting of products of the field or orchard, preparing and planting pasture land, forestry land management practices including harvesting, farm ponds, dairy operations and livestock and poultry management practices and construction of farm buildings;

(d) Any project carried out under the technical supervision of the Natural Resources Conservation Service of the United States Department of Agriculture; and

(e) Installation, maintenance, and repair of any underground public utility lines when such activity occurs in an existing hard surface road, street or sidewalk, provided the activity is confined to the area of the road, street or sidewalk which is hard surfaced and a street, curb, gutter or sidewalk permit has been obtained, and if such area is less than one (1) acre of disturbance.

These excluded activities may be undertaken without formal notice to the manager; however, the persons conducting these activities shall remain responsible for otherwise conducting those activities in accordance with the provisions of this chapter and other applicable law including responsibility for erosion prevention and controlling sedimentation and runoff.

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

(14) "Development" means any activity subject to the State of Tennessee General NPDES Permit for Discharge of Stormwater Associated with Construction Activities (TNCGP).

(15) "Director" means the City of Bartlett Director of Engineering and Utilities and, in the event of the director's absence or a vacancy in the office of director, the deputy director.

(16) "Discharge of a pollutant, discharge of pollutants and discharge," when used without qualification, each refer to the addition of pollutants to waters from a source. This definition includes additions of pollutants into waters of the state from: surface runoff which is collected or channeled by man; discharges through pipes, sewers, or other conveyances owned by a state, municipality, or other person which do not lead to a treatment works; and

discharges through pipes, sewers, or other conveyances, leading into privately owned treatment works (40 CFR § 122.2).

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

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

(19) "Erosion prevention and sediment control plan" means a written plan, including drawings and other graphic representations, to minimize soil erosion and sedimentation resulting from a construction activity.

(20) "Illicit connection" means illegal and/or unauthorized connections to the MS4 whether or not such connections result in discharges into the system.

(21) "Illicit discharge" means any discharge to the MS4 that is not entirely composed of stormwater, except discharges authorized under a NPDES permit (other than the NPDES permit for discharges from the MS4), discharges resulting from fire fighting activities (40 CFR § 122.26(b)(2)) and allowable discharges listed in § 14-205.

(22) "Industrial facility" means a business engaged in industrial production or service, that is, a business characterized by manufacturing or productive enterprise or a related service business. This term shall include by way of example but not be limited to the following: apparel and fabric finishers, automobile salvage and junk yards, blast furnace, blueprint and related shops, boiler works, cold storage plants, contractor's plants and storage facilities, foundries, furniture and household goods manufacturing, forge plants, greenhouses, manufacturing plants, metal fabrication shops, ore reduction facilities, planning mills, rock crushers, rolling mills, saw mills, smelting operations, stockyards, stone mills or quarries, textile production, utility transmission or storage facilities, truck or construction equipment salvage or junkyards, warehousing, and wholesaling facilities.

(23) "Land disturbing activity" means any activity on property that result in a change in the existing soil cover (both vegetative and non-vegetative) and/or the existing soil topography. Land disturbing activities include, by way of example and are not limited to, development, re-development, demolition, construction, reconstruction, clearing, grading, filling, and excavation.

(24) "Maintenance" means any activity that is necessary, including but not limited to reconstruction and property maintenance, to keep a stormwater facility in good working order so as to function as designed.

(25) "Maintenance agreement" means a document recorded in the Shelby County Register's office that acts as a property deed restriction, and which provides for long-term maintenance of stormwater management facilities.

(26) "Manager" means the City of Bartlett Director of Engineering and Utilities or the director's duly authorized representative and, in the event of the director's absence or a vacancy in the office of director, the deputy director.

(27) "Municipal inspector" means an employee of the city that has successfully completed the Tennessee Erosion Prevention and Sediment Control Level 1 course or decertification course and whose duties include the inspection of construction activities.

(28) "Municipal Separate Storm Sewer System (MS4)" means a conveyance or system of conveyances (including roads and streets with their drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains):

(a) Owned and operated by the city;

(b) Designed or used for collecting or conveying stormwater;

(c) Which is not a combined sewer; and

(d) Which is not part of a publicly owned treatment works as defined at 40 CFR § 122.2 (40 CFR § 122.26(b)(8)).

(29) "National Pollutant Discharge Elimination System (NPDES) permit" means a permit issued pursuant to 33 U.S.C. chapter 26 Water Pollution Prevention and Control, subchapter IV Permits and Licenses, § 1342.

(30) "Notice of Coverage (NOC)" means a written approval from TDEC authorizing site operators to discharge stormwater associated with construction activities in accordance with the effective TNCGP.

(31) "Notice of Intent (NOI)" means a written request to TDEC by site operators for authorization to discharge stormwater associated with construction activities in accordance with the effective TNCGP.

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

(33) "On-site stormwater facility" means a structural BMP located within the subject property boundary described in the permit application for land development.

(34) "Peak flow" means the maximum instantaneous rate of flow of water at a particular point resulting from a storm event.

(35) "Person" means any individual, partnership, co-partnership, firm, company, trust estate, governmental entity or any other legal entity, or their legal representatives, agents, or assigns. The masculine gender shall include the feminine, the singular shall include the plural where indicated by context.

(36) "Pollution" means any human-made or human-induced change in the chemical, physical or biological and radiological integrity of water.

(37) "Redevelopment" means a construction activity that alters developed land and increases the site or building impervious footprint, or offers a new opportunity for stormwater controls. The term is not intended to include such activities as exterior remodeling, which would not be expected to cause adverse stormwater impacts.

(38) "Regional facility" means a stormwater management facility designed to serve more than two (2) properties and one hundred (100) or more acres of drainage area. A regional facility typically includes a stormwater pond.

(39) "Routine inspection" means the normal visits of municipal inspectors to construction activities for the purpose of monitoring the construction process.

(40) "Runoff" means that portion of the precipitation on a drainage area that is discharged from the area into the MS4.

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

(42) "Sedimentation" means soil particles suspended in stormwater that can settle in stream beds.

(43) "Significant spills" means releases of oil or hazardous substances in excess of the reportable quantities under section 311 of the CWA (40 CFR 110.10 and CFR 117.21) or section 102 of the Comprehensive Environmental Response Compensation and Liability Act (CERCA), (CFR 302.4).

(44) "Stabilization" means providing adequate measures, vegetative and/or structural, that will prevent erosion from occurring.

(45) "Stormwater" means water induced or created from precipitation whether rain, snow or ice and is either stored, collected, detained, absorbed or discharged.

(46) "Stormwater management facility" means a stormwater management control device, structure, or system of such physical components designed to treat, detain, store, convey, absorb, conserve, protect, or otherwise control stormwater.

(47) "Stormwater management" means the collection, conveyance, storage, treatment and disposal of stormwater in a manner to meet the objectives of this chapter and its terms, including, but not limited to, measures that control the increase volume and rate of stormwater runoff and water quality impacts caused or induced by man made changes in the land.

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

(49) "Stormwater Pollution Prevention Plan (SWPPP)" means a written site specific plan to eliminate or reduce and control the pollution of stormwater through designed facilities, natural or constructed, and BMPs.

(50) "Stormwater runoff" means stormwater flow on the surface of the ground.

(51) "Stormwater sewer system" means the network of conveyances and storage facilities that collect, detain, absorb, treat, channel, discharge or otherwise control the quantity and/or quality of stormwater.

(52) "Stream" means any river, creel, slough or natural water course in which water usually flows in a defined bed or channel. It is not essential that

the flowing be uniform or uninterrupted. The fact that some parts of the bed have been dredged or improved does not prevent the water course from being a stream. For the purposes of this chapter, a stream is not a wet weather conveyance as also defined herein. Typically, as a guideline, perennial streams are identified on USGS maps by solid blue lines and intermittent streams are depicted by dashed blue lines or as determined by TDEC.

(53) "Structural BMPs" means facilities that are constructed to provide control of stormwater runoff.

(54) "Surface water" means waters on the surface of the earth in bounds created naturally or artificially including, by way of example and not limited to, streams, other water courses, lakes and reservoirs.

(55) "Transit-oriented development" means a mixed-use residential and commercial area designed to maximize access to public transport, and often incorporates features to encourage transit ridership.

(56) "Water quality buffer." See "buffer zone."

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

(58) "Water quality" means characteristics that are related to the physical, chemical, biological, and/or radiological integrity of stormwater.

(59) "Waters" or waters of the state" means any and all water, public or private, on or beneath the surface of the ground, which are contained within, flow through, or border upon Tennessee or any portion thereof except those bodies of water confined to and retained within the limits of private property in a single ownership which does not combine or effect a junction with natural surface or underground waters.

(60) "Watershed" means all the land area that contributes runoff to a particular point along a waterway.

(61) "Watershed management program" means a balanced program and plan controlling the peak discharge and quality of water resources through comprehensive land and water resource management. Such management includes but is not limited to pollution control, land development controls, best management practices both structural and non-structural, preservation, habitat protection, and well head protection. This program incorporates the state's NPDES stormwater quality permit program.

(62) "Watershed master plan" means the guidance vehicle for implementing the watershed management program.

(63) "Waterway buffer." See "buffer zone."

(64) "Wet weather conveyance" means man-made or natural water courses, including natural water courses that have been modified by channelization, that flow only in direct response to precipitation runoff in their immediate locality and whose channels are above the groundwater table and are not suitable for drinking water supplies and in which hydrological and biological analyses indicate that, under normal weather conditions, due to naturally

occurring ephemeral or low flow, there is not sufficient water to support fish or multiple populations of obligate lotic aquatic organisms whose life cycle includes an aquatic phase of at least two (2) months. (Rules and Regulations of the State of Tennessee, chapter 1200-4-3-.04(3)) Rule 1200-4-8-.02(7) requires that waters designated as wet weather conveyances shall be protective of wildlife and humans that may come in contact with them and maintain standards applicable to all downstream waters. No other use classification or water quality criteria apply to these waters. (Ord. #04-14, Oct. 2004, as replaced by Ord. #12-13, Nov. 2012)

14-204. Abbreviations. (1) BMP -- Best Management Practice;

(2) ARAP -- Aquatic Resource Alteration Permit;

(3) CERCLA -- Comprehensive Environmental Response Compensation and Liability Act in its original form or as amended;

(4) CFR -- Code of Federal Regulations;

(5) CWA -- Clean Water Act;

(6) FEMA -- Federal Emergency Management Agency;

(7) MS4 -- Municipal Separate Storm Sewer System;

(8) NOC -- Notice of Coverage;

(9) NOI -- Notice of Intent;

(10) NPDES -- National Pollution Discharge Elimination System;

(11) SWMP -- Stormwater Management Plan;

(12) SWPPP -- Stormwater Pollution Prevention Plan;

(13) TCA -- Tennessee Code Annotated (latest version);

(14) TDEC -- Tennessee Department of Environment and Conservation;

(15) TNCGP -- Tennessee Construction General Permit (latest version), which is incorporated by reference in this chapter as if fully set herein.

(16) TMSP -- Tennessee Multi-Sector Permit for stormwater discharges associated with industrial activity (see § 14-210), which is incorporated by reference in this chapter as if fully set herein;

(17) USACOE -- United States Army Corp of Engineers;

(18) U.S.C. -- United States Code.

(Ord. #04-14, Oct. 2004, as replaced by Ord. #12-13, Nov. 2012)

14-205. Illicit discharges. (1) Scope. This section shall apply to all water generated on developed or undeveloped land entering the MS4.

(2) Prohibition of illicit discharges. No person shall introduce or cause to be introduced into the MS4 any discharge that is not composed entirely of stormwater. The commencement, conduct or continuance of any non-stormwater discharge to the MS4 is prohibited. Discharge of stormwater in any manner in violation of this chapter; or any violation of any condition of a permit issued pursuant to this chapter; or any violation of any condition of a stormwater discharge permit issued by TDEC is hereby declared a public nuisance and shall be corrected or abated.

(a) It shall be unlawful for any person to improperly dispose any contaminant into the MS4. Penalties for minor discharges that have no significant adverse impact on safety, health, the welfare of the environment, or the funtionality of the MS4 may be waived at the discretion of the manager. Contaminants include, by way of example but are not limited to, the following:

(i) Trash or debris;

(ii) Construction material;

(iii) Petroleum products including but not limited to oil, gasoline, grease, fuel oil, or hydraulic fluids;

(iv) Antifreeze and other automotive products;

(v) Metals in either particulate or dissolved form;

(vi) Flammable or explosive materials;

(vii) Radioactive materials;

(viii) Batteries including but not limited to, lead acid automobile batteries, alkaline batteries, lithium batteries, or mercury batteries;

(ix) Acids, alkalis, or bases;

(x) Paints, stains, resins, lacquers, or varnishes;

(xi) Degreasers and/or solvents;

(xii) Drain cleaners;

(xiii) Pesticides, herbicides, or fertilizers;

(xiv) Steam cleaning wastes;

(xv) Soaps, detergents, or ammonia;

(xvi) Swimming pool backwash including chlorinated swimming pool discharge;

(xvii) Chlorine, bromine, and other disinfectants;

(xviii) Heated water;

(xix) Animal waste from commercial animal or feeder lot operations;

(xx) Any industrial and sanitary wastewater, including leaking sewers or connections;

(xxi) Recreational vehicle waste including grey water;

(xxii) Animal carcasses;

(xxiii) Food wastes;

(xxiv) Medical wastes;

(xxv) Collected lawn clippings, leaves, branches, bark, and other fibrous materials;

(xxvi) Collected silt, sediment, or gravel;

(xxvii) Dyes, except as stated in § 14-205(2)(b);

(xxviii) Chemicals not normally found in uncontaminated water;

(xxix) Any hazardous material or waste, not listed above;

(xxx) Washing of fresh concrete for cleaning and/or finishing purposes or to expose aggregates;

(xxxi) Junk motor vehicles as defined in § 14-205(2)(c);

(xxxii) Liquid from solid waste disposal containers;

(xxxiii) Domestic animal waste.

(b) Dye testing is permitted but requires verbal notification to the manager a minimum of twenty-four (24) hours prior to the date of the test. The City of Memphis, Shelby County and City of Bartlett governmental agencies are exempt from this requirement.

(c) Junk motor vehicle means any vehicle which shall include by way of example but not be limited to the following vehicle types: automobiles, construction equipment, motorcycles, and trucks, which meet all of the following requirements:

(i) Is three (3) years old or older;

(ii) Is extensively damaged, such damage including but not limited to any of the following: A broken window or windshield or missing wheels, engine or transmission;

(iii) Is apparently inoperable;

(iv) Is without a valid current registration;

(v) Has a fair market value equivalent only to the value of the scrap in it.

(3) Allowable discharges. The following types of uncontaminated discharges shall not be considered prohibited discharges for the purpose of this chapter unless the manager determined that the type or quantity of discharge, whether singly or in combination with others, is causing significant contamination of the MS4.

(a) Potable water and potable water line flushing;

(b) Air conditioning condensation;

(c) Water from crawl space pumps or footing drains;

(d) Landscape irrigation or lawn watering;

(e) Non-commercial car and boat washing;

(f) De-chlorinated swimming pool water;

(g) Materials placed as part of an approved habitat restoration or bank stabilization project;

(h) Rising ground waters, ground water infiltration, pumped ground water, springs, diverted stream flows, and flows from riparian habitats and wetlands;

(i) Discharges within the constraints of the TNGCP or any other permit issued by TDEC;

(j) Discharges from emergency fire fighting activities and exercises (a stormwater pollution prevention plan should be prepared to address discharges or flows from fire fighting only where such discharges are identified as significant sources of pollutants to waters of the United States);

(k) Common practices for water well disinfections;

(l) Unless otherwise prohibited by this chapter, any discharge that could be made directly to waters of the state without a federal or state permit being required; and

(m) Other types of discharges as determined by the manager.

(4) Prohibition of illicit connections. Any connection, existing or future, identified by the manager as that which could convey anything not composed entirely of stormwater, with the exception of connections of allowable discharges in § 14-205(3) and connections conveying discharges pursuant to NPDES permit (other than an NPDES stormwater permit), directly to the MS4 is considered an illicit connection of which the construction, use, maintenance or continued existence is prohibited. Existing illicit connections shall be stopped at the owner's expense.

(5) Reduction of stormwater pollutants by use of BMPs. Any person responsible for a property or premises which is or may be the source of an illicit discharge may be required to implement, at that person's expense, the BMPs necessary to prevent further discharge of pollutants to the MS4. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of stormwater from an industrial activity, to the extent practicable, shall be deemed in compliance with the provisions of this section.

(6) Notification of spills. Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation, has information of any known or suspected release of materials which are resulting in, or may result in, illicit discharges or pollutants discharging into the MS4, the person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials the person shall immediately notify emergency response agencies of the occurrence via 911. In the event of a release of non-hazardous materials, the person shall notify the manager in person or by telephone, fax, or e-mail, no later than the next business day. Notifications in person or by telephone shall be confirmed by written notice addressed and mailed to the manager within three (3) business days of the telephone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three (3) years.

(7) Illegal dumping. No person shall dump or otherwise deposit outside an authorized landfill, convenience center or other authorized garbage or trash collection point, any trash or garbage of any kind or description on any private or public property, occupied or unoccupied, inside the city. (Ord. #04-14, Oct. 2004, as replaced by Ord. #12-13, Nov. 2012)

14-206. Construction and permanent stormwater management design and construction. (1) MS4 stormwater design and BMP manuals. The city adopts as its MS4 design and BMP manuals for construction and permanent stormwater management the following publications, which are incorporated by reference in this chapter as if fully set herein. The manuals include a list of acceptable BMPs including specific design performance criteria and operation and maintenance requirements for each stormwater practice and may be updated and expanded from time to time at the discretion of the manager. Designers and engineers are encouraged to use new and innovative techniques that perform to at least the minimum standards contained in the manuals. The specific application of BMP practices is subject to approval of the manager.

(a) TDEC Erosion Prevention and Sediment Control Handbook (most current edition is available on the internet).

(b) Shelby County Watershed Management Practices Manual.

(c) City of Memphis/Shelby County Stormwater Management Manual (available on the internet).

(d) City of Bartlett Watershed Management Practices Manual (when developed).

(e) City of Bartlett Standard Specifications and Drawings.

(2) Land development. All land development in the city including, by example but not limited to, site plan applications, subdivision applications, land disturbance applications and grading applications for new development or redevelopment construction activities shall be subject to the provisions of this chapter, the city's floodplain portion of the zoning ordinance, and the subdivision ordinance. Other projects may be required to obtain authorization under this chapter if:

(a) The manager has determined that stormwater discharge from a site is causing, contributing to, or is likely to contribute to a violation of state water quality standards;

(b) The manager has determined that the stormwater discharge is, or is likely to be, a significant contributor of pollutants to waters of the state; or

(c) Changes in state or federal rules require sites of less than one (1) acre that are not part of a larger common plan of development or sale to obtain a stormwater permit.

(3) NOI. The operators of non-exempt construction activities shall apply to TDEC for coverage under the TNCGP as part of the city's plan review and approval process. Application procedures and required information for submittal of the NOI is contained in the TNCGP. An individual permit may be required as specified in section 7 of the TNCGP as well as an Aquatic Resource Alteration Permit (ARAP) as specified in section 10 of the TNCGP.

(4) SWPPP. The operators of non-exempt construction activities shall provide a copy of the construction activity SWPPP for review as part of the city's plan review and approval process. The TNCGP specifies what information is

required to be included in the SWPPP. Changes to the SWPPP after plan review and approval shall be submitted to the director for approval. Operators of non-exempt construction activities involving the building of family residential units shall submit a copy of the SWPPP to the city's director of code enforcement.

(5) Erosion control phasing plan. An erosion control phasing plan describing the vegetative stabilization and management techniques to be used at a site during and after construction is completed shall be submitted with the final design as part of the city's plan review and approval process. This plan shall explain not only how the site will be stabilized after construction, but who will be responsible for the maintenance of vegetation at the site and what practices will be employed to ensure that adequate vegetative cover is preserved. Changes to the erosion control phasing plan after plan review and approval shall be submitted to the director for approval. See § 14-207 for erosion control phasing plan and stabilization requirements.

(6) General design performance criteria for permanent stormwater management. The stormwater discharges from new development and redevelopment sites are to be managed such that post-development peak discharge does not exceed the pre-development peak discharge at the site unless approved by the director.

(a) All new development is required to discharge post development flows at the 2, 5, 10, 25, 50 and 100 year storm events at a peak level of pre-existing conditions. The director may require post development flows at other intervals. Discharge for water quality is encouraged to be designed into the project to include green infrastructure or other flow inhibiting designs.

(b) Appendix B[1] contains data for pipe sizing.

(7) Detention requirements. All developments will be designed to incorporate detention with a storage volume sized for the 25-year storm and over-topping of a 100-year storm as outlined in § 14-206(6).

(8) Permanent Stormwater Management Plan (SWMP) requirements. The operators of non-exempt construction activities shall submit a SWMP for post construction permanent BMPs as part of the city's plan review and approval process. The SWMP shall include sufficient information to allow the director to evaluate the environmental characteristics of the project site, the potential impacts of all proposed development on the site (both present and future) on the water resources, and the effectiveness and acceptability of the measures proposed for managing stormwater generated at the project site. The operator may use the SWPPP as the SWMP provided the following information is included:

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[1]Appendix B is of record and available for review in the city clerk's office.

(a) A topographical base map of the site which extends a minimum of one hundred feet (100') beyond the limits of the proposed development and indicates:

(i) Existing surface water drainage including streams, ponds, culverts, ditches, sink holes, wet lands and the type, size elevation etc., of the nearest upstream and downstream drainage structures and/or stormwater management facilities;

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

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

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

(b) Proposed structural and non-structural BMPs;

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

(d) Hydrologic and hydraulic calculations for the pre-development and post-development conditions for a 2, 5, 10, 25, 50 and 100 year design storm. These calculations must show that the proposed stormwater management measures are capable of controlling runoff from the site in compliance with this chapter. Such calculations shall include:

(i) A description of the design storm frequency, duration, and intensity where applicable;

(ii) Time of concentration;

(iii) Soil curve numbers or runoff coefficients including assumed soil moisture conditions;

(iv) Peek runoff rates and total runoff volumes for each watershed area;

(v) Infiltration rates, where applicable;

(vi) Culvert, stormwater sewer, ditch and/or other stormwater conveyance capacities;

(vii) Flow velocities;

(viii) Data on the increase in rate and volume of runoff for a design storm; and

(ix) Documentation of sources for all computations methods and field test results.

(e) A soils report if a stormwater management control measure depends on the hydrologic properties of soils (e.g. infiltration basins). The soils report shall be based on on-site boring logs or soil pit profiles and soil survey reports. The number and location of required soil borings or soil pits shall be determined based on what is needed to determine the

suitability and distribution of soil types present at the location of the control measure.

(f) Detailed maintenance and repair procedures for permanent stormwater management facilities (see § 14-206(9)).

Changes to post-construction permanent BMPs after plan review and approval shall be submitted to the director for approval.

(9) Maintenance and repair plan. The design and planning of all permanent stormwater management facilities shall include detailed maintenance and repair procedures to ensure their continued performance. These plans shall identify the parts or components of a stormwater management facility that need to be maintained and the equipment and skills or training necessary. Provisions for the periodic review and evaluation of the effectiveness of the maintenance program and the need for revisions or additional maintenance procedures shall be included in the plan. Approved maintenance and repair plans shall be recorded in the Shelby County Register's office and shall act as a property deed restriction to ensure maintenance and repair responsibilities are carried out in perpetuity.

(10) Construction plans. Proposed plans for construction shall be stamped by a professional engineer licensed in the State of Tennessee and submitted as part of the city's plan review and approval process. The plans shall include all proposed improvements or modifications to the existing or new stormwater infrastructure, erosion prevention and sediment control practices and other related improvements or modifications.

(a) The city encourages regional watershed management practices and facilities. These practices will be encouraged in order to replace or reduce the implementation of on-site stormwater management facilities.

(b) Each individual project shall be evaluated for consistency with the adopted watershed master plan, when available, for the major watershed or watersheds within which the project site is located. The individual project evaluation will determine if proposed stormwater management practices can adequately serve the property and limit impacts to downstream public and private properties. The presence of a regional facility(s) will be considered in determining the extent to which peak discharge and/or quality controls will be necessary.

(c) In the absence of such a stormwater master plan, a system of uniform requirements shall be applied to each individual project site. In general, these uniform requirements may be based on the criteria that stormwater discharges from new development and redevelopment sites are to be managed such that post-development peak discharge does not exceed the pre-development peak discharge at the site (see § 14-206(6) and (7)).

(d) Minimum development may be permitted in the floodplain; however, the developer may be required by the director to demonstrate

"no adverse impact" on upstream or downstream facilities, uses, residences, or related structures. All fill volume permitted in the floodplain shall be offset by an equal volume excavated from the floodplain resulting in a balanced displacement of flood water storage. If substantial fill alteration is required, the director may require a "no rise" certification.

(e) Under no circumstances shall a site be graded or drained in such a way as to increase surface runoff to sinkholes, dry wells, or drainage wells.

(f) Development of properties containing existing on-site stormwater management facilities may be permitted, at the discretion of the director, provided the property and downstream public and private properties, infrastructure or waters of the state are adequately protected from adverse stormwater impacts.

(g) Soil bioengineering, green and other soft slope and stream bank stabilization methods are encouraged. The use of green way right-of-way for appropriate properties is encouraged along all waters of the state.

(h) The city shall require the set aside of land along all waters of the state (greenbelt) as land development occurs. A permanent waterway buffer shall be applied as specified in Appendix A[1].

(11) Construction activities. It shall be unlawful for any person to permit any discharge of stormwater from a construction activity as defined in § 14-203 without a TNCGP or an individual NPDES permit. Erosion or sedimentation, or transport of other pollutants or forms of pollution, due to various land development activities must be controlled. All construction activities shall be in compliance with applicable permit requirements, federal, state and/or local, and all applicable requirements under this chapter. Additionally:

(a) No earth disturbing activities shall be performed at a construction activity until:

(i) A NOC has been received from TDEC. A copy of the NOC shall be provided to the manager;

(ii) All appropriate permits have been obtained;

(iii) Construction plans have been approved by the director. Building plans will require approval by the director of code enforcement;

(iv) Appropriate erosion prevention and sediment control BMPs, consistent with those described in the BMP manuals referenced in § 14-206(1) and identified in the site's approved SWPPP, are in place; and

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[1]Appendix A is of record and available for review in the city clerk's office.

(v) A pre-construction meeting has been conducted.

(b) Operators shall control wastes such as but not limited to discarded building materials, concrete truck washout, chemicals, litter, and sanitary waste at the construction site to avoid adverse impacts on water quality;

(c) The manager may stop or cause to have stopped construction or administer other enforcement actions as defined in this chapter on properties that do not have adequate erosion prevention and sedimentation control measures in place or properly maintained.

(d) In activities that have been released from the development phase to the building phase, any changes in the development phase grading of more than two feet (2') (cut or fill) shall require a lot specific grading and drainage plan to show how the owner plans to accommodate drainage to or from adjacent lots. The manager is empowered to stop or cause to be stopped any work on the lot until such time as a grading and drainage plan is submitted and approved by the director.

(e) After construction activities are complete, operators obtaining coverage under the TNCGP or an individual NPDES permit shall submit a Notice of Termination (NOT) to TDEC as specified in section 8 of the TNCGP. The director is hereby empowered to retain or cause to be retained bonds, letters or credits, withholding of use and occupancy permits or other sureties as the director deems appropriate until NOT acceptance by TDEC. Operators shall provide a copy of the approved NOT to the manager. (Ord. #04-14, Oct. 2004, as replaced by Ord. #12-13, Nov. 2012)

14-207. Operation, maintenance and inspection of permanent stormwater management facilities. (1) As-built plans. All operators shall submit as-built plans for all permanent stormwater management structures after final construction is completed to the city's department of engineering and utilities. The plans must show the final flow line elevations, slopes, locations and/or design specifications for all stormwater management facilities, as applicable for the facility, and must bear the seal of a registered professional engineer licensed to practice in the State of Tennessee. The registered professional shall certify that the facilities have been constructed in substantial and essential conformance to the design plan. The director is hereby empowered to retain or cause to be retained bonds, letters of credits, withholding of use and occupancy permits or other sureties as the director deems appropriate until proper as-built plans have been delivered.

(2) Erosion control phasing plan and stabilization requirements. Any area of land from which the natural vegetative cover has been either partially or wholly cleared by a construction activity shall be stabilized. Stabilization measures shall be initiated as soon as possible in portion of the site where construction activities have temporarily or permanently ceased.

(a) Temporary or permanent soil stabilization at the construction site (or a phase of the project) must be completed not later than fifteen (15) days after the construction activity in that portion of the site has temporarily or permanently ceased. Natural or created slopes three to one (3 to 1) or steeper shall be temporarily stabilized not later than seven (7) days after construction activity on the slope has temporarily or permanently ceased. In the following situations, temporary stabilization measures are not required:

(i) Where the initiation of stabilization measures is precluded by snow cover or frozen ground conditions or adverse soggy ground conditions, stabilization measures shall be initiated as soon as practicable; or

(ii) Where construction activity on a portion of the site is temporarily ceased, and earth disturbing activities will be resumed within fifteen (15) days or seven (7) days for slopes three to one (3 to 1) or steeper.

(b) Permanent stabilization with perennial vegetation (using native herbaceous and woody plants where practicable) or other permanently stable, non-eroding surface shall replace any temporary measures as soon as practicable. The city's standard specifications contains grass seed mix and planting schedules. Unpacked gravel containing fines (silt and clay sized particles) or crusher runs will not be considered a non-eroding surface. Slopes three to one (3 to 1) or steeper shall be solid sodded.

(c) The following criteria shall apply to re-vegetation efforts:

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

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

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

(3) Right of access. The owner(s) shall maintain a perpetual right of access for inspection and emergency access by the city. The city has the right, but not the duty, to enter premises for inspection and emergency repairs.

(4) Inspection of stormwater management facilities. Periodic inspections of facilities shall be performed, documented, and reported in accordance with this chapter, as detailed in § 14-208.

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

(6) Infrastructure maintenance. It shall be the responsibility of the property owner of record for the maintenance of stormwater infrastructure. Maintenance of stormwater infrastructure consists of a minimum but is not limited to the following items as they apply to the specific stormwater facility: outlet cleaning, mowing, herbicide spraying, litter control, removal of sediment from basin and outlet structures, repair of drainage structures, and other items that may be included in the facilities maintenance and repair plan. All such activities will be conducted in an environmentally sound manner and consistent with applicable codes, rules, and/or standards. No modifications shall be made to open ditches or other wet weather conveyances without coordination with the director. All stormwater management control facilities proposed by the owners and approved by the director for dedication as a public facility shall be maintained by the owner until such time as the director accepts the facilities. Upon acceptance, the facilities shall be publicly owned and/or maintained.

(7) Maintenance documents. Maintenance requirements for new privately owned permanent stormwater management facilities may also be prescribed by a site-specific document between the owner or operator and the city. This document shall be based on an approved site design, a SWPPP, an inspection program (see § 14-208), a long-term maintenance plan to include the requirements listed in § 14-207(6), an emergency repair plan, easements, and proof or surety of financial responsibility. Approved maintenance documents shall be recorded in the Shelby County Register's Office and shall act as a property deed restriction to ensure maintenance and repair responsibilities are carried out in perpetuity.

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

necessary corrective action. The cost of any action by the city under this section shall be charged to the responsible party. Additionally, the director may assess penalties as detailed in § 14-211. Such an assessment will be used for cost recovery, to abate damages, and to restore impacted areas. (Ord. #04-14, Oct. 2004, as replaced by Ord. #12-13, Nov. 2012)

14-208. Inspection of stormwater management facilities.

(1) On-site stormwater management facilities maintenance document. For new construction where the stormwater facility is located on property that is subject to a development agreement, and the development agreement provides for a permanent stormwater maintenance document that runs with the land, the owners of property must execute a document that shall operate as a deed restriction binding on the current property owners and all subsequent property owners and their lessees and assigns, including but not limited to, homeowner associations or other groups or entities. The document shall:

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

(b) Provide that the minimum maintenance and repair needs include, but are not limited to: the removal of silt, litter and other debris, the cutting of grass, cutting and vegetation removal, and the replacement of landscape vegetation, in detention and retention basins, and inlets and drainage pipes and any other stormwater facilities. It shall also provide that the property owners shall be responsible for additional maintenance and repair needs consistent with the needs and standards outlined in the MS4 BMP manuals listed in § 14-206 and the approved maintenance and repair plan as appropriate.

(c) Provide that maintenance needs must be addressed in a timely manner, on a schedule to be determined by the manger.

(d) Provide that if the property is not maintained or repaired within the prescribed schedule, the city shall perform the maintenance and repair at its expense and bill the same to the development owner. The maintenance document shall also provide that the city's cost of performing the maintenance shall be a lien against each lot in the development.

(2) Existing locations--no maintenance document. The city may, to the extent authorized by state and federal law, enter and inspect private property for the purpose of determining if there are illicit non-stormwater discharges, and to establish inspection programs to verify that all stormwater management facilities are functioning within design limits. The applicable portions of § 14-209 shall apply.

(a) Inspection programs may be established on any reasonable basis, including but not limited to: routine inspections; random

inspections; inspections based upon complaints or other notice of possible violations; inspection of drainage basins or areas identified as higher than typical sources of sediment or other contaminants or pollutants; inspections of businesses or industries of a type associated with higher than usual discharges of contaminants or pollutants or with discharges of a type which are more likely than the typical discharge to cause violations of the city's NPDES stormwater permit; and joint inspections with other agencies inspecting under environmental or safety laws.

(b) Inspections may include, but are not limited to: reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in drainage control facilities; and evaluating the condition of drainage control facilities and other BMPs.

(c) The manager shall, in writing, notify the owners of existing locations and developments of specific drainage, erosion or sediment problems affecting or caused by such locations and developments, and the specific actions required to correct those problems. The notice shall also specify a reasonable time for compliance. Discharges from existing BMPs that have not been maintained and/or inspected in accordance with this chapter shall be regarded as illicit.

(3) Requirements for all existing locations and ongoing developments. The following requirements shall apply to all locations and development at which land disturbing activities have occurred previous to the enactment of this chapter:

(a) Denuded areas must be vegetated or covered under the standards and guidelines specified in § 14-207 and on a schedule acceptable to the manager.

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

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

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

(e) Stormwater runoff shall be controlled to the maximum extent practicable to prevent its pollution. Such control measures may include, but are not limited to, the following:

(i) Ponds such as detention ponds, extended detention ponds, retention ponds and other alternate storage methods.

(ii) Constructed wetlands.

(iii) Infiltration systems such as infiltration/percolation trenches, infiltration basins, drainage (recharge) wells, and porous pavements.

(iv) Filtering systems such as catch basin inserts/media filters, sand filters, filter/absorption beds, and filter and buffer strips.

(v) Open channel such as swales and bio-swales.

(4) Corrections of problems subject to appeal. Corrective measures imposed by the manager under this section are subject to appeal under § 14-212 of this chapter. (Ord. #04-14, Oct. 2004, as replaced by Ord. #12-13, Nov. 2012)

14-209. Monitoring and inspection. (1) Monitoring. The manager shall periodically monitor compliance of the stormwater NPDES permit holder.

(2) Detection of illicit connections and improper disposal. The manager shall take appropriate steps to detect and eliminate illicit connections to the MS4, including the adoption of programs to identify illicit discharges and their source or sources and provide public education, public information and other appropriate activities to facilitate the proper management and disposal of used oil, toxic materials and household hazardous waste.

(3) Inspections. (a) The manager or a municipal inspector, bearing proper credentials and identification, may enter properties for inspections, investigations, monitoring, observation, measurement, enforcement, sampling and testing, to effectuate the provisions of this chapter and/or the NPDES stormwater permit. The manager or the municipal inspector shall duly notify the owner of said property or the representative on site and the inspection shall be conducted at reasonable times.

(b) Upon refusal by any property owner to permit a municipal inspector to enter or continue an inspection, the inspector shall terminate the inspection or confine the inspection to areas wherein no objection is raised. The inspector shall immediately report the refusal and the circumstances to the manager.

(c) In the event the manager reasonably believes that discharges into the MS4 may cause an imminent and substantial threat to human health or the environment, an inspection may take place at any time and without notice to the owner of the property or a representative on site. The municipal inspector shall present proper credentials upon request by the owner or representative.

(d) At any time during the conduct of an inspection or at such other times as the manager or municipal inspector may request information from an owner or representative, the owner or representative may identify areas of the facility or establishment, material or processes which contains or may contain a trade secret. If the manager or the municipal inspector has no clear and convincing reason to question such identification, the inspection report shall note that trade secret information has been omitted. To the extent practicable, the manager shall protect all information that is designated as a trade secret by the owner or their representative. (Ord. #04-14, Oct. 2004, as replaced by Ord. #12-13, Nov. 2012)

14-210. Discharges from regulated industrial sources. (1) Purpose. It is the purpose of this chapter to control stormwater runoff from industrial sources in order to minimize to the maximum extent practicable, pollutants discharged from industrial sources into the MS4. This reduction may be achieved by a combination of management practices, control techniques, system design, engineering methods and plan review.

(2) Industry, defined. An industry is one defined as industry by EPA rule or subject to the Tennessee Multi-Sector Permit (TMSP) for Stormwater Discharges Associated with Industrial Activity.

(3) Right of inspection, defined. Right of inspection is defined in § 14-209.

(4) Information required. The State of Tennessee utilizes a NOI for dischargers to obtain coverage under the general permit program for discharges associated with industrial activities. These documents are subject to change and amendment and therefore the user should obtain the latest versions directly from TDEC. These may be obtained at the state's web page. All industries subject to the TMSP and discharging into the MS4 shall maintain a copy of the SWPPP on the industrial site, available for inspection and copying at reasonable times by the manager.

(5) SWPPP requirements. The SWPPP must follow, at a minimum, the outline of the plan listed in the Tennessee Multi-Sector Permit language or a facilities NPDES stormwater permit language, whichever is applicable.

(6) Sampling at industrial facilities. (a) Samples of stormwater collected for compliance monitoring shall be representative of the discharge. Sampling locations will be those defined in the TMSP or a NPDES permit. Sampling and analysis shall be in accordance with 40 CFR § 122.21 and CFR § 136 and/or applicable permit language.

(b) Samples that may be taken by the manager for the purpose of determining compliance with the requirements of this chapter or rules adopted hereunder may be split with the discharger if requested before the time of sampling.

(c) The manager may require a stormwater discharger to install and maintain, at the discharger's expense, a suitable manhole or sampling facility at the discharger's facility or suitable monitoring access to allow observation, sampling, and measurement of all stormwater runoff being discharged into the MS4. Sampling manhole or access shall be constructed in accordance with plans approved by the director and shall be designed so that flow measurement and sampling equipment can be installed. Access to the manhole or monitoring access shall be available to the manager at all times.

(7) Reporting. (a) Any facility required to sample under either the TMSP or a NPDES stormwater permit shall provide a copy of the monitoring report to the manager.

(b) The manager may require reporting by dischargers of stormwater runoff to the MS4, where a NPDES stormwater permit is not required, to provide information. This information may include any data necessary to characterize the stormwater discharge.

(8) Accidental discharges. In event of a significant spill as defined in definitions or any other discharge which could constitute a threat to human health or the environment, the owner or operator of the facility shall give notice to the manager and the local field office of the TDEC as required by state and federal law following the accidental discharge.

(a) If an emergency response by governmental agencies is needed, the owner or operator should also call the Memphis and Shelby County Emergency Management Agency immediately to report the discharge. A written report must be provided to the manager within five (5) days of the time the discharger becomes aware of the circumstances, unless the requirement is waived by the manager for good cause shown on a case-by-case basis, containing the following particulars:

(i) A description of the discharge, including an estimate of volume.

(ii) The exact dates, times and duration of the discharge.

(iii) Steps being taken to eliminate and prevent recurrence of the discharge, including any planned modification to contingency, SWPPP or maintenance plans.

(iv) A site drawing should be rendered that shows the location of the spill on the impacted property, the direction of flow of the spill in regards to the topographical grade of the property, the impacted watercourse(s), and the property or properties adjacent to the spill site.

(b) The discharger shall take all reasonable steps to minimize any adverse impact to the MS4, including such accelerated or additional monitoring as necessary to determine the nature and impact of the discharge. The interruption of business operations of the discharger shall not be a defense in an enforcement action necessary to maintain water quality and minimize any adverse impact that the discharge may cause.

(c) It shall be unlawful for any entity, whether an individual, residential, commercial or industrial, to fail to comply with the provisions of this section.

(9) Fraud and false statements. Any reports required by this chapter or rules adopted hereunder and any other documents required by the city to be submitted or maintained by the discharger shall be signed by a responsible corporate official and certified as accurate to the best of their personal knowledge after appropriate investigation. It shall be subject to the enforcement provisions of this chapter and any other applicable local and state laws and regulations pertaining to fraud and false statements. Additionally, the discharger shall be subject to the provisions of 18 U.S.C. § 309 of the Clean

Water Act, as amended, governing false statements and responsible corporate officials. (Ord. #04-14, Oct. 2004, as replaced by Ord. #12-13, Nov. 2012)

14-211. Enforcement response and abatement. Whenever the manager finds any permittee or person discharging stormwater, or other pollutants into the MS4 or otherwise has violated or is violating this chapter, conditions of a stormwater permit, or order issued hereunder, the manager may use enforcement response and abatement actions specified herein to achieve compliance. Although enforcement and abatement actions should be administered in any sequence as the manager deems appropriate for the violation. If the manager deems it necessary, a complaint may be filed with the Commissioner of TDEC pursuant to Tennessee Code Annotated, § 69-3-118.

(1) Administrative remedies. The enforcement remedies enumerated herein shall be applicable to all sections of this chapter.

(a) Verbal warnings. Municipal inspectors are hereby empowered to administer verbal warnings, of which shall be considered as being the same as issued by the manager. A verbal warning may be given at the discretion of the inspector when it appears the condition can be corrected by the violator within a reasonable time, which time shall be approved by the inspector. A verbal warning may be issued upon the first instance of a violation. In most cases, it isn't the intention of the violator to commit an offense but they are unaware of the ordinance requirements. A verbal warning acts, in this instance, as an educational tool. Violations encountered during routine inspections of construction activities are normally handled verbally. When a verbal warning is utilized, the warning shall specify the nature of the violation and the required corrective action, with deadlines for taking such actions. A verbal warning in no way relieves the discharger of liability for any violations occurring before or after receipt of the warning.

(b) Written notices. Written notices shall stipulate the nature of the violation and the required corrective action, with deadlines for taking such actions. Written notices shall normally be used starting with the least severe and progressively working to the most severe. Written notices shall be in the following forms, listed from least severe to most severe:

(i) Notice of non-compliance (NON). Municipal inspectors are hereby empowered to administer NONs, of which shall be considered as being the same as issued by the manager. A NON is a written follow-up to a verbal warning and is initiated when corrective actions have not been accomplished by the deadline provided in the verbal warning. A NON is also utilized to report violations encountered during construction activity compliance inspections. A NON in no way relieves the discharger of liability for any violations occurring before or after receipt of the NON.

(ii) Notice of violation (NOV). A NOV is a follow-up to a NON and is initiated when corrective actions have not been accomplished by the deadline provided in the NON. This notice shall be by personal service, or registered or certified mail with return receipt. Within ten (10) days of the receipt date of the notice or by the date specified in the NOV, the recipient of this NOV shall provide the manager with a written explanation for the violation. The response shall also include specified required actions and milestones for completion. Submission of this plan in no way relieves the discharger of liability for any violations occurring before or after receipt of the NOV.

(iii) Stop work order. A stop work order is a follow-up to a NOV. and is initiated when corrective actions have not been accomplished by the deadline provided in the NOV. Additionally, when the manager finds that any person has violated or continues to violate this chapter or any permit or order issued hereunder and such action or inaction has or may have the potential for immediate and significant adverse impact on the MS4 or the stormwater discharges to it, the manager may issue an order to cease and desist all such violations immediately and direct those persons in non-compliance to:

(A) Comply forthwith; or

(B) Take such appropriate remedial or preventable action as may be needed to properly address a continuing or threatened violation, including halting operations and terminating the discharge.

This notice shall be by personal service, or registered or certified mail with return receipt. Within ten (10) days of the receipt date of the notice, the receipt of this stop work order shall provide the manager with a written explanation for the violation. The response shall also include a plan for satisfactory correction and prevention thereof, to include specified required actions and milestones for completion. Submission of this plan in no way relieves the discharger of liability for any violations occurring before or after receipt of the stop work order. Anyone receiving a stop work order shall receive an expedited review and appeal of such order upon written request for the appeal. The appeal must meet the requirements specified in § 14-212 and be made within two (2) business days of receiving such order.

(iv) Show cause notice. A show cause notice is a follow-up to a stop work order, is initiated when corrective actions have not been accomplished by the deadline provided in the stop work order, and is normally the last written notice before administrative and/or civil penalties are assessed. Additionally, the manager may

order any person who causes or contributes, or may be a cause or contributor, to a violation of a stormwater permit or order issued hereunder to show cause why a proposed enforcement action should not be taken. The show cause notice shall be served on the person, specifying the time and place of the meeting, the proposed enforcement action and the reason for such action, and a request that the person show cause why this proposed enforcement action not be taken. This notice shall be by personal service or registered or certified mail with return receipt and postmarked at least ten (10) days prior to the meeting. A show cause notice in no way relieves the discharger of liability for any violations occurring before or after receipt of the notice.

(c) Consent agreement. The manager is hereby empowered to enter into consent agreements, assurances of voluntary compliance, or other similar documents establishing an agreement with the person or persons responsible for the non-compliance. Such agreements will include specific action to be taken by the permittee or person discharging stormwater to correct the non-compliance within a time period specified by the agreements. Consent agreements shall have the same force and effect as compliance orders issued pursuant to § 14-211(1)(d).

(d) Compliance order. When the manager finds that any person has violated or continues to violate this chapter or any other order issued hereunder, he may issue an order to the violator directing that, following a specified time period, adequate structures and/or devices be installed or procedures implemented and properly operated or followed. Orders may also contain such other requirements as might be reasonably necessary and appropriate to address the non-compliance, including the construction of appropriate structures, installation of devices, self-monitoring and related management practices. Compliance orders are normally a component of the NOV or stop work order.

(e) Withholding of approvals or other authorizations. The director is hereby empowered to withhold or cause to be withheld any permits, plat recordings, bond releases or any other instrument that would normally be issued to the violator until such time as the violations cease. Withholding may be performed in conjunction with other enforcement actions as deemed appropriate by the manager.

(2) Civil and administrative penalties. (a) Any person who performs any of the following acts or omissions shall be subject to a civil or administrative penalty of not less than fifty dollars ($50.00) or more than five thousand dollars ($5,000.00) per day for each day during which the

act or omission continues to occur. Each day a violation is allowed to continue constitutes a separate offense.[1]

(i) Violates an effluent standard or limitation or water quality standard established under this chapter or established by Tennessee Code Annotated, title 69, chapter 3, part 1 (State of Tennessee Water Quality Control Act);

(ii) Fails to obtain any required permit;

(iii) Violates the terms and conditions of such required permit in subsection (ii) above;

(iv) Fails to allow or perform an entry, inspection, monitoring or reporting requirement;

(v) Violates a final determination or order of the manager or the stormwater board of appeals; or

(vi) Violates any provision of this chapter.

(b) Attachment 1 provides initial assessments for violations of this chapter that may be assessed by the director. Chronic violators may be assessed up to the maximum amount permitted by Tennessee Code Annotated, § 68-221-1106. Additionally, the director, with consent of the mayor, may initiate civil proceedings in any court of competent jurisdiction seeking monetary damages for damages caused to the MS4 by any person, and to seek injunctive or other equitable relief to enforce compliance, with any lawful orders of the manager.

(3) Unlawful acts, misdemeanor. It shall be unlawful for any person knowingly:

(a) Violate a provision of this chapter;

(b) Violate the provisions of any permit issued pursuant to this chapter;

(c) Fail or refuse to comply with lawful notice to abate issued by the manager, which has not been timely appealed to the stormwater appeals board within the time specified by such notice; or

(d) Violate any lawful order of the manager within the time allowed by such order.

Such person shall be guilty of a misdemeanor; and each day of such violation or refusal to comply shall be deemed a separate offense and punishable accordingly. Any person found to be in violation of the provisions of this chapter shall be punished by a fine as set out in part II, chapter 1, section 1-4, Code of Shelby County. Upon learning of such act or omission, the manager may issue a city ordinance citation charging the person, firm, or entity with violating one (1) or more provisions of this chapter or permit issued thereunder, criminal violation of this chapter

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[1]State law reference

Tennessee Code Annotated, § 68-221-1106.

may also be the basis for injunctive relief, with such actions being brought and enforced through the Shelby County General Sessions Environmental Court.

(4) Processing a violation. (a) The director may issue an assessment against any person or permittee responsible for the violation.

(b) The director may consider the following factors when assessing an administrative or civil penalty:[1]

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

(ii) Whether the assessment or civil penalty imposed will be an appropriate economic deterrent to the illegal activity by the violator or others in the regulated community;

(iii) The economic benefit gained by the violator;

(iv) The amount of effort put forth by the violator to remedy the violation and/or the effectiveness of those remedies;

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

(vi) The amount of penalty established by ordinance or resolution for specific categories of violations (see Attachment 1);

(vii) Cause of discharge or violation;

(viii) The severity of the discharge and its effect on the MS4;

(ix) The technical and economic reasonableness of reducing or eliminating the discharge;

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

(c) The director may also assess damages proximately caused by the violator to the city which may include any reasonable expenses incurred in investigating and enforcing violations or any other actual damages caused including but not limited to costs involved in rectifying damages, costs of the city's maintenance of stormwater facilities when the user of such facilities fails to maintain them as required by this chapter and costs (direct and indirect) and attorney's fees incurred as a result of illegal activities.

(d) Any person against whom an assessment or order has been issued may secure a review of such assessment or order by filing with the manager a written appeal setting forth the specific legal and technical grounds and reasons for his objections and asking for a hearing in the matter involved before the stormwater board of appeals. Applications for appeals must meet the requirements specified in § 14-212. If an appeal for review of the assessment, penalty and/or order is not filed within

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[1]State law reference

Tennessee Code Annotated, § 68-221-1106(b).

thirty (30) days after the date of the assessment, penalty and/or order is served, the violator shall be deemed to have consented to the assessment and it shall become final.

(e) Whenever any assessment or penalty has become final because of a person's failure to appeal, the director may apply to the appropriate court for judgment and seek execution of such judgment and the court, in such proceedings, shall treat a failure to appeal such assessment as a confession of judgment in the amount of the assessment.[1]

(f) Any civil penalty assessed to a violator pursuant to this section may be in addition to any civil penalty assessed by the Commissioner of TDEC in accordance with Tennessee Code Annotated, § 69-3-115; however, the sum of penalties imposed by this section and by the Tennessee Code Annotated, § 69-3-115 shall not exceed ten thousand dollars ($10,000.00) per day for each day during which the act or omission continues or occurs.

(5) Appeal judicial proceedings and relief. The manager may initiate proceedings in any court of competent jurisdiction against any person who has or is about to:

(a) Violate the provisions of this chapter;

(b) Violate the provisions of any permit issued pursuant to this chapter;

(c) Fail or refuse to comply with any lawful order issued by the manager that has not been timely appealed within the time allowed by this chapter;

(d) Violates any lawful order of the manager within the time allowed by such order. Any person who shall commit any act declared unlawful under this chapter shall be guilty of a misdemeanor, and each day of such violation or failure shall be deemed a separate offense and punishable accordingly.

(6) Damages, disposition of funds. All damages collected under the provisions of this chapter and civil penalties collected under the provisions of § 14-211(4) following the adjustment for the expenses incurred in making such collections shall be allocated and appropriated to the Stormwater Management Program of the City of Bartlett.

(7) Records retention. All dischargers subject to this chapter shall maintain and preserve for no fewer than five (5) years, all records, books, documents, memoranda, reports, correspondence and any and all summaries thereof, relating to monitoring, sampling, and chemical analysis made by or in behalf of the discharger in connection with its discharge. All records which pertain to matters which are subject of any enforcement or litigation activities

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[1]State law reference

Tennessee Code Annotated, § 68-221-1106(e).

brought by the city pursuant hereto shall be retained and preserved by the discharger until all enforcement activities have concluded and all periods of limitation with respect to any and all appeals have expired. (Ord. #04-14, Oct. 2004, as replaced by Ord. #12-13, Nov. 2012)

14-212. Stormwater board of appeals. It shall be the duty of the stormwater board of appeals (the board) to hear and decide any appeal of any decision, order or interpretation by the director or manager whose duty it is to enforce the ordinance from which an aggrieved seeks relief, provided that a written application for appeal is filed with the manager within thirty (30) days after the decision, order or interpretation was served.

(1) Application for appeal. An application for appeal shall be based on a claim that the true intent of this chapter or the rules legally adopted hereunder have been incorrectly interpreted, the provisions of this chapter do not fully apply, or the requirements of this chapter are adequately satisfied by other means.

(2) Stays of enforcement. Appeals of orders and penalties (other than emergency orders) shall stay the enforcement of the order or a penalty until the appeal is heard by the board.

(3) Membership. The board shall consist of a minimum of five (5) members. At least one (1) member will be an elected official of the board of mayor and aldermen, at least two (2) members will be professionals or contractors and at least two (2) members shall be citizens. The board shall be appointed by the mayor and shall serve staggered and overlapping terms of four (4) years. All members are eligible for multiple and/or consecutive terms of appointment.

(a) Chairman. The board shall annually select one (1) of its members to serve as chairman. The chairman shall preside at all meetings of the board. The chairman shall represent the board at public affairs and shall maintain the dignity and efficiency of the board in all possible ways. The chairman shall also prepare, or cause to be prepared, any information helpful in acquainting new members with the procedures and/or operations of the board.

(b) Disqualification of member. A member shall not hear an appeal in which that member has a personal, professional or financial interest.

(c) Resignation. A member may resign at any time by providing written notice of their intent to do so to the board chairman and the mayor.

(d) Vacancies. The mayor shall have the authority to remove any member of the board, with or without cause. The mayor shall appoint new members to fill any vacancy on the board and such appointee shall serve the remaining term of the member whose position has been vacated.

(e) Secretary. The mayor shall designate a qualified city staff member to serve as secretary to the board. The secretary shall file a detailed report of all proceedings in the department of engineering and utilities. The secretary is not a member of the board.

(f) Compensation of members. Appointed members shall serve without compensation.

(4) Notice of meeting. The board shall meet upon notice from the chairman, within thirty (30) days of the filing of an appeal.

(5) Open hearings. All hearings before the board shall be open to the public. The appellant, the appellant's representative, the stormwater official and any person whose interests are affected shall be given the opportunity to be heard. A quorum shall consist of not less than two-thirds (2/3) of the board membership.

(6) Board decision. The board shall affirm, modify or reverse the decision of the stormwater official. Modifications and reversals require a majority vote of those present. Modifications may increase the amount of penalties assessed but shall not reduce any penalties assessed to less than fifty dollars ($50.00).

(a) The decision of the board shall be recorded. Copies shall be furnished to the appellant and to the manager.

(b) The manager shall take immediate action in accordance with the decision of the board. (Ord. #04-14, Oct. 2004, as replaced by Ord. #12-13, Nov. 2012)

14-213.--14-215. [Deleted.] (Ord. #04-14, Oct. 2004, as deleted by Ord. #12-13, Nov. 2012)

CHAPTER 3

TRAILERS AND TRAILER COURTS

SECTION

14-301. Location regulated. The mayor and aldermen shall govern the locations of house trailers to be located within the corporate limits of the City of Bartlett, Tennessee. (Ord. #65-6, Sept. 1965)

14-302. Permit required. (1) The board of mayor and aldermen must pass on and issue permits for the locations of house trailers to be used as a dwelling place within the corporate limits of the City of Bartlett, Tennessee.

(2) If and when a permit has been issued for a location of a house trailer, it is not to exceed twelve (12) months from date of issuance without application being made for renewal.

(3) No permit for a house trailer shall be transferred from one owner to another.

(4) The privilege permit fee shall be one hundred dollars ($100.00) per annum. (Ord. #65-6, Sept. 1965)

14-303. Water and sewer connections required. All house trailers must be connected to the city water lines and to the sanitary sewer. (Ord. #65-6, Sept. 1965)

14-304. Jurisdiction. (1) This chapter shall apply to any and all trailer courts or trailer parks.

(2) All house trailers and trailer courts or parks be governed by all City of Bartlett and Shelby County Health Department ordinances. (Ord. #65-6, Sept. 1965)

CHAPTER 4

SIGN ORDINANCE

SECTION

14-401. <u>Definitions</u>. The following definitions shall apply to the use of terms within this chapter:

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

(2) "Animated sign." Any sign which includes any moving parts. For purposes of this ordinance, this term does not refer to flashing or changing, all of which are separately defined.

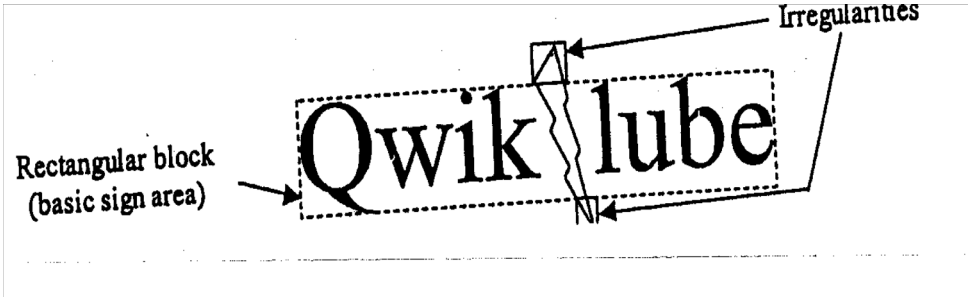
(3) "Area measurement of sign." The area of a sign shall be measured by one (1) or two (2) of the smallest, contiguous geometric shapes: square; rectangle; circle; half circle and triangle.

Measurement Examples

Any pictorial element is part of a sign and extends outside of the geometric shapes shall be treated as an irregularity rather than an extension of the lettering.

(a) An additional five percent (5%) of the permitted total square footage will be allowed for irregularities in sign copy which are in excess of the geometric shapes formed by the outermost points.

(b) For irregularities that exceed five percent (5%) of the total area, the irregularities shall be individually blocked and considered as part of the total area of the sign. Logos shall be blocked separately and considered as part of the total sign area.



(4) "Banners." Any streamer, flag-like pennant or other object, whether constructed of fabric or of other materials which, with or without insignia, attracts the attention of citizenry to a location or business.

(5) "Beacon." A sign or a sign lighting mechanism which focuses a beam of light by whatever mechanism created and regardless of intensity.

(6) "Building face or wall." All window and wall areas of a building in one plane or elevation.

(7) "Building identification sign." A sign that may be located on a building to identify the name of the building, such as a historic building.

(8) "Building official." That person designated by the board of mayor and aldermen to act as the administrator and enforcing officer of this ordinance, or his duly authorized designee.

(9) "Business identification sign." A ground or wall sign that identifies the name of the business or occupant that is located on the premises.

(10) "Changeable copy sign (manual)." A sign on which copy may be changed manually in the field, such as reader boards with changeable letters or changeable pictorial panels.

(11) "Changing sign (automatic)." A sign wherein different copy changes are shown on the same sign face by means of lighting or otherwise such as an electronically or electrically controlled public service time, temperature and date sign, message center or readerboard.

(12) "Collector street." As shown on the official City of Bartlett Major Street Plan.

(13) "Commercial complex." A group of five (5) or more businesses or enterprises sharing a common parking lot and common ingress and egress upon a single subdivided tract of record.

(14) "Commercial district." That area in the city which has been officially zoned for commercial use as retail stores, service establishments and offices, but not to include residential uses.

(15) "Construction sign." A temporary sign erected upon a construction site while physical construction is underway under a valid building permit issued by the City of Bartlett.

(16) "Copy." The wording, numbers, letters, logos and other graphics on a sign surface.

(17) "Design review commission." A commission appointed by the mayor to review and approve or disapprove all proposed signs except as otherwise specified in this ordinance.

(18) "Directional sign." A sign purveying only informational traffic control insignia such as an "in," "out," "no parking," "fire lanes," "handicap parking," etc. on private property or public property.

(19) "Directory." A sign erected to display the identity of five (5) or more occupants in a single building, business or office complex.

(20) "District." As defined under the zoning ordinance[1] and zoning district map.

(21) "Erected." This term shall mean attached, altered, built, constructed, reconstructed, enlarged or moved.

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[1]The zoning ordinance is included in this municipal code as Appendix B.

(22) "Face of sign." The entire area of sign on which copy could be placed, and in the instance where a double face sign is utilized the area of only one face shall be included to determine face square footage.

(23) "Flashing sign." Any sign which contains an intermittent or flashing light source, or which included the illusion of intermittent or flashing light by means of animations, or an externally mounted intermittent light source.

(24) "Front footage." The linear width measured parallel to the street frontage of the heated and enclosed structure, upon a premises not including out buildings or appurtenant structures, unless said structure has no street frontage in which instance the front footage shall be the structure's side width of principle entrance.

(25) "Ground level." Immediate surrounding grade.

(26) "Ground sign." A sign mounted at ground level.

(27) "Height of sign." The vertical distance measured from the surrounding grade to the highest point of sign or supporting structure.

(28) "Illegal signs." A sign which contravenes this ordinance, and which does not qualify as a variance sign or a nonconforming sign under this ordinance.

(29) "Interior property line." Property lines other than those forming a dedicated public right-of-way.

(30) "Lighting." That method or manner by which a sign is illuminated during the period from thirty (30) minutes prior to sundown and thirty (30) minutes after sunrise.

(31) "Lot of record." A lot which is part of a subdivision, the map of which has been recorded in the office of the County Recorder of Shelby County.

(32) "Major street." As shown on the official City of Bartlett Major Street Plan.

(33) "Nonconforming sign." A sign which contravenes this sign ordinance but which was in compliance with prior regulations at the time of its erection and for which a permit as required under the prior ordinance was obtained; a sign erected under a prior variance and not in strict compliance with prior regulations is not a nonconforming sign.

(34) "Occupant." Any person, firm, corporations, partnership, or other entity in possession of a premises or a part thereof whether under lease, hold over tenancy or other interest.

(35) "Office." That building or district as defined by the zoning ordinance wherein professional treatment or professional services generally are provided as opposed to the sale, distribution or repair of goods.

(36) "Opening sign." A temporary sign erected only for that limited period during which an enterprise not theretofore in operation begins its operation initially or at a new location.

(37) "Owner." A person, firm, corporation, partnership, or other entity recorded as such on official records and including duly authorized agent, a

purchaser, devisee, and/or any person having a vested or contingent interest in the property in question.

(38) "Pole sign." A sign mounted upon the ground but which by reason of height, width or other characteristics does not qualify as a "ground sign."

(39) "Political signs." A sign erected to publish the name of a candidate or of any ballot proposition or measure to enlist votes in any official public election.

(40) "Premises." An area of land with its appurtenances and buildings which, because of its unity of use, may be regarded as the smallest conveyable unit of real estate.

(41) "Private sale sign." A sign which is erected for a limited period to advertise the sale of individual property not in the ordinary course of business.

(42) "Primary use." A substantive use to which property or structures thereon are committed and specifically shall include uses auxiliary to the principal business or use there conducted and/or appurtenant thereto and/or directional to said principal business or uses.

(43) "Residential limited occupancy." That area or zoning district in the city specified by the zoning ordinance to include only low density single family and/or duplex construction.

(44) "Residential multi-occupancy." That area or zoning district in the city specified by the zoning ordinance for construction or erection of occupancy greater than duplex construction.

(45) "Real estate sign." A temporary sign employed to announce or display the sale of real property, said sign being erected on the property for sale.

(46) "Roof line." The edge of the main roof on the plain or elevation of the structure or building on which the sign is to be mounted. For the purpose of this ordinance, a mansard with an angle of up to forty-five (45) degrees from vertical, with or without roofing materials, is not considered a roof. Signs may be mounted on mansards, but shall not extend above the top of the mansard.

(47) "Set back." The minimum horizontal distance between either the face of curb, the edge of pavement, or the right-of-way line and the sign structure as specified in a particular section of this ordinance.

(48) "Sign." (a) Any identification, description, illustration or device which is visible from any public place, whether located on private property or public property which directs attention to a product, location, service, place, activity, person, institution or business, generally including columns, statues, roof color or design; any exterior situated merchandise or any emblem, painting, banner, pennant, or placard, designed to direct customers to, or advertise, identify or convey information; said items still constituting a sign with or without copy, except permitted on-copy internal window display, religious symbols and national flags. For the purpose of this ordinance, signs shall also include all sign structures.

(b) Unless specifically exempted, all signs, as herein described, are subject to the review and approval of the design review commission, director of planning or duly authorized representative. Meeting the minimum requirements of this ordinance shall not constitute approval of a sign. The design review commission, director of planning or duly authorized representative shall review the aesthetic appropriateness of each sign submitted for review and reserves the right to deny approval of any sign application which, in the judgment of a majority of the members, detracts from the aesthetic appeal of the property upon which such sign is proposed.

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

(50) "Street." A public thoroughfare which affords the principal means of access to abutting property.

(51) "Temporary signs." A sign which is not permanent and is allowed for a specific time period. Temporary signs, with the exception of real estate signs in a limited residential district and private sale signs, are subject to approval by the design review commission, director of planning or duly authorized representative. A valid temporary sign permit must be issued before erection of a temporary sign (other than the exceptions listed above) and such signs may not remain in place once the temporary sign permit has expired.

(52) "Traffic directional sign." Any sign which aids the flow of traffic.

(53) "Use." The purpose for which a building, lot, sign, or other structure is arranged, intended, designed, occupied or maintained.

(54) "Visibility triangle." To prevent traffic hazards at intersections, sight, blocking structures shall not be placed inside a triangle formed by fifty (50) foot lines along the street edges of both streets starting at the intersection of both street edges.

(55) "Wall sign." A sign providing the name or other approved information or graphics of the business, institution, or organization which is attached to or erected against the wall of a building with the face parallel to the plane of the building wall or attached to the structure as approved by the design review commission, director of planning or duly authorized representative. The sign shall extend no more than eighteen inches (18") from the building or structure. This sign may also be referred to as a "building sign."

(56) "Window sign." Any sign, temporary or permanent, advertising sales or specials attached to or within five (5) feet of glass surface of any fixed window (glazing) visible from a public right-of-way; provided however, the display of non-copy merchandise shall be permitted provided the packaging and/or labels are not so extreme as to render it substantially advertising copy. (Ord. #79-10, May 1979, as amended by Ord. #85-22, Oct. 1985, Ord. #87-18, Feb. 1988, Ord. #91-3, June 1991, Ord. #95-13, Sept. 1995, Ord. #00-03, March 2003, and Ord. #13-01, March 2013).

14-402. General requirements. The general sign requirements of this ordinance shall apply to all signs in the City of Bartlett in any district for any purpose subject only to the time compliance requirements hereinafter specified. All signs which are not expressly permitted by this ordinance are hereby declared to be illegal signs or nonconforming signs. This section does not apply to city owned or leased facilities or city approved events. (Ord. #79-10, May 1979, as amended by Ord. #91-3, June 1991, modified)

14-403. Annual sign inspection required. (1) The City of Bartlett will establish an annual sign inspection for all permitted signs located on businesses in the city unless specifically exempted by this ordinance.

(2) The annual sign inspection fee for businesses in the City of Bartlett shall be established and may be changed from time to time by resolution. (Ord. #88-3, March 1988, as amended by Ord. #13-01, March 2013)

14-404. Nationally or state registered logos and trade emblems permitted/approved. Nationally or state registered, logos, trade emblems or graphic pictorials shall be permitted if included within the allotted sign square footage upon specific review and approval of the design review commission, director of planning or duly authorized representative. (Ord. #91-3, June 1991, as amended by Ord. #13-01, March 2013)

14-405. Obscene copy prohibited. Signs which contain words or pictures of an obscene, indecent or immoral character which would offend public morals or decency are absolutely prohibited. (Ord. #79-10, May 1979)

14-406. Traffic control copy prohibited. Signs which contain or are an imitation of an official traffic sign or signal, such as, "stop," "go slow," "caution," "danger," "warning," or similar words are absolutely prohibited. (Ord. #79-10, May 1979)

14-407. Confusing or obstructive signs prohibited. Signs which are of a size, location, movement, content, coloring or manner or illumination which may be confused with or construed as a traffic control device or which hides from view any traffic or street sign or signal are absolutely prohibited. (Ord. #79-10, May 1979)

14-408. Changeable copy signs. (1) Changeable copy signs with interchangeable letters are permitted subject to the inclusion of same within allotted sign square footage and enclosed under locked and vandal proof case, said case and structure subject to design review commission review, director of planning or duly authorized representative and approval, and only for public facilities, such as city hall, performing arts centers, churches, schools, theater

marquees and gasoline price signs for service stations. No other changeable copy signs shall be allowed under this ordinance.

(2) Public facilities, such as city hall, performing arts centers, churches, and high or secondary schools may, in lieu of the changeable copy ground sign, utilize an electronic changeable ground sign (LED). This type of sign shall not advertise or promote any product and will have text only messages, amber in color and message duration of three (3) minutes. Messages shall not scroll, flash or imitate motion. These signs shall be consistent with the size requirements for ground signs.

Electronic changeable gas price signs shall be allowed at locations selling gasoline and diesel automobile fuel. The size, color and location of these signs are subject to the approval of the design review commission.

All electronic changeable signs shall come equipped with dimming technology that automatically adjusts the display's brightness based on ambient light conditions. The brightness of the electronic changeable signs shall not exceed 0.3 foot candles above ambient light conditions.

The following electronic signs are prohibited in all districts:

(a) Electronic graphic displays. Electronic signs displaying both text and pictorial images. These signs have the technical capacity to display high-quality, photo-like images in addition to text information.

(b) Electronic video displays. Electronic sign whose display is characterized by motion and pictorial imagery. These signs may possess the ability to display television-like images and programs.

(3) City-owned or leased buildings or city-sponsored events are exempt from the sign ordinance. (Ord. #91-3, June 1991, modified, as amended by Ord. #13-01, March 2013)

14-409. Misleading signs prohibited. Signs which advertise an activity, business, product, or service not conducted on the premises upon which a sign is located are prohibited. (Ord. #79-10, May 1979)

14-410. Moving signs prohibited. Signs which have any moving parts or which by design or illumination have the appearance of moving parts are absolutely prohibited. Hand-held signs advertising businesses, products or services are specifically prohibited. (Ord. #79-10, May 1979, as amended by Ord. #13-01, March 2013)

14-411. Changing signs. Changing signs are controlled as provided in § 14-408 above. (Ord. #79-10, May 1979, as amended by Ord. #13-01, March 2013)

14-412. Banners, pennants, streamers, light strings, spinners prohibited; exceptions. Notwithstanding other provisions of this chapter, a commercial business may display a sale or special event sign or banner on the

storefront elevation of the business not to exceed a face area of thirty-two (32) square feet on two (2) separate occasions in a twelve (12) month period. These signs or banners shall be further subject to the general requirements of this chapter. These sale or special event signs and banners will be approved by the building official and will not be reviewed by the design review commission. The sign or banner may be displayed for a maximum period of fourteen (14) days and there shall be a period of at least sixty (60) days between the display of such signs or banners.

All other signs which contain or consist of banners, pennants, posters, ribbons, awnings, streamers, strings of lights, spinners, dimensional characters, statues, trade emblems or other similar objects, with or without copy, are absolutely prohibited, except as provided in §§ 14-413, 14-434 and 14-440. (Ord. #79-10, May 1979, modified, as amended by Ord. #07-12, Sept. 2007, and Ord. #13-01, March 2013)

14-413. Special signage for approved sidewalk sales. (1) In addition to the aforementioned signage allowed in commercial districts, there is hereinafter allowed in conjunction with an approved outdoor sale by multiple businesses in a shopping center one temporary banner, in conformance with § 14-434, on each street face on which the shopping center fronts. Each banner shall be located a minimum of fifteen (15) feet from the face of the curb, be mounted not over five (5) feet in height, and outside of any traffic visibility triangle.

(2) Temporary signage authorized by this section may be in place only for the duration of the outdoor sales event plus one day in advance.

(3) In addition to the window signage permitted by § 14-431 a two (2) foot by three (3) foot professionally made sign bearing the official "sidewalk sale" logo and other indication of participation in the discounts or other aspects of the event is allowed in the window of each participating business for the same length of time as the banners described herein.

(4) No sign allowed under this section will require a sign permit, nor require approval of the design review commission, but will be subject to inspection by the building official and all other provisions of the City of Bartlett Sign Ordinance. (Ord. #79-10, May 1979, as amended by Ord. #94-7, June 1994, and Ord. #02-03, March 2002)

14-414. Awnings exceptions. (1) Awnings recognized as architecturally necessary which contribute rather than detract from the legislative intent of this ordinance, with or without lettering or insignia, may be installed with the specific approval of the design review commission, director of planning or duly authorized representative.

(2) For the purposes of measuring sign area to be placed on an awning, the entire surface of an internally illuminated awning containing sign copy shall be counted as sign area, unless said illumination is restricted to a transparent

area designed to illuminate solely the sign copy area, in which case only the copy area will be considered when determining signage. (Ord. #79-10, May 1979, as amended by Ord. #95-13, Sept. 1995, and Ord. #13-01, March 2013)

14-415. Reflective materials prohibited. Signs which contain mirrors, highly polished surfaces or other materials being substantially reflective in nature are prohibited. (Ord. #79-10, May 1979)

14-416. Structurally unsound signs prohibited. Signs which are structurally unsound or which are rendered structurally sound by guy wires or unapproved facing are prohibited. (Ord. #79-10, May 1979)

14-417. Vehicle signs prohibited. (1) Any vehicle which has any sign, or other copy, wrapped or painted on it or suspended from it or otherwise attached to it shall be parked at the rear of the building where said business is located as close to said business' building as parking space will permit. If there is insufficient space to allow said vehicle to be parked at the rear of said building, it shall be parked at the side of said building and as close to said building as parking space will permit.

(2) Only in the event of a situation or location where there is no rear or side parking space will such vehicle be permitted to park in the front of said business, and then only in the area closest to the front of said business' building.

(3) In no event shall any such vehicle be parked off of or away from the premise which owns it, except during the normal course of business, such as deliveries, picking up merchandise or service calls. The building official may direct that violating vehicles be removed at the owner's expense by towing. (Ord. #91-3, June 1991, as amended by Ord. #13-01, March 2013)

14-418. Sign lighting restricted. Internal and external sign illumination and/or back lighting shall be permitted, provided that all sign lighting shall be for illumination and not in and of itself by color or design constitute an attraction and that same be further so shaded, shielded or directed that the light intensity will not be objectionable to surrounding areas, said lighting subject to the approval of the design review commission, director of planning or duly authorized representative. (Ord. #79-10, May 1979 as amended by Ord. #13-01, March 2013)

14-419. Lighted open signs. (1) Any business establishment, service organization, or other commercial enterprise located in a commercial, office, or industrial district shall be entitled to utilize or display one (1) exposed neon tube or internally lighted self-contained manufactured type sign, which may exhibit the word "OPEN" and no other copy of any description and may use no more than two (2) colors.

(2) Any sign displayed under the terms of this section shall be no greater in overall size than four (4) square feet and shall be located on the inside of the front window, in a horizontal or vertical position in an authorized location approved by the building official.

(3) Signs displayed in accordance with the provisions of this section shall be in addition to all other signs allowed under the sign ordinance. This sign will not require the approval of the design review commission and will not require a sign permit and be included in the annual inspection provided in § 14-455 of this chapter. (Ord. #00-03, March 2000 as amended by Ord. #13-01, March 2013)

14-420. Beacon lights prohibited. Beacon lights are hereby prohibited in the City of Bartlett. (Ord. #79-10, May 1979)

14-421. Illumination not to interfere with traffic signals. Neither the direct nor reflected light from primary light sources shall be permitted to create a traffic hazard to the operators of motor vehicles on public streets. (Ord. #79-10, May 1979)

14-422. Exposed bulbs prohibited. Exposed bulbs shall not be permitted on the exterior surface of any sign. (Ord. #79-10, May 1979)

14-423. Abandoned signs prohibited. All signs and sign structures that no longer correctly direct or exhort any person, advertise a bona fide business in progress, lessor, owner, project or activity conducted or product available shall be removed and the exterior of the building repaired or restored to original condition by the owner of said property within thirty (30) days from the cessation of said activity. The landlord/owner may not lease the premises until said conditions are met. (Ord. #79-10, May 1979, as amended by Ord. #95-13, Sept. 1995, and Ord. #00-03, March 2000)

14-424. Pole and other signs prohibited. Pole signs are absolutely prohibited and only those ground mounted signs specifically allowed and defined by this ordinance shall be permitted. (Ord. #79-10, May 1979)

14-425. Multi-face sign restricted. All signs that exhibit more than two (2) faces are absolutely prohibited; provided further that no double-face signs shall be permitted if the distance between the back of the faces is at any point greater than twelve (12) inches.

Exception: More than twelve (12) inches in depth may be granted on a case-by-case basis by the design review commission. (Ord. #00-03, March 2000)

14-426. Political signs restricted. (1) Political signs. Signs relating to the election of a candidate for public office or the passage of any ballot proposition or measure shall be permitted, subject to the following conditions:

(a) Signs shall not exceed eighteen (18) by twenty-four (24) inches or four hundred thirty-two (432) square inches in size.

(b) No sign shall be erected or displayed earlier than forty-five (45) days before the election day to which it relates, nor later than five (5) days following such election.

(c) Signs shall not be attached to any utility pole or upon any public right-of-way or public property, and be no closer than fifteen (15) feet to the face of the curb or five (5) feet to the back of the sidewalk and shall be permitted only upon occupied privately owned lots with the consent of the owner.

(d) Signs shall not be erected in such a manner that they will or reasonably may be expected to interfere with, obstruct, confuse or mislead traffic.

(e) Signs not erected or maintained in accordance with the provisions of this section shall be the responsibility of the owner of the property upon which the sign is located, shall be deemed a public nuisance, and may be abated, without notice, by such property owner, the candidate or person advocating the vote described on the sign, or the city building official.

(2) Political sign distributor's permit. (a) Any candidate or political committee desiring to distribute, cause to be distributed, display, place, or erect any political sign shall file an application with the building department upon forms to be furnished by said building department, and provide such pertinent information as said building department may require.

(b) Forthwith upon filing such application, said building department shall issue a political sign distributor's permit to the applicant, together with a serial number therein. No fee shall be charged in connection with the issuance of such permit.

(3) Polling place signs. No signs will be allowed at polling places earlier than one (1) day before an election or early voting period and must be removed not later than one (1) day after said election or early voting period. For signs at polling places no permit or bond will be required, but the requirements of all other subsections of this section will apply. (Ord. #00-17, Aug. 2000, as amended by Ord. #07-16, Nov. 2007)

14-427. Sign erection permits refused. No permit for the construction or erection of any sign not in strict compliance with this chapter shall be issued from the effective date of the ordinance comprising this chapter and then only after the approval of same by the design review commission,

director of planning or duly authorized representative. (Ord. #79-10, May 1979 as amended by Ord. #13-01, March 2013)

14-428. Sign as a nonconforming primary use--exception. In the circumstances where a sign itself is a primary use of the property upon which it is erected as defined under this chapter the burden shall be upon the owner of said sign to document within sixty (60) days from the effective date of the ordinance comprising this chapter:

(1) That the sign is in fact a nonconforming sign legally erected without variance under prior regulations.

(2) That the sign is in fact the primary use of the property, being neither auxiliary to, nor appurtenant to, nor directional to, nor the advertisement of adjacent businesses or uses; upon proper documentation as above provided the use may be continued and the owner shall make application within the sixty (60) days of the effective date of the ordinance comprising this chapter to the design review commission in the ordinary course, whose responsibility it shall be, upon the advice and recommendation of the police chief, fire chief and building inspector, to require such modifications in size, copy, and location with respect to streets, ingress and egress, lighting and traffic parameters, to remove hazards to safety and/or encroachments upon adjacent occupants. The failure of documentation shall render the sign an illegal sign subject to removal and the penalties hereinafter provided. (Ord. #79-10, May 1979, as amended by Ord. #91-3, June 1991)

14-429. Off-premises signs prohibited. All signs must be located upon the physical property of the occupant, goods or services exhorted, except as provided in § 14-427. (Ord. #79-10, May 1979)

14-430. Window signs prohibited. All window signs are prohibited generally, except for those provided for in § 14-431; provided, however, an occupant may elect to utilize window space for location of a permanent wall sign, in which case the square footage of the window sign shall be included in the calculation of allotted square footage; provided, further and in addition to sign footage allotments, all occupants shall be permitted to use a window or door sign in addition to other sign allotments of area not to exceed two (2) square feet to display the identity of the business, hours of operation, credit information, telephone numbers, or other general information. (Ord. #91-3, June 1991)

14-431. Permitted window signs. (1) In addition to any other sign allotment permitted by the City of Bartlett Sign Ordinance, any retail or other commercial enterprise shall be permitted to utilize: fifteen percent (15%) of its window area for window signs provided no window may be covered more than thirty percent (30%). Where windows are provided in more than one (1) side of the building, the window signs shall be separately calculated for each side of the

building and the window signs shall conform to the above regulations for each side of the building.

For the purposes of this ordinance, an individual window is defined as a piece of glass surrounded by a frame. The individual window area is calculated on the basis of the area within the frame whether or not it is separated by Muntin Bar(s). The total window area shall include the frame and glass area.

(2) All such window signs must be neat in appearance and professionally prepared or professional in appearance.

(3) All business are allowed a minimum of six (6) square feet of window signs.

(4) Signs allowed under this section will be submitted to the city staff along with the proper size calculations for review and approval. Signs allowed under this section will not require a sign permit, nor require approval of the design review commission, but will require a determination by city staff. If the city staff determines that the proposed window signs are inappropriate and inconsistent with this ordinance, the staff may refer the window signs to the DRC for review and approval. Window signs will be subject to inspection by the building department's sign inspector and all other provisions of the City of Bartlett Sign Ordinance. (Ord. #91-3, June 1991 as amended by Ord. #13-01, March 2013)

14-432. Billboards prohibited--exception. Billboards are absolutely prohibited as off-premises signs provided however, billboards which constitute the primary and nonconforming use of property as provided in § 14-428 hereof shall be permitted to remain subject to the limited review in § 14-428. (Ord. #79-10, May 1979)

14-433. Street number signs permitted. In addition to whatever sign allotment is available to an occupant said occupant shall be additionally entitled to display a street number, provided however, said street number shall not exceed one and one half (1½) square feet of face area. (Ord. #79-10, May 1979)

14-434. Grand opening signs and closing signs permitted. Notwithstanding other provisions of this chapter, a newly established or relocated commercial business, in addition to the hereinafter specified sign allotment, may, for a period of twenty (20) days, display a grand opening sign or banner on the storefront elevation of the business not to exceed a face area of thirty-two (32) square feet, and further subject to the general requirements of this chapter. Also, an established business may have a one (1) time closing sign (going out of business) for a period of thirty (30) days not to exceed thirty-two (32) square feet and mounted on the inside surface of the window. Further, temporary uses permitted by the zoning ordinance but not otherwise provided for herein may have a sign meeting these requirements. In any case, no opening or closing ground mounted signs will be permitted. Opening and

closing signs and banners and other temporary signs described herein will be approved by the building official and will not be reviewed by the design review commission. A one (1) time extension, for up to thirty (30) days for the display of a grand opening sign or banner may be approved at the discretion of the building official, if an application for permanent signage has been submitted for review by the design review commission. (Ord. #79-10, May 1979, Ord. #85-22, § 5, Oct. 1985, as amended by Ord. #91-5, June 1991, Ord. #95-13, Sept. 1995, and Ord. #01-17, Nov. 2001, modified, and replaced by Ord. #10-01, March 2010)

14-435. Special provisions for service stations. A service station which is solely engaged in the retail distribution of petroleum and petroleum products in addition to the sign allotment hereinafter provided shall be further entitled to the following additional signs:

(1) One (1) permanent price sign per street front said sign not to exceed four (4) square feet in face area, and located upon the pump island nearest to said street or upon the face of the station building or canopy.

(2) Gas branding signs shall be permitted on the gas pumps not to exceed four (4) square feet. Advertising shall also be permitted on the pumps not to exceed two (2) square feet.

(3) 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.

(4) Electronic changeable gas price signs shall be allowed at locations selling gasoline and diesel automobile fuel. The size, color and location of these signs are subject to the approval of the design review commission.

(5) All signs permitted under § 14-435 and other signs required by state and federal law provided same are of size no greater than the minimum requirements of said law and for design, size and lighting shall be approved by the design review commission, director of planning or duly authorized representative. (Ord. #79-10, May 1979, as amended by Ord. #85-22, Oct. 1985, and Ord. #13-01, March 2013)

14-436. Historical markers permitted. The City of Bartlett exclusively upon the affirmative vote of two-thirds (⅔) of the entire board shall be permitted to erect historical markers provided same are attractively designed and safely located. (Ord. #79-10, May 1979)

14-437. Street signs and public service signs permitted. Signs erected by the City of Bartlett to identify the streets or provide direction to public services and/or buildings shall be permitted. (Ord. #79-10, May 1979, as amended by Ord. #85-22, Oct. 1985, and Ord. #13-01, March 2013)

14-438. Directional signs in complexes permitted. Every commercial complex shall be permitted upon the approval of the design review commission to erect certain directional control signs in parking areas or at entrances and exits provided that said directional signs do not exceed two (2) square feet in face area and are set back no less than ten (10) feet from the curb or street right-of-way and do not exceed in height five (5) feet, provided however, this section shall not be interpreted to prohibit directional signs applied to the driving surface itself subject to the approval of the design review commission, director of planning or duly authorized representative. The design review commission may approve larger directional signs if they determine that the directional signage is appropriate and in keeping with the scale of the building. (Ord. #79-10, May 1979, as amended by Ord. #85-22, Oct. 1985, and Ord. #13-01, March 2013)

14-439. Club and organization identification signs prohibited. Non profit organizations, clubs and/or service organizations shall be bound by the same standards and regulations as hereinafter provided for commercial areas and no off premises signs shall be permitted; provided however, the City of Bartlett may erect sign supports at the major entrances to the city for the display of said non-profit organizations, clubs and service organizations subject to the approval of the design review commission, director of planning or duly authorized representative. (Ord. #79-10, May 1979, as amended by Ord. #13-01, March 2013)

14-440. Construction and real estate signs. (1) Construction signs.

(a) During the course of physical construction of any commercial, office institutional or industrial building, under a valid building permit issued by the City of Bartlett, a ground sign not to exceed thirty-two (32) square feet shall be permitted; provided, however, said construction signs shall be of height no greater than eight (8) feet. The sign shall be located on the physical property for which the building permit is issued, and located no less than thirty (30) feet from the curb or street right-of-way; provided, further, construction signs must obtain approval from the design review commission, director of planning or duly authorized representative and a temporary sign permit before erection of said sign.

(b) In addition to the foregoing, during the construction of any residential structure, a ground sign not to exceed six (6) square feet in sign area and of height no greater than three (3) feet shall be permitted and shall meet the other requirements of this chapter.

(2) Real estate signs. (a) One (1) ground sign or wall sign advertising the sale or lease of real estate shall be permitted upon the physical property for sale or lease, provided said signs do not exceed dimensions of:

(i) Two (2) feet by three (3) feet (total maximum square footage of six (6) square feet, with a maximum of two (2) sides on a single plane of material) in a limited occupancy residential district; or

(ii) Twenty (20) square feet (both sides if used for copy calculated in said allotment) in all other districts.

(b) Further the maximum height of said sign shall be:

(i) Three (3) feet in residential districts and

(ii) Five (5) feet in all other districts.

(c) Said signs shall be set back no less than fifteen (15) feet from the face of curb or street right-of-way.

(d) Non-residential real estate signs shall be approved by the building official as temporary signs and a sign permit issued. Signs are to be reviewed and renewed every six (6) months.

(3) Time limits for construction and real estate signs. All construction signs and real estate signs, except off-premises subdivision directional signs under § 14-442, shall be permitted without prior approval by the design review commission and shall be permitted to stand for a period not to exceed ninety (90) days without formal approval of the design review commission, except for construction in a commercial or office district, which construction signs shall be permitted to stand no longer than the period during which construction is physically in progress under a valid building permit.

(4) Flags/banners. Well maintained flags and/or banners attached to flag poles shall be allowed at model home/sales office sites, which are to be staffed at least forty (40) hours per week and located within residential subdivisions.

The number of flags and/or banners allowed shall be limited to one (1) for each fifteen (15) feet of lot width at the curb, but in no case shall it exceed six (6) per lot.

Placement of the flags and/or banners shall be allowed across the front yard or, front yards on corner lots, and may be placed in one (1) or more rows or in a cluster.

The height of the flag/banner pole shall not exceed fourteen (14) feet from ground level and must be located a minimum twelve (12) feet and a minimum of two (2) feet from the interior edge of the sidewalk.

Pennants, balloons, streamers or other attention attracting devices are not permitted.

(5) Signage. One (1) professionally built, properly maintained thirty-two (32) square feet maximum area sign, showing the builder's name and logo, the hours of operation and contact information on one or both sides shall be allowed at model home sites. The area around the sign shall be landscaped with evergreen shrubs or seasonal plants to form a landscaped base for the sign. Sign location must be a minimum of fifteen (15) feet from the curb, generally centered on the street frontage of the addressed property; maximum height ten (10) feet.

(6) Lighting. Lighting of the sign shall be allowed at model home sites so that prospective homebuyers can obtain the information at night. For security purposes, low-intensity lighting of the house is also allowed.

(7) Permit required. Builders shall be required to submit drawings of the model home lot, the flags and or banners, the signage and the sign's landscaping plan to the building official who will have the authority to issue a permit.

(8) Builder's pre-sale or custom construction sign. In lieu of the permitted 2' x 3' realtor sign and the 2' x 3' construction sign, there may be placed a sign, maximum area of twelve (12) square feet and maximum height eight (8) feet, identifying the builder and the sale of the house or the builder and nature of the custom construction of the house. This sign must be removed at the time the property is issued a use and occupancy permit. This sign must be located a minimum of fifteen (15) feet back from the curb. (Ord. #79-10, May 1979, as amended by Ord. #87-18, Feb. 1988, Ord. #91-3, June 1991, Ord. #91-5, June 1991, Ord. #95-13, Sept. 1995, Ord. #00-03, March 2000, Ord. #06-17, Aug. 2006, Ord. #07-12, Sept. 2007, and Ord. #13-01, March 2013)

14-441. Subdivision identification signs permitted. In limited occupancy residential districts of a subdivision, as defined by a formally filed and duly recorded subdivision plat, there shall be permitted no more than two (2) subdivision identification signs at the subdivision entrance on every major connector street entering said subdivision, provided that said subdivision identification signs are permanent and approved ground signs and contain only the name of the subdivision, do not exceed twenty-five (25) square feet in sign area and are set back no less than twenty (20) feet from the face of curb or street right-of-way. The height of said subdivision identification sign shall not exceed six (6) feet. However, in the event the developer or builder has elected or shall elect to utilize a fence, pillars, post or other ornamental or decorative structure which is commonly known as a "subdivision entrance," then all subdivision identification signs must be exclusively located on such structures rather than ground signs, and such signs must comply with § 14-469 of this chapter, and shall not exceed twenty-five (25) square feet in sign area per sign.

Subdivision entrance features such as fences, signs, structures and landscaping are permitted on common open space, designated on the subdivision final plat, and for which a homeowner's association is responsible for ownership and maintenance of said sign, structure and features. Such fences, signs, structures and landscaping are subject to approval by the design review commission.

A subdivision identification sign may also be placed on a corner lot with administrative approval if the following criteria are met:

(1) The sign will be constructed of durable structural and exterior materials. These will be cast concrete, brick or stone.

(2) The sign will be located on a corner lot with a location and an access/maintenance easement approved by the city engineer.

(3) The sign may be placed, with the property owner's permission, on a lot in an older established neighborhood or may be part of a new subdivision approval where there will be no Home Owners Association (HOA) or Common Open Space (COS).

(4) The sign will have three (3) basic parts; the footing, the body and a cap. The actual nameplate will be placed within the area of the body portion of the structure.

(5) The body portion will have a maximum face area of twenty-five (25) square feet. The maximum height of the sign structure will be six (6) feet.

(6) The neighborhood identification sign plate may occupy up to fifty percent (50%) of the face area of the structure. This plate will be a cast concrete panel.

(7) The sign becomes the property of the City of Bartlett, after a one time maintenance fee is paid.

(8) Yard maintenance, including the city easement, is the responsibility of the property owner. (Ord. #91-3, June 1991, as amended by Ord. #07-13, Sept. 2007))

14-442. Temporary subdivision signs permitted. While a formally recorded subdivision, approved on a plat of record, is under physical construction there shall be permitted two (2) temporary off-premise signs of no more than sixteen (16) square feet per side, and a height of no more than six (6) feet. The sign content may include, but not be limited to the subdivision name, directions to the location, price and builder(s) name. The sign shall consist of a single plank, both sides of which could display content, and must have a professional, finished appearance. The developer must pull a temporary sign permit, which should be renewable annually at the discretion of the building official. One (1) on-premise sign is allowed at each major entrance with a maximum of two (2) on-premise signs per subdivision. The on-premise signs may be no more than thirty-two (32) square feet per side and a maximum height of nine (9) feet with the same requirements as off-premise signs. (Ord. #91-3, June 1991, as amended by Ord. #08-14, Jan. 2009)

14-443. Identification signs in multi-family districts permitted. All multi-family projects, either apartments or condominiums, may display one (1) externally lighted ground sign for identification at each of its entrances, not to exceed two (2) signs regardless of the number of entrances. Said signs shall not exceed twenty-five (25) square feet in face area, may be double faced, shall not exceed six (6) feet in height, shall be placed no less than forty (40) feet from any adjacent property line and shall be no less than fifteen (15) feet from the curb or street right-of-way and meet all landscaping requirements.

(Ord. #79-10, May 1979, as amended by Ord. #91-5, June 1991, and Ord. #95-13, Sept. 1995)

14-444. Residential shielding required. All residential districts, limited occupancy and/or multi-family, shall be protected from sign display or lighting incident thereto so as to prevent as much as possible the visible encroachment of same upon the residences in said areas, and it shall be the right and obligation of the design review commission, director of planning or duly authorized representative to accommodate same in the course of review and approval. (Ord. #79-10, May 1979, as amended by Ord. #13-01, March 2013)

14-445. Signs of non-profit organizations restricted. Churches, schools, clubs, and non-profit organizations generally shall be subject to the same restrictions as provided for offices and commercial businesses. However, churches and schools may use changeable copy signs in accordance with § 14-408 of this chapter. (Ord. #91-3, June 1991)

14-446. Private sale sign permitted. In residential districts, one (1) private sale sign is permitted, provided that said sign is a ground sign upon the premises where the sale is conducted, of square footage not to exceed three (3) feet, and subject to the general requirements of this chapter, and set back from the curb or street right-of-way no less than fifteen (15) feet, and shall be permitted for no longer than five (5) days. One (1) off-premises sign will be permitted for a period not to exceed two (2) days. The building official may remove and dispose of any off-premises sign remaining more than two (2) days or creating a traffic hazard. (Ord. #91-3, June 1991)

14-447. Wall sign requirements generally. (1) All wall signs permitted by this section shall be permanently affixed to the wall of the structure upon which the front footage is calculated under § 14-401(22) whose premises it exhorts; provided

(2) With approval of the design review commission, director of planning or duly authorized representative, a wall sign may be affixed to a side wall or a rear wall, but the permitting of such shall not act to increase either the allowed square footage nor the number of signs allowed, nor shall the manner of calculating the allowable square footage be affected.

(3) All wall signs shall be mounted with the face parallel to the plane of the structure wall upon which it is mounted and the face of the sign shall not extend more than eighteen (18) inches from said building wall upon which it is mounted, said mounting to be approved by the design review commission, director of planning or duly authorized representative upon the review and recommendation of the building department. (Ord. #80-11, May 1980, as amended by Ord. #13-01, March 2013)

14-448. Signs permitted in a commercial and office district.

(1) Signs for commercial enterprise buildings with one hundred feet (100') or less building frontage and within one hundred feet (100') of the street right-of-way. Every business establishment, retailer, service organization or other commercial enterprise specifically located in a commercial or office district shall be entitled to no more than two (2) signs of total accumulated square footage not to exceed one (1) square foot of sign for every foot of building footage. They may have either two (2) wall signs or one (1) wall sign and a ground sign, where permitted, that do not exceed one hundred (100) square feet of total sign area.

Provided however, that commercial enterprises on a corner lot may have two (2) business identification wall signs and a ground sign. The size of the wall signs shall be based on one (1) square foot for every lineal foot of building frontage facing a street, less the area of the ground sign on that side of the building. The total square footage of signage for the building and ground signs may exceed one hundred (100) square feet, but the square footage of the wall sign and ground sign combined on each side of the building may not exceed one hundred (100) square feet.

These signs are subject to the following restrictions:

(a) Notwithstanding the building footage the minimum square footage sign allotment shall be thirty (30) square feet.

(b) Notwithstanding the building front footage the maximum square footage of total signs shall not exceed one hundred (100) square feet, except as provided above for corner lots.

(c) The allotted square footage must be displayed on wall signs or wall signs and a ground sign or permanent window sign.

(d) If a wall sign is selected it shall not be mounted higher than the roof line and must be physically located on the premises of the building whose enterprise it exhorts.

(e) Multi-tenant buildings are not restricted as to number of signs permitted. However, the allotment of one (1) square foot of sign area for each linear foot of tenant frontage applies.

(f) There shall be no roof-mounted signs.

(g) All such signs are otherwise subject to the design review commission, director of planning or duly authorized representative for approval, permit, inspection, and the general provisions of this chapter.

(2) Signs for commercial enterprise buildings with greater than one hundred (100) lineal feet of building frontage and setback more than one hundred feet (100') from the street right-of-way. Every business establishment, retailer, service organization or other commercial enterprise specifically located in a commercial or office district shall be entitled to signs as provided below:

Total sign area:

(a) All buildings with greater than one hundred (100) lineal feet (lf) in frontage shall be allowed a total of one hundred (100) square feet

in sign area for the first one hundred lineal feet (100 lf) of building frontage. In addition they shall be allowed additional square footage based on the following sign area chart:

SIGN AREA CHART		
Distance from right-of-way	Sign area calculation	Maximum sign area
Within 100'	1 sq. ft for every 1 lf. of the first 100' of building frontage	100 sq. ft.
101' to 249'	1 sq. ft for every 1 lf. of the first 100' of building frontage plus 0.25 sq. ft. for every 1 lf. of building frontage greater than 100'	200 sq. ft.
250' to 499'	1 sq. ft for every 1 lf. of the first 100' of building frontage plus 0.5 sq. ft. for every 1 lf. of building frontage greater than 100'	300 sq. ft.
500' to 749'	1 sq. ft for every 1 lf. of the first 100' of building frontage plus 0.75 sq. ft. for every 1 lf. of building frontage greater than 100'	400 sq. ft.
Greater than 750'	1 sq. ft for every 1 lf. of the first 100' of building frontage plus 1 sq. ft. for every 1 lf. of building frontage greater than 100'	500 sq. ft.

(b) The allotted square footage may be displayed on a wall sign or a combination of wall signs and a ground sign.

(c) If a wall sign is selected it shall not be mounted higher than the roof line and must be physically located on the premises of the building whose enterprise it exhorts.

(d) There may be a maximum of one (1) wall sign for each one hundred feet (100') of building frontage.

(e) The maximum size for any one (1) wall sign shall be the greater of three hundred (300) square feet or sixty percent (60%) of the total wall signage allotment permitted, whichever is greater.

(f) Multi-tenant buildings are not restricted as to number of signs permitted. However, the allotment of one (1) square foot of sign

area for each linear foot of tenant frontage applies, subject to the above chart.

(g) There shall be no roof-mounted signs.

(h) All such signs are otherwise subject to the design review commission approval, permit, inspection, and the general provisions of this chapter. (Ord. #79-10, May 1979, as amended by Ord. #87-18, Feb. 1988, and Ord. #13-01, March 2013)

14-449. Entrance sign for commercial, industrial or office complexes. In addition to any other signs allowed under the terms of this chapter, any commercial, industrial or office complex which qualifies to have a directory or project identification sign but does not desire to utilize a directory or project identification sign as permitted by § 14-451 of this chapter, may display, subject to approval by the design review commission, director of planning or duly authorized representative, complex identification signs at its main entrance, or main entrances, if said complex has frontage and entrances on two (2) major streets, in accordance with the following restrictions:

(1) If single face ground signs, then no larger than twenty-five (25) square feet.

(2) Any ground signs approved must comply with § 14-465 (ground sign restrictions), except that it shall have only a single face.

(3) In lieu of single face ground signs, a sign which does not exceed twenty-five (25) square feet and meets the requirements of § 14-465 of this chapter may be approved.

(4) Any sign approved under the provisions of this section shall exclusively contain the name of the complex it identifies, together with the street number or numbers if desired, and shall not contain tenant information or advertising copy.

(5) No more than two (2) signs for each main entrance may be approved. One (1) sign must be placed on either side of said entrance, and two (2) entrances on the same street will not qualify the complex for additional signs. (Ord. #91-3, June 1991, as amended by Ord. #13-01, March 2013)

14-450. Theater marquee signs. (1) Any theater which is engaged in the business of showing motion pictures shall, if it has more than four (4) screens, be entitled to, in addition to any other signs it may be allowed, a sign which complies with § 14-465 (project sign) as to size, height and setback, except that the name of the project and the titles of movies shall be submitted for the names of the businesses or occupants and shall be changeable copy type signs and must comply with § 14-408 of this chapter.

(2) Any theater which has four (4) or fewer screens shall be allowed an additional ground sign which must comply with § 14-465 of this chapter and which may also have the changeable copy feature.

(3) All signs allowed under or in accordance with this section shall be used exclusively to display the name of theaters and movie titles. (Ord. #91-3, June 1991)

14-451. Directory and project identification signs. In a project or development wherein five (5) or more businesses, tenants or occupants are contained, with individual street frontage, a common parking lot a total square footage of at least ten thousand (10,000) square feet in said project, there shall be permitted, in addition to the allotted square footage heretofore recited, a ground sign on each major road frontage, subject to the following restrictions:

(1) The directory or project sign shall be set back no less than twenty (20) feet from the curb or street right-of-way, however, with the approval of the design review commission, set-back may be reduced to ten (10) feet if the required twenty (20) foot setback creates a hardship as to parking or visibility of sign.

(2) The height of said directory or project sign shall be determined as shown below, but in no instance shall it exceed twenty (20) feet, regardless of the number of occupants.

SQUARE FEET IN CENTER	MAXIMUM PROJECT SIGN HEIGHT
10,000 - 24,999	6 feet
25,000 - 99,999	10 feet
100,000 and over	20 feet

(3) The maximum width of said project sign shall be no more than ten (10) feet, and maximum height no more than twenty (20) feet. The design review commission reserves the right to approve the architectural details of the sign structure, as well as the copy area of the sign itself.

(4) Said signs may be internally lighted, but only with the white lighting of intensity and focus not to infringe upon neighboring properties or street traffic.

(5) The area between the bottom of the face of the project sign shall be of solid construction and shall not be landscaping or shrubbery and shall have a brick or decorative stone base.

(6) The name of the center itself must exclusively be located upon the top of the project or directory sign, said name designation to be the same width as the overall sign and of vertical height no more than five (5) feet.

(7) The collective square footage of tenant signage shall not exceed one hundred twenty (120) square feet. No single tenant shall be allowed more than twenty-five (25) square feet of sign area. The allotment of tenant signage and sign size up to the maximum area herein described, is the responsibility of the property owner or his designated agent.

(8) After initial approval of the directory sign, changes of names or copy on the tenant signs may be made upon approval by the building official without appearing before the design review commission.

(9) All project and directory signs shall be ground signs, and the face of said sign shall be located not more than three (3) feet and not less than two (2) feet from the surrounding grade, and the face shall be rectangular in shape; it is specifically prohibited to have spaces or gaps between occupant signs and the center designation signs.

(10) The design review commission shall be required to approve all project and/or directory signs prior to installation, and the same are further subject to the general requirements of this section. (Ord. #79-10, May 1979, as amended by Ord. #80-6, May 1980, Ord. #85-22, Oct. 1985, and Ord. #95-13, Sept. 1995)

14-452. Signs permitted in other districts. In districts other than those hereinbefore defined as residential limited occupancy, residential multi-occupancy, office and commercial districts, signs shall be permitted no more comprehensive than those permitted in the district which in the discretion of the design review commission most closely approximates the additional classification; provided, however, the design review commission upon thorough review of the proposed sign in said district shall refer same along with its accompanying recommendation of the board of mayor and aldermen for final approval and with a proposal for terms of amendment to the sign ordinance to accommodate the unaddressed use classification. (Ord. #79-10, May 1979)

14-453. Applications. (1) The application for sign approval and check list shall include the submission requirements and all appropriate fees. These requirements may be changed from time to time and the sign permit applications and check list shall be revised accordingly.

(2) No application shall be brought before the design review commission without a completed checklist attached to the application and the required sign application fee.

(3) (a) All new multi-tenant commercial or office complexes shall submit to the design review commission a sign policy for future wall tenant signage. This may be submitted with or without a site plan application but must be submitted prior to the application for tenant signage. All sign policy proposals shall follow the sign policy guidelines. Upon the approval of the sign policy, the planning director or designee will have the authority to approve tenant signage or forward the sign application to the design review commission. All tenant signage must have the landlord's or leasing agent's approval with the sign application.

(b) Sign policy guidelines. (i) Elevation sketch or elevation plan shall indicate where signs are to be located on the building, windows, or doors etc.;

(ii) Maximum sign cabinet height or letter height;
(iii) Maximum sign area;
(iv) Typography;
(v) A statement of permitted use of national or regional chain store typography or logo;
(vi) Materials (aluminum thickness);
(vii) Lighting (neon type, color and size, LED, fluorescent tube with UL standards, etc.);
(viii) Colors (PMS numbers); and
(ix) Installation and mounting materials.

(4) A tenant/owner representative shall be encouraged to attend the design review commission meeting with the sign company representative. (Ord. #79-10, May 1979, as amended by Ord. #85-22, Oct. 1985, Ord. #95-13, Sept. 1995, Ord. #00-03, March 2000, Ord. #09-06, March 2009, and Ord. #13-01, March 2013)

14-454. Scope of authority. The design review commission,[1] director of planning or duly authorized representative shall not have the authority to alter or amend the sign ordinance nor to approve a sign not in conformity herewith and is directed to cooperate with the building official in the enforcement of same, including but not limited to the following functions:

(1) The design review commission, director of planning or duly authorized representative, upon approving a sign, shall forward the application to the building official with approval noted thereon.

(2) The design review commission, director of planning or duly authorized representative may take other action within its authority to insure safety, eliminate hazards, eliminate encroachment upon public streets and property and encroachment upon adjoining land or uses.

(3) The design review commission, director of planning or duly authorized representative, while it may not approve signs in violation of this chapter, said design review commission, director of planning or duly authorized representative has the specific and general authority to refuse approval of signs, otherwise in compliance with this chapter, which because of unsafe location, unsafe construction, distracting design, insufficient structure and/or encroachment upon surrounding property, violate the spirit of this chapter, which is dedicated to the safety and public welfare of all citizens and businesses in the City of Bartlett.

(4) The Building Official of the City of Bartlett shall have the authority to approve the moving of a sign from one address or location to another address or location within the same shopping center, provided the sign is not altered or

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[1]Municipal code reference
Design review commission: title 2, chapter 1.

changed as to its design or size when it is moved, and continues to advertise or identify the same business.

(5) The building official shall also have the authority to approve a change in or to the copy only of a sign, if the sign is to remain at the same location and continues to advertise or identify the same business as long as the design or size is not changed. (Ord. #79-10, May 1979, as amended by Ord. #91-5, June 1991, Ord. #95-13, Sept. 1995, and Ord. #13-01, March 2013)

14-455. Permit fees required. Every owner, erector or other applicant for a sign permit shall, with this application, submit a sign application fee. Once approved a sign permit fee will be required. Signs will be inspected annually and an annual sign inspection fee will be collected. These fees shall be established and may be changed as needed by resolution. (Ord. #79-10, May 1979, as amended by Ord. #85-22, Oct. 1985, Ord. #95-13, Sept. 1995, and Ord. #13-01, March 2013)

14-456. Sign permit restrictive. A sign permit shall exclusively warrant and permit the erection of the sign of type, construction, color, lighting, layout and design as specifically approved by the design review commission, director of planning or duly authorized representative and if the final erection varies in any respect from the approved design or location, the same shall be considered an illegal sign. Further, should the sign specified under an application not be erected within a period of six (6) months then the permit is rendered null and void requiring renewed application and review by the design review commission, director of planning or duly authorized representative to consider the permit in view of changed circumstances. (Ord. #79-10, May 1979, as amended by Ord. #13-01, March 2013)

14-457. Enforcement--building official designated. The building official is hereby authorized and directed to enforce all of the provisions of this chapter. Upon presentation of proper credentials the building official or his duly authorized representative shall be permitted by the owner or occupant to enter at reasonable times any building, structure or premises in the City of Bartlett to perform any duty imposed upon him by this chapter. (Ord. #79-10, May 1979)

14-458. Appeal from decision of the building official. Any persons aggrieved by any decision or order of the building official, director of planning or duly authorized representative with regard to this sign ordinance may appeal, within a period not to exceed ten (10) days from said action, to the design review commission by serving written notice to the building official, director of planning or duly authorized representative who, in turn, shall immediately transmit the notice to the design review commission which shall meet to hear said appeal within forty-five (45) days thereafter. (Ord. #79-10, May 1979, as amended by Ord. #95-13, Sept. 1995, and Ord. #13-01, March 2013)

14-459. Appeal from decision of the design review commission.[1] The decision of the design review commission may be appealed directly to the board of mayor and aldermen upon written notice of appeal to the board within five (5) days of said action. This appeal shall be heard at a regularly scheduled meeting of the board of mayor and aldermen. The board of mayor and aldermen may accept, reject or modify the action of the design review commission. Any action on an appeal from the design review commission shall require a minimum of four (4) affirmative votes of the board of mayor and aldermen and in the absence thereof the action of the design review commission shall become final and binding. (Ord. #79-10, May 1979)

14-460. Notice to remove illegal sign. In addition to the other rights and privileges created hereby, the building official, upon determining that a sign, sign structure or appurtenance thereto, is in violation of the sign ordinance, may, in addition to other penalties, deliver notice to the owner and/or occupant to remove same within ten (10) days, and upon noncompliance, the building official may cause to be issued summons by the clerk of the city court, citing the violator to appear and answer the charge of violation before the Bartlett City Court, which finding may be appealed as any other conviction of the sign ordinance violations to the circuit court. (Ord. #79-10, May 1979, as amended by Ord. #91-3, June 1991)

14-461. Removal of unsafe structures. Upon notice by the chief building official to the owner or occupant of property upon which an illegal sign, or unsafe sign, unsafe sign structure or unsafe appurtenance thereto, is located, the said owner or occupant, within twenty-four (24) hours, shall remove same, or in the alternative with the leave of the mayor, the building official may remove same or provide for its removal immediately and the cost of said removal is to be borne by the owner and/or occupant. (Ord. #85-22, Oct. 1985)

14-462. Repair and/or replacement of signs. It shall be the obligation of the building official to maintain routine inspections upon all signs in the City of Bartlett, independently and/or upon the referral of the design review commission, to insure all signs are reasonably maintained, promptly repaired, remains in compliance with this chapter and still exhorts the business of the occupant. In the event that the building official determines that a sign is deficient as above recited he shall cause to be delivered a formal written notice to the owner and/or occupant directing the correction of the deficiency within ten (10) days.

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[1]Municipal code reference
Design review commission: title 2, chapter 1.

Upon failure to properly correct the deficiency of said notice, within the time allotted, the sign shall be rendered an illegal sign subject to the enforcement provision as hereinabove provided. (Ord. #79-10, May 1979)

14-463. Provisions of federal and state law excepted. No provision of this chapter shall contravene by term or application any existing or later enacted statute or regulation of the federal or state governments and in the event of said conflict the provisions of state and/or federal regulations shall control and signs permitted by said statute may be erected in size, dimensions, set back and design at the minimum requirements of the state and/or federal law or regulation, and subject to the review and approval of the design review commission and upon reference to the city attorney upon his certification of the law to the commission. (Ord. #79-10, May 1979)

14-464. Conditions for ground sign exception. The design review commission, director of planning or duly authorized representative may at its discretion approve a ground sign as one of the two (2) signs (one (1) of three (3) signs for corner lots) allowed by this section, provided it shall not increase the number of signs allowed nor the amount of square footage and further subject to the following conditions:

(1) The enterprise of the owner or occupant is not located within a commercial complex and is thus not legally entitled to signage upon a project or directory sign; and

(2) The building or enterprise does contain but a single occupant; provided, however, subject to review of the design review commission, director of planning or duly authorized representative, the commission has the authority to approve ground signs for multiple occupancy buildings, where a strict application of this section would constitute an inequity, and provided no more than one (1) ground sign is permitted per building, and is not approved when a project or directory sign is used.

(3) The erection of a ground sign will not in any way create a safety hazard, encroach on adjoining properties or impede visibility nor constitute on the frontage such congestion with other signs so as to adversely affect traffic or belabor the identification of other services; and

(4) The owner or occupant has physical frontage upon the street whereon the ground sign is to be located.

(5) The ground sign and its specific location must receive the approval of the design review commission with regard to traffic visibility, ingress, egress, pedestrian visibility, and the propensity for safety hazards upon consideration of the existing businesses and the possibility of future occupancy at or near the location, the proximity to critical traffic point, school children traffic, traffic signals, or school crossings. (Ord. #80-9, May 1980, as amended by Ord. #85-22, Oct. 1985, and Ord. #13-01, March 2013)

14-465. Ground sign restrictions.[1] Upon the review, approval and certification of the conditions for ground sign exception by the design review commission, director of planning or duly authorized representative, the owner or occupant may erect in place of a wall sign, provided it shall not increase the number of signs allowed, a ground sign subject to the following requirements:

(1) A ground sign and supporting structure shall not be over six (6) feet in overall height.

(2) A ground sign shall contain no more than twenty-five (25) square feet of sign surface on either of its faces and shall have no more than two (2) faces. The supporting structure is not included in the sign square footage calculation. Ground signs listing between two (2) and four (4) building occupants as provided under § 14-464(2) shall contain no more than thirty-two (32) square feet of sign surface on either of its faces and shall have no more than two (2) faces. In cases with multiple occupants, the sign faces shall be consistent in design and color.

(3) A ground sign shall be no less than ten feet (10') from the curb line, effective with the adoption of this section.[2]

(4) A ground sign shall be no less than fifteen feet (15') from any adjoining property, in use or vacant, or curb cut or ingress and egress to any other enterprise.

(5) A ground sign may be externally or internally lighted. Subject to the specific approval of same by the design review commission, director of planning or duly authorized representative. External lights shall not shine onto adjacent property or public streets so as to create a traffic hazard or public nuisance.

(6) The area between the bottom of the face of the ground sign shall be of solid construction and shall not be landscaping or shrubbery.

(7) The ground sign shall have a decorative or stone base.

(8) The accepted ground sign shall be landscaped for a distance of three feet (3') in all directions so as to protect the sign from vehicular traffic and inhibit pedestrian traffic in and about the sign, and if located in a parking area exposed to vehicular traffic shall have a six inch (6") solid curb on all sides exposed to such traffic.

(9) The location, size, and direction of said accepted ground sign shall be subject to review and approval of the design review commission, director of planning or duly authorized representative. (Ord. #87-18, Feb. 1988, as amended by Ord. #91-3, June 1991, Ord. #05-08, Oct. 2005, and Ord. #13-01, March 2013)

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[1]See Attachment C, Planting Screen for Ground Signs, located at the end of this chapter.

[2]The original ordinance is Ord. #87-18, Feb. 1988.

14-466. Informational signs. (1) Any business, club, or other organization may, with approval of the design review commission, director of planning or duly authorized representative, in addition to any other signs allowed under this ordinance, erect informational signs upon demonstrating a valid need for such sign.

(2) An informational sign shall be defined as any sign designed exclusively to convey information to the general public in any commercial or business district or complex or residential district where signs are authorized.

(3) The design review commission shall specify the size and location of such signs and shall not approve as informational signs any sign where the request appears to be an attempt by a business or organization to obtain additional sign allowance as a means of calling attention to said business or organization. (Ord. #80-5, May 1980, as amended by Ord. #13-01, March 2013)

14-467. Signs erected on buildings not enclosed and heated. Notwithstanding the definition of front footage in § 14-401(22) a business may qualify for signage as outlined in § 14-448 under the following conditions:

(1) The building is an existing building or is approved by the planning commission and the design review commission.

(2) The business is operated under an unenclosed structure which is not enclosed and heated because of the nature of the business.

(3) The business is carried on solely in said open type building or structure; the structure being neither appurtenant to nor issued in conjunction with an enclosed structure.

(4) If more than one (1) structure is used, even though connected in some manner, sign allowance shall only be claimed or allowed on one (1) such structure, which shall be the principal structure on which the principal entrance to said business is located.

(5) Nothing in this section shall be construed to permit a business to claim sign allowance for porches, breezeways, awnings or other type overhead covers.

(6) All signs allowed under this section shall be subject to approval of the design review commission, director of planning or duly authorized representative and shall meet all other requirements of this chapter. (Ord. #80-8, May 1980, as amended by Ord. #13-01, March 2013)

14-468. Vending machine signs regulated. (1) Vending machines defined. A vending machine shall for the purpose of this section be defined as any device used to dispense goods or products by either mechanical or manual operation by coin.

(2) Unlighted vending machines. Any unlighted vending machine shall not be considered to be a sign as contemplated by this section provided, that the location of same must be submitted to the design review commission

which may require shielding or enclosure if the number, size or location of same constitute an encroachment upon adjoining businesses or the public generally.

(3) Lighted vending machines. Any lighted vending machine shall not be considered to be a separate sign, but if visible to the public from any street located off the business premises, the lighted area of said machine shall be calculated in determining the amount of square footage allowed to said business even though the machine shall not be considered to be a separate sign. (Ord. #80-10, May 1980)

14-469. Signs on ornamental or decorative structures. (1) In addition to areas where signs may be placed as provided in this chapter, signs may also be placed in the following locations with approval of the design review commission.

(a) Fences;

(b) Pillars;

(c) Posts; or

(d) Other ornamental or decorative structures either existing or which may in the future be approved by the planning commission and/or the design review commission.

(2) Any sign so approved must be mounted flat against the plane of said structure and shall extend away from said plane no more than six (6) inches, said mounting to be approved by the design review commission.

(3) Only external lighting may be utilized to light any sign approved under this section.

(4) Any sign approved under this section must meet all other requirements of this chapter, and shall not create a safety or health hazard to the general public. (Ord. #80-12, May 1980)

14-470. Signs for industrial park zoning. (1) Only three (3) signs per single tenant building shall be permitted, a ground sign and two (2) building signs. The ground sign shall not be more than one hundred (100) square feet in area, nor over ten (10) feet in height. The ground sign may be illuminated with industrial type spot lighting, back lighting, or internal lighting. Flashing or intermittent illumination is prohibited. The sign area for building (wall) signs shall be based upon the Sign Area Chart provided in § 14-448 above.

(2) On multi-tenant buildings, wall signs shall be permitted based on square footage not to exceed one (1) square foot of sign for every linear foot of building frontage occupied by the business or enterprise, subject to the following restrictions:

(a) No business or enterprise shall have more than one (1) sign.

(b) Notwithstanding the amount of building frontage, each business shall be allowed a minimum sign allotment of thirty (30) square feet.

(c) The allotted sign footage must be displayed on a wall or permanent window sign.

(d) If a wall sign is selected it shall not be mounted higher than the roof line; and must be located on the premises of the enterprise it exhorts.

(e) No sign shall be a roof mounted sign, and must comply with § 14-401(44).

(3) In addition to the wall signs permitted in the preceding subsection, a multi-tenant building owner shall be entitled to a ground sign, which shall exclusively be used to identify the building and shall contain no tenant identification or advertising copy. The owner shall be entitled to a minimum of twenty-five (25) square feet of sign surface and a maximum of one hundred (100) square feet of sign surface, based on the total square feet contained in the building, one (1) square foot being allowed for every one hundred (100) square feet of floor space and subject to the minimum and maximum hereinbefore stated.

(4) Ground signs approved under the authority of this section must also comply with the requirements established for other ground signs by §§ 14-464 and 14-465 of this chapter which are not in conflict with this section, except that the six (6) foot limitation on height may be exceeded on ground signs which are allowed in excess of twenty-five (25) square feet as directed by the design review commission, but shall not exceed ten (10) feet in height. (Ord. #91-3, June 1991, as amended by Ord. #13-01, March 2013)

14-471. Establishment of a special sign corridor. A special sign corridor is hereby established for those tracts of land of five (5) acres or more in the City of Bartlett located east of Fletcher Creek with road frontage on U.S. Highway 64 and along Germantown Parkway from Highway 64 north to a point 2,000' north of Highway 64, and having C-H, Highway Commercial Zoning. Each tract of land meeting these criteria shall be allowed a ground sign with a maximum area of two-hundred (200) square feet and a maximum height of twenty feet (20'), and a maximum width of ten feet (10'). Setback, lighting, landscaping, and base material requirements are set forth in § 14-465 of this chapter. Wall or building signs shall be controlled by § 14-464 above.

14-472. Signs for motor vehicle sales. Motor vehicle sale businesses located within the special sign corridor and containing five (5) or more acres are permitted to have signage in accordance with § 14-471 above. In addition, such businesses shall be allowed to provide additional signage as follows:

Ground signs: Motor vehicle sales businesses shall be allowed to have a ground sign for each three hundred (300) lineal feet of street frontage. If this business is located on a corner lot, it shall be permitted to have an additional ground sign on the secondary street, provided that there is three hundred feet (300') of street frontage on that street. The primary

ground sign may have a maximum area of two-hundred (200) square feet, a maximum height of twenty feet (20'), and a maximum width of ten feet (10'), each additional ground sign may have a maximum area of fifty (50) square feet, and a maximum height of fifteen feet (15'), and a maximum width of ten feet (10').

Wall Signs: Wall or building signs shall be controlled by § 14-448 above, provided however that the number of wall signs may be increased to include a sign for each major brand (Ford, Chevrolet, Dodge, Toyota, Honda etc.) of new motor vehicle sold on the premises. An addition wall sign may be provided for used cars sold on the premises. The wall sign area for all signs shall conform to the requirements of § 14-471.

All signs allowed under §§ 14-471 and 14-472 shall be subject to approval of the design review commission, director of planning or duly authorized representative and shall meet all other requirements of this chapter.

14-473. Signs for the Bartlett Station area. The provisions herein shall be applicable within the boundaries of Bartlett Station as determined by the board of mayor and aldermen.

These provisions shall supplement and, where in conflict, supersede the provisions of the sign ordinance. Except as otherwise provided, signs that are in compliance with these provisions still are subject to approval under the broader criteria of the design review commission.

(1) Elements in common. (a) To help create a common identity for the diverse parts of Bartlett Station, signage, awnings, and canopies throughout the area may be required to have elements in common. These may take the form of a logo, colors, a shape, or other features, used

(i) As part of principal signs; or

(ii) Elsewhere on the facades; or

(iii) In the common signage (e.g., directory signs) located around the area.

Such elements in common may be required by the design review commission where the buildings or tenant spaces on which the signs, awnings, and canopies are placed are adjoining or are on adjoining lots, front on a common parking area, or front on the same block.

(b) Common elements shall be in accordance with adopted guidelines, if any, of the Bartlett Station Commission.

(2) Design emphasis. Emphasis under these provisions shall be on signage, awnings, and canopies as an integral part of the design of a site and building. Existing criteria for approval shall be supplemented with the following criteria that further define acceptable design parameters:

(a) A sign, awning, or canopy shall fit into the facade so that it appears to have been designed as part of it and does not obscure or conflict with architectural elements.

(b) Colors and details of a sign, awning, or canopy shall be compatible and consistent with colors and architectural details of the facade on which it is mounted or from which it extends.

(c) Except where exceptional design permits otherwise, lighter-color lettering on a darker background shall be used, as it is easier to read and emphasizes the message; and the darker background is less distracting when illuminated.

(d) Except where the need for elements in common is determined to be more important, unique sign designs are preferred that better identify and convey information about a particular business, typically through incorporating into the sign, in addition to the name of the business, such features as:

(i) Illustrations;

(ii) Three-dimensional elements (objects, shapes, lettering);

(iii) Logos;

(iv) Unusual lettering; or

(v) Shapes other than or in addition to a simple rectangle.

(3) Wall sign area. On small building frontages where the provisions in § 14-448 for a minimum thirty (30) square feet of wall sign area is applicable, another ten (10) square feet of sign area shall be permitted, for a total of at least forty (40) square feet per business.

The excess over thirty (30) square feet is solely for the purpose of accommodating a second permitted wall sign on the side or rear of the building. Neither sign may have an area of more than thirty (30) square feet, and total area of both signs shall not exceed forty (40) square feet.

(4) "Can" wall signs. A "can" type wall sign consists of a metal or other box mounted on a wall, containing a light source and having a translucent panel mounted on one (1) side of the box on which the business is identified. "Can"-type wall signs with internally illuminated backgrounds but opaque or nearly opaque lettering shall not be allowed. If wall signs are internally illuminated:

(a) The sign lettering and related elements shall be internally illuminated as well, not only the background; or

(b) Individual or raceway-mounted letters shall be used instead.

(5) Shingle signs. (a) General. One (1) shingle sign that extends horizontally from the wall of a building over walkways, including public sidewalks, may be permitted for each facade of a business that has a customer entrance, especially where buildings are close to a street or pedestrian path. The permitted area of a shingle sign shall be in addition to the wall sign area permitted in subsection (4).

(b) Mounting. Because of the potential hazard of a shingle sign falling on a walkway, mounting of the sign shall be subject to requirements of the building official.

(c) Height and ground clearance. Height, not including support structure, shall not exceed twelve feet (12'). Ground clearance for any part of a shingle sign, including support structure, shall be at least eight feet (8').

(d) Illumination. Shingle signs may not be internally illuminated.

(e) Dimensions. A shingle sign shall be in the shape of an ellipse, with uniform dimensions for all such signs in the Bartlett Station area, such dimensions to be determined by the Bartlett Station Commission.

(f) Projection. A shingle sign shall not extend more than four and one-half feet (4 1/2") from the wall of the building.

(6) Directory signs. (a) Number of businesses. A directory sign shall be permitted for a group of two (2) or more businesses. Such a sign may be permitted for businesses that are not on the same lot but are on adjoining lots, provided the sign is on the lot of one of the businesses named on the sign.

(b) Setbacks. A directory sign shall be at least six feet (6') behind the curb line of a street and not on public right-of-way.

Such a sign shall be at least ten feet (10') from any side lot line, except where the name of the business across the lot line also is displayed on the sign.

(c) Sign area and height. (i) A directory sign that is at least fifty feet (50') from any side property line may have an area of up to twenty-five (25) square feet, not including supporting structure. Such a sign may have a height of up to six feet (6'), including supporting structure.

(ii) Where a directory sign is less than fifty feet (50') from a side lot line, the height and area of the sign shall be reduced in proportion to the reduction in setback; provided that no directory sign need be reduced below a height of three feet (3') or an area of six (6) square feet, provided it is placed the maximum distance from any side lot line.

(iii) Where businesses on adjoining lots are named on a directory sign, the combined lots shall be treated as one (1) lot for purposes of determining side setbacks under this provision.

(d) Shelby Street. Because properties along Shelby Street that are part of Bartlett Station have no visibility from Stage Road, one (1) off-premises directory sign shall be allowed on each side of Stage Road at the intersection with Shelby Street; provided that no such sign may be placed on public right-of-way.

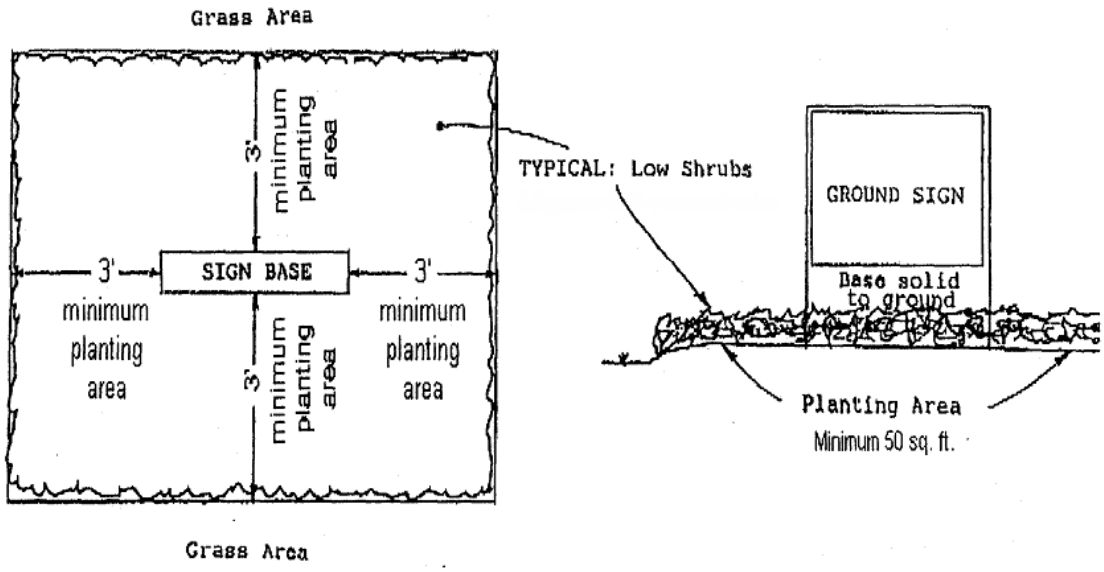
(7) Awnings, canopies. (a) Awnings and canopies on buildings and umbrellas on outdoor tables and vendor carts that are both decorative (adding color and architectural detail) and functional (providing shelter from weather for pedestrians and business patrons) shall be permitted.

(b) The director of code enforcement may require replacement of awnings that are torn, faded, or otherwise damaged.

14-474. Penalties. Any person, firm or corporation violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined not more than fifty dollars ($50.00), each day's continuance of a violation constituting a separate offense. The owner of any sign, building or premises, or part thereof, where a sign in violation of this chapter shall be placed, or shall exist, and any person who may have assisted in the commission of any such violation shall be guilty as an accessory of the offense.

Attachment C
Planting Screen for Ground Signs

[Sign Ordinance and Regulations, § 14-465, 'Ground Sign Restrictions,' Part 8: "The accepted ground sign shall be landscaped so as to protect the sign from vehicular traffic and inhibit pedestrian traffic in and about the sign, and if located in a parking area exposed to vehicular traffic shall have a six-inch (6") solid curb on all sides exposed to such traffic. Landscaping shall consist of a minimum planting area of fifty (50) square feet extending a minimum of three feet (3') from any edge of the sign. The use of plants that provide seasonal color is encouraged, but not required.]



Planting Screen for Ground Signs

CHAPTER 5

TREE ORDINANCE[1]

[1]Municipal code reference

The Bartlett Tree Ordinance, as enacted by Ord. #89-21, was replaced by Ord. #05-08, and is now in Article VI, § 23 of the Zoning Ordinance, Appendix A of this municipal code.

CHAPTER 6

TREE PROTECTION AND GRADING

SECTION

14-601. General requirements. A permit shall be required for all grading, earthmoving, changing of elevation of property, or removal of fifteen (15) percent or more of live trees six (6) inches or greater in diameter at a point five (5) feet above the ground level with the following exception: construction on a parcel of land for an individual single-family homesite, accessory buildings or private drives. (Ord. #88-1, Feb. 1988)

14-602. Submittal of written proposal. (1) Permits for work covered by a development contract between the developer and the city may be obtained by complying with applicable regulations governing all development other than construction on a parcel of land for an individual single-family homesite, accessory buildings or private drives. Permits for all other work may be obtained after the submission to the planning commission of a written statement of the purpose of the work and a site plan which shall include:

(a) General location of all trees to be removed. On site plan applications for all construction other than single family, individual trees larger than six (6) inches in diameter shall be located and indicated by type. On subdivision plans, planned developments, and other plans involving large tracts of land, general area of tree coverage shall be located and the general type and size of trees indicated.

(b) The nature and extent of the proposed grading, earthmoving or change in elevation; and

(c) The applicant's plans for controlling on-site generated sedimentation, erosion and runoff.

(2) Any grading permit application shall be approved if it can be determined that:

(a) The grading plan, including tree removal, has been prepared and will be performed in accordance with good flood, erosion and sedimentation control practices and good forestry practices;

(b) The application provides for sufficient and timely replanting of trees to compensate for the removal of trees and foliage;

(c) The applicant intends to complete development according to a time schedule or has taken steps to prevent any negative impacts resulting from the work proposed. (Ord. #88-1, Feb. 1988)

14-603. Approval. The planning commission shall review and approve or deny the application within thirty (30) days after the day same is submitted. In the event of denial of the application, the specific reasons for denial of same shall be set forth in writing and a copy of same shall be furnished to the applicant. (Ord. #88-1, Feb. 1988)

14-604. Right to appeal. Any dissatisfied applicant under this chapter shall appeal a denial of his application to the board of mayor and aldermen within ten (10) days after the date of the notice of denial and shall make written application to the board of mayor and aldermen to consider his application. (Ord. #88-1, Feb. 1988)

14-605. Violations. Any person violating any of the provisions of this chapter shall be guilty of an offense, an offense being defined as the clearing, grubbing and/or grading of land or the cutting of one (1) excess tree and a separate offense shall be deemed committed for each day of violation of this chapter. The foregoing provision relative to an offense shall not in any way prevent the City of Bartlett from seeking injunctive relief against a violator of this chapter, and the violation of this chapter shall be deemed a nuisance for injunctive relieve purposes. (Ord. #88-1, Feb. 1988)

TITLE 15

MOTOR VEHICLES, TRAFFIC AND PARKING

CHAPTER

CHAPTER 1

MISCELLANEOUS

SECTION

15-101. Definitions. (1) "Authorized emergency vehicle." Authorized emergency vehicles shall be fire department vehicles, police vehicles and such ambulances and other emergency vehicles as are designated by the chief of police or fire chief, or as otherwise provided by Tennessee Code Annotated, § 55-8-101.

(2) "Bus." Every motor vehicle designed for carrying more than ten (10) passengers and used for the transportation of persons.

(3) "Recreational vehicle." Any vehicle designed primarily for the transportation of passengers and providing temporary living quarters within said vehicle.

(4) "Trailer." Every vehicle, with or without motive power, designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that no part of its weight rests upon the towing vehicle.

(5) "Truck." Every motor vehicle designed, used or maintained primarily for the transportation of property.

(6) "Vehicle." Every device in, upon or by which any person or property is or may be transported or drawn upon a street, except devices moved by human power or used exclusively upon stationary rails or tracks. (as added by Ord. #08-01, Feb. 2008)

15-102. Motor vehicle requirements. It shall be unlawful for any person to operate any motor vehicle within the corporate limits unless such vehicle is equipped with properly operating muffler, lights, brakes, horn and such other equipment as is prescribed and required by Tennessee Code Annotated, § 55-9-201, et seq. (as added by Ord. #08-01, Feb. 2008)

15-103. Driving on streets closed for repairs, etc. Except for necessary access to property abutting thereon, no motor vehicle shall be driven upon any street that is barricaded or closed for repairs or other lawful purpose. (as added by Ord. #08-01, Feb. 2008)

15-104. <u>One-way streets</u>. On any street for one-way traffic with posted signs indicating the authorized direction of travel at all intersections offering access thereto, no person shall operate any vehicle except in the indicated direction. (as added by Ord. #08-01, Feb. 2008)

15-105. <u>Unlaned streets</u>. (1) Upon all unlaned streets of sufficient width, a vehicle shall be driven upon the right half of the street except:

(a) When lawfully overtaking and passing another vehicle proceeding in the same direction.

(b) When the right half of a roadway is closed to traffic while under construction or repair.

(c) Upon a roadway designated and signposted by the city for one-way traffic.

(2) All vehicles proceeding at less than the normal speed of traffic at the time and place and under the conditions then existing shall be driven as close as practicable to the right hand curb or edge of the roadway, except when overtaking and passing another vehicle proceeding in the same direction or when preparing for a left turn. (as added by Ord. #08-01, Feb. 2008)

15-106. <u>Laned streets</u>. Whenever any roadway has been divided into two (2) or more clearly marked lanes for traffic, the following rules, in addition to all others consistent herewith, shall apply:

(1) A vehicle shall be driven as nearly as practicable entirely within a single lane and shall not be moved from such lane until the driver has first ascertained that such movement can be made with safety.

(2) Upon a roadway which is divided into three (3) lanes, a vehicle shall not be driven in the center lane except when overtaking and passing another vehicle where the roadway is clearly visible and such center lane is clear of traffic within a safe distance, or in preparation for a left turn or where such center lane is at the time allocated exclusively to traffic moving in the direction the vehicle is proceeding and is signposted to give notice of such allocation.

(3) Official signs may be erected directing slow-moving traffic to use a designated lane or designating those lanes to be used by traffic moving in a particular direction regardless of the center of the roadway, and drivers of vehicles shall obey the directions of every such sign; and

(4) (a) Where passing is unsafe because of traffic in the opposite direction or other conditions, a slow-moving vehicle, including a passenger vehicle, behind which five (5) or more vehicles are formed in line, shall turn or pull off the roadway wherever sufficient area exists to do so safely, in order to permit vehicles following it to proceed. As used in this subsection (4), a slow-moving vehicle is one which is proceeding at a rate of speed which is ten (10) miles per hour or more below the lawful maximum speed for that particular roadway at that time.

(b) Any person failing to conform with the provisions of subsection (4)(a) shall receive a warning citation on first offense and be liable for a fine of twenty dollars ($20.00) on second offense, and fifty dollars ($50.00) on third and subsequent offenses.

(c) Subsection (4)(a) shall not apply to funeral processions nor to school buses. (as added by Ord. #08-01, Feb. 2008)

15-107. Yellow lines. On streets with a yellow line placed to the right of any lane line or center line, such yellow line shall designate a no-passing zone, and no operator shall drive his or her vehicle or any part thereof across or to the left of such yellow line except when necessary to make a lawful left turn from such street. (as added by Ord. #08-01, Feb. 2008)

15-108. Miscellaneous traffic control signs, etc. It shall be unlawful for any pedestrian or the operator of any vehicle to violate or fail to comply with any traffic control sign, signal, marking, or device placed or erected by the state or the city unless otherwise directed by a police officer.

No person shall willfully fail or refuse to comply with any lawful order of any police officer invested by law with the authority to direct, control or regulate traffic. (as added by Ord. #08-01, Feb. 2008)

15-109. General requirements for traffic control signs, etc. All traffic control signs, signals, markings and devices shall conform to the latest revision of the Manual of Uniform Traffic-Control Devices for Streets and Highways, published by the U.S. Department of Transportation, Federal Highway Administration and shall, so far as practicable, be uniform as to type and location throughout the city. This section shall not be construed as being mandatory, but is merely directive. (as added by Ord. #08-01, Feb. 2008)

15-110. Unauthorized traffic control signs, etc. No person shall place, maintain, or display upon or in view of any street, any unauthorized sign, signal, marking, or device which purports to be or is an imitation of or resembles an official traffic control sign, signal, marking, or device or railroad sign or signal, which attempts to control the movement of traffic or parking of vehicles, or which hides from view or interferes with the effectiveness of any official traffic control sign, signal, marking, or device or any railroad sign or signal. (as added by Ord. #08-01, Feb. 2008)

15-111. Presumption with respect to traffic control signs, etc. When a traffic control sign, signal, marking, or device has been placed, the presumption shall be that it is official and that it has been lawfully placed by the proper city authority. (as added by Ord. #08-01, Feb. 2008)

15-112. School safety patrols. All motorists and pedestrians shall obey the directions or signals of school safety patrols when such patrols are assigned under the authority of the chief of police and are acting in accordance with instructions; provided, that such persons giving any order, signal, or direction shall at the time be wearing some insignia and/or using authorized flags for giving signals. (as added by Ord. #08-01, Feb. 2008)

15-113. Driving through funerals or other processions. Except when otherwise directed by a police officer, no driver of a vehicle shall drive between the vehicles comprising a funeral or other authorized procession while they are in motion and when such vehicles are conspicuously designated. (as added by Ord. #08-01, Feb. 2008)

15-114. Clinging to vehicles in motion. It shall be unlawful for any person traveling upon any bicycle, motorcycle, coaster, sled, rollerskates, or any other vehicle to cling to, or attach himself or herself or his or her vehicle to any other moving vehicle upon any street, alley, or other public way or place. (as added by Ord. #08-01, Feb. 2008)

15-115. Riding on outside of vehicles. It shall be unlawful for any person to ride, or for the owner or operator of any motor vehicle being operated on a street, alley, or other public way or place, to permit any person to ride on any portion of such vehicle not designated or intended for the use of passengers. This section shall not apply to persons engaged in the necessary discharge of lawful duties nor to adults riding in the load-carrying space of trucks. (as added by Ord. #08-01, Feb. 2008)

15-116. Backing vehicles. The driver of a vehicle shall not back the same unless such movement can be made with reasonable safety and without interfering with other traffic. (as added by Ord. #74-11, July 1974)

15-117. Projections from the rear of vehicles. Whenever the load or any projecting portion of any vehicle shall extend beyond the rear of the bed or body thereof, the operator shall display at the end of such load or projection, in such position as to be clearly visible from the rear of such vehicle, a red flag being not less than twelve (12) inches square. Between one-half (½) hour after sunset and one-half (½) hour before sunrise, there shall be displayed in place of the flag a red light plainly visible under normal atmospheric conditions at least two hundred (200) feet from the rear of such vehicle. (as added by Ord. #08-01, Feb. 2008)

15-118. Causing unnecessary noise. It shall be unlawful for any person to cause unnecessary noise by unnecessarily sounding the horn, "racing"

the motor, or causing the "screeching" or "squealing" of the tires on any motor vehicle. (as added by Ord. #08-01, Feb. 2008)

15-119. Vehicles and operators to be licensed. (1) All motor vehicles required by state law to be registered with the county clerk with an address within the city must be registered with the county clerk. Registration shall be valid for a term concurrent with the state automobile registration.

(2) No person shall operate any motor vehicle on any street without having in his or her possession an operator's license or a chauffeur's license valid under the laws of the State of Tennessee, or, if a non-resident, under the laws of the state in which he or she is a resident. (as added by Ord. #08-01, Feb. 2008)

15-120. Duty to devote full time and attention. It shall be unlawful for a driver of a vehicle to fail to devote full time to the driving of said vehicle when such failure, under the then existing circumstances, endangers life, limb or property. (as added by Ord. #08-01, Feb. 2008)

15-121. Slower traffic to keep right. Upon all roadways any vehicle proceeding at less than the normal speed of traffic at the time and place and under the conditions then existing shall be driven in the right-hand lane then available for traffic, or as close as practicable to the right-hand curb or edge of the roadway, except when overtaking and passing another vehicle proceeding in the same direction or when preparing for a left turn at an intersection or into a private road or driveway. (as added by Ord. #08-01, Feb. 2008)

15-122. Passing. (1) In opposite direction. Drivers of vehicles proceeding in opposite directions shall pass each other to the right, and upon roadways having width for not more than one line of traffic in each direction, each driver shall give to the other at least one-half (½) of the main-traveled portion of the roadway as nearly as possible.

(2) In the same direction. Except as otherwise provided in subsection (6) of this section, the driver of a vehicle overtaking another vehicle proceeding in the same direction shall pass to the left thereof at a safe distance and shall not again drive to the right side of the roadway until safely clear of the overtaken vehicle.

(3) Duty of safe operation. No vehicle shall be driven to the left side of the center of the roadway in overtaking and passing another vehicle proceeding in the same direction, unless such left side is clearly visible and is free from oncoming traffic for a sufficient distance ahead to permit such overtaking and passing to be completely made without interfering with the safe operation of any vehicle approaching from the opposite direction of any vehicle overtaken. In every event the overtaking vehicle must return to the right-hand

side of the roadway before coming within one hundred (100) feet of any vehicle approaching from the opposite direction.

(4) At intersection or railroad crossing. No vehicle shall be driven to the left of the center of any street for the purpose of passing another vehicle when approaching within one hundred (100) feet of any intersection or while traversing any intersection or railroad grade crossing. This subsection shall not apply to one-way streets or to streets where special signs or markings permit driving to the left of the center.

(5) Passing on left prohibited--exception. No vehicle shall be driven to the left of the center of the roadway upon any street of sufficient width for two (2) or more lines of moving vehicles in each direction, except when the right half of the roadway is obstructed, and then such movement shall be made in safety in accordance with this section.

(6) Passing on right permitted. The driver of a vehicle may overtake and pass upon the right of another vehicle only under the following conditions:

(a) When the vehicle overtaken is making or about to make a left turn.

(b) Upon a street with unobstructed pavement not occupied by parked vehicles of sufficient width for two (2) or more lines of moving vehicles in each direction when traffic is moving in two (2) or more substantially continuous lines in direction of travel.

(c) Upon a one-way street or upon any roadway on which traffic is restricted to one (1) direction of movement, where the roadway is free from obstructions and of sufficient width for two (2) or more lines of moving vehicles.

(7) Duty of safe operation. The driver of a vehicle may overtake and pass another vehicle upon the right only under conditions permitting such movement in safety. In no event shall such movement be made by driving off the pavement or main-traveled portion of this roadway.

(8) Vehicles to give way to passing vehicle. Except when overtaking and passing on the right is permitted, the driver of an overtaken vehicle shall give way to the right in favor of the overtaking vehicle and shall not increase the speed of his vehicle until completely passed by the overtaking vehicle. (as added by Ord. #08-01, Feb. 2008)

15-123. Entering intersection. No driver shall enter an intersection or a marked crosswalk unless there is sufficient space on the other side of the intersection or crosswalk to accommodate the vehicle he is operating without obstructing the passage of other vehicles or pedestrians, notwithstanding any traffic-control signal to proceed. (as added by Ord. #08-01, Feb. 2008)

15-124. Following too closely--prohibited. The driver of a motor vehicle shall not follow another vehicle more closely than is reasonable and

prudent, having due regard to the speed of such vehicle and the traffic upon and condition of the street. (as added by Ord. #08-01, Feb. 2008)

15-125. Driving too slowly--prohibited. No person shall drive a motor vehicle upon any street at such a slow speed as to impede the normal and reasonable movement of traffic, except when reduced speed is necessary for safety operation or in compliance with the law. (as added by Ord. #08-01, Feb. 2008)

15-126. Driver to exhibit safe speed, safe lookout and due care. Notwithstanding any speed limit or zone in effect at the time, or right-of-way rules that may be applicable, every driver shall:

(1) Operate his vehicle at a safe speed;

(2) Maintain a safe lookout;

(3) Use due care to keep his vehicle under control. (as added by Ord. #08-01, Feb. 2008)

15-127. Driving or riding in lap prohibited. No operator of a vehicle shall have in his lap any other person, adult or minor, nor shall the operator be seated in the lap of any person while the vehicle is in motion. (as added by Ord. #08-01, Feb. 2008)

15-128. Motorcycles, motor-driven cycles, motorized bicycles, bicycles, etc. (1) Definitions. For the purpose of the application of this section, the following words shall have the definitions indicated:

(a) "Motorcycle." Every motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three (3) wheels in contact with the ground, but excluding a tractor or motorized bicycle.

(b) "Motor-driven cycle." Every motorcycle, including every motor scooter, with a motor which produces not to exceed five (5) brake horsepower, or with a motor with a cylinder capacity not exceeding one hundred and twenty-five cubic centimeters (125cc).

(c) "Motorized bicycle." A vehicle with two (2) or three (3) wheels, an automatic transmission, and a motor with a cylinder capacity not exceeding fifty cubic centimeters (50cc) which produces no more than two (2) brake horsepower and is capable of propelling the vehicle at a maximum design speed of no more than thirty (30) miles per hour on level ground.

(2) Every person riding or operating a bicycle, motor cycle, motor driven cycle or motorized bicycle shall be subject to the provisions of all traffic ordinances, rules, and regulations of the city applicable to the driver or operator of other vehicles except as to those provisions which by their nature can have no application to bicycles, motorcycles, motor driven cycles, or motorized bicycles.

(3) No person operating or riding a bicycle, motorcycle, motor driven cycle or motorized bicycle shall ride other than upon or astride the permanent and regular seat attached thereto, nor shall the operator carry any other person upon such vehicle other than upon a firmly attached and regular seat thereon.

(4) No bicycle, motorcycle, motor driven cycle or motorized bicycle shall be used to carry more persons at one time than the number for which it is designed and equipped.

(5) No person operating a bicycle, motorcycle, motor driven cycle or motorized bicycle shall carry any package, bundle, or article which prevents the rider from keeping both hands upon the handlebars.

(6) No person under the age of sixteen (16) years shall operate any motorcycle, motor driven cycle or motorized bicycle while any other person is a passenger upon said motor vehicle.

(7) Each driver of a motorcycle, motor driven cycle, or motorized bicycle and any passenger thereon shall be required to wear on his head a crash helmet of a type approved by the state's commissioner of safety.

(8) Every motorcycle, motor driven cycle, or motorized bicycle operated upon any public way within the corporate limits shall be equipped with a windshield or, in the alternative, the operator and any passenger on any such motorcycle, motor driven cycle or motorized bicycle shall be required to wear safety goggles, faceshield or glasses containing impact resistant lens for the purpose of preventing any flying object from striking the operator or any passenger in the eyes.

(9) It shall be unlawful for any person to operate or ride on any vehicle in violation of this section, and it shall also be unlawful for any parent or guardian knowingly to permit any minor to operate a motorcycle, motor driven cycle or motorized bicycle in violation of this section. (as added by Ord. #08-01, Feb. 2008)

15-129. <u>Delivery of vehicle to unlicensed driver, etc</u>.

(1) <u>Definitions</u>. (a) "Juvenile" as used in this chapter shall mean a person less than eighteen (18) years of age, and no exception shall be made for a juvenile who has been emancipated by marriage or otherwise.

(b) "Adult" shall mean any person eighteen (18) years of age or older.

(c) "Custody" means the control of the actual physical care of the juvenile, and includes the right and responsibility to provide for the physical, mental, moral and emotional well being of the juvenile. "Custody" as herein defined, relates to those rights and responsibilities as exercised by the juvenile's parent or parents or a person granted custody by a court of competent jurisdiction.

(d) "Automobile" shall mean any motor driven automobile, car, truck, tractor, motorcycle, motor driven cycle, motorized bicycle, or vehicle driven by mechanical power.

(e) "Driver's license" shall mean a motor vehicle operators license or chauffeurs license issued by the State of Tennessee.

(2) It shall be unlawful for any adult to deliver the possession of or the control of any automobile or other motor vehicle to any person, whether an adult or a juvenile, who does not have in his possession a valid motor vehicle operators or chauffeurs license issued by the Department of Safety of the State of Tennessee, or for any adult to permit any person, whether an adult or a juvenile, to drive any motor vehicle upon the streets, highways, roads, avenues, parkways, alleys or public thoroughfares in the City of Bartlett unless such person has a valid motor vehicle operators or chauffeurs license as issued by the Department of Safety of the State of Tennessee.

(3) It shall be unlawful for any parent or person having custody of a juvenile to permit any such juvenile to drive a motor vehicle upon the streets, highways, roads, parkways, avenues or public ways in the city in a reckless, careless, or unlawful manner, or in such manner as to violate the ordinances of the city. (as added by Ord. #08-01, Feb. 2008)

15-130. Compliance with financial responsibility law required.

(1) Every vehicle operated within the corporate limits must be in compliance with the financial responsibility law.

(2) At the time the driver of a motor vehicle is charged with any moving violation under Tennessee Code Annotated, title 55, chapters 8 and 10, parts 1-5, chapter 50; any provision in this title of this municipal code; or at the time of an accident for which notice is required under Tennessee Code Annotated, § 55-10-106, the officer shall request evidence of financial responsibility as required by this section. In case of an accident for which notice is required under Tennessee Code Annotated, § 55-10-106, the officer shall request such evidence from all drivers involved in the accident, without regard to apparent or actual fault. For the purposes of this section, "financial responsibility" means:

(a) Documentation, such as the declaration page of an insurance policy, an insurance binder, or an insurance card from an insurance company authorized to do business in Tennessee, stating that a policy of insurance meeting the requirements of the Tennessee Financial Responsibility Law of 1977, compiled in Tennessee Code Annotated, chapter 12, title 55, has been issued;

(b) A certificate, valid for one (1) year, issued by the commissioner of safety, stating that a cash deposit or bond in the amount required by the Tennessee Financial Responsibility Law of 1977, compiled in Tennessee Code Annotated, chapter 12, title 55, has been paid or filed with the commissioner, or has qualified as a self-insurer under Tennessee Code Annotated, § 55-12-111;

(c) The motor vehicle being operated at the time of the violation was owned by a carrier subject to the jurisdiction of the department of

safety or the interstate commerce commission, or was owned by the United States, the State of Tennessee or any political subdivision thereof, and that such motor vehicle was being operated with the owner's consent.

(3) It is a civil offense to fail to provide evidence of financial responsibility pursuant to this section. Any violation is punishable by a civil penalty of up to fifty dollars ($50.00).

(4) The penalty imposed by this section shall be in addition to any other penalty imposed by the laws of this state or this municipal code.

(5) On or before the court date, the person so charged may submit evidence of compliance with this section at the time of the violation. If the court is satisfied that compliance was in effect at the time of the violation, the charge of failure to provide evidence of financial responsibility may be dismissed. (as added by Ord. #08-01, Feb. 2008)

15-131. Striking parked vehicle or fixed object prohibited. It shall be unlawful for the driver of any vehicle while operating such vehicle on a public street or alley to drive such vehicle into, against or upon a parked vehicle or fixed object thereon. (as added by Ord. #08-01, Feb. 2008)

15-132. Right-of-way for trains. (1) Whenever any person driving a vehicle approaches a railroad grade crossing under any of the following circumstances, the driver of such vehicle shall stop within fifty (50) feet but not less than fifteen (15) feet from the nearest rail of such railroad, and shall not proceed until he can do so safely. The foregoing requirements shall apply when:

(a) A clearly visible electric or mechanical signal device gives warning of the immediate approach of a railroad train.

(b) A crossing gate is lowered or when a human flagman gives or continues to give a signal of the approach or passage of a railroad train.

(c) A railroad train approaching within approximately one thousand five hundred (1,500) feet of the street crossing emits a signal audible from such distance, or when such railroad train, by reason of its speed or nearness to such crossing is an immediate hazard.

(d) An approaching railroad train is plainly visible and is in hazardous proximity to such crossing.

(2) No person shall drive any vehicle through, around or under any crossing gate or barrier at a railroad crossing while such gate or barrier is closed or is being opened or closed. (as added by Ord. #08-01, Feb. 2008)

15-133. Wearing headset while operating vehicle prohibited. It shall be unlawful for any person, while driving or operating a vehicle on a public street or highway, to wear a radio/tape or any other type headset in or over their ears which would reduce their ability to hear the audible warning signals of any approaching emergency vehicle.

A violation of this section shall be punishable by a fine of not less than ten dollars ($10.00) nor more than fifty dollars ($50.00). (as added by Ord. #08-01, Feb. 2008)

15-134. Use of safety belts in passenger vehicles required.

(1) Definitions. The following terms as used in this section shall have the following meaning:

(a) "Passenger car" or "passenger motor vehicle." Any motor vehicle with a manufacturer's gross vehicle weight rating of eight thousand five hundred (8,500) pounds or less that is not used as a public or livery conveyance for passengers. The term, "passenger car" or "passenger motor vehicle," shall not apply to motor vehicles, which are not required by federal law to be equipped with safety belts.

(2) Violations, penalties applicability. (a) No person shall operate a passenger motor vehicle within the city limits of Bartlett unless such person and all passengers from four (4) years of age or older are restrained by a belt at all times the vehicle is in forward motion. Children under four (4) years of age must be properly restrained in an approved child restraint device. Children between the ages of four (4) and eight (8) years of age, weighing less than forty (40) pounds must be in an integrated child seat or belt positioning booster seat, as outlined in Tennessee Code Annotated, § 55-9-602.

(b) The provisions of this section shall apply only to the operator and all passengers occupying the front seat of a passenger motor vehicle, with the exception of persons aged four (4) through seventeen (17), who must be restrained regardless of where they are in the vehicle, and others as outlined in subsection (2)(a). If the vehicle is equipped with a rear seat, which is capable of folding, the provisions of this section shall only apply to front seat passengers and operators if the back seat is in the fold down position.

(c) Violation of any provision of this section is hereby declared to be a misdemeanor. Any operator of a motor vehicle convicted of a violation hereunder involving the driver or another adult shall be fined twenty-five dollars ($25.00) a first violation, and fifty dollars ($50.00) on second and subsequent violations. Any operator of a motor vehicle convicted of a violation hereunder involving a minor age sixteen (16) or seventeen (17) shall be fined twenty-five dollars ($25.00). Any operator of a motor vehicle convicted of a violation involving a child between the ages of five (5) and sixteen (16), shall be fined fifty dollars ($50.00). Any operator of a motor vehicle convicted of a violation hereunder involving a child age four (4) or under shall be fined fifty dollars ($50.00).

(d) Revenues collected under this subsection shall be paid into the city's general fund.

(3) Exceptions. This section does not apply to:

(a) A passenger or operator with a physically disabling condition whose physical disability would prevent appropriate restraint in such safety seat or safety belt; provided, that such condition is certified in writing by a physician who shall state the nature of the handicap, as well as the reason such restraint is inappropriate.

(b) A passenger motor vehicle operated by a rural letter carrier of the United States Postal Service while performing the duties of a rural letter carrier.

(c) Utility workers, water, gas and electric meter readers in the course of their employment; or

(d) A newspaper delivery motor carrier service while performing the duties of a newspaper delivery motor carrier service; provided, that this exemption shall only apply from the time of the actual first delivery to the customer until the last actual delivery to the customer. (as added by Ord. #08-01, Feb. 2008, and amended by Ord. #14-05, July 2014, and Ord. #15-07, Dec. 2015)

15-135. Jaywalking prohibited. It shall be unlawful for pedestrians to jaywalk on any street within the city limits of Bartlett, Tennessee where cross lanes are provided. (as added by Ord. #08-01, Feb. 2008)

15-136. Operation of authorized emergency vehicles. (1) The driver of an authorized emergency vehicle, when responding to an emergency call, or when in the pursuit of an actual or suspected violator of the law, or when responding to but not upon returning from a fire alarm, may exercise the privileges set forth in this section, subject to the conditions herein stated.

(2) The driver of an authorized emergency vehicle may:

(a) Park or stand, irrespective of the provisions of this title;

(b) Proceed past a red or stop signal or stop sign, but only after slowing down as may be necessary for safe operation;

(c) Exceed the maximum speed limit so long as life or property is not thereby endangered; and

(d) Disregard regulations governing direction of movement or turning in specified directions.

(3) The exemptions herein granted to an authorized emergency vehicle shall apply only when such vehicle is making use of audible and visual signals meeting the requirements of the applicable laws of this state, except that an authorized emergency vehicle operated as a police vehicle may be equipped with or display a red light only in combination with a blue light visible from in front of the vehicle.

(4) The foregoing provisions shall not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons, nor shall such provisions protect the driver from the

consequences of the driver's own reckless disregard for the safety of others. (as added by Ord. #08-01, Feb. 2008)

15-137. Running over fire hoses, etc. It shall be unlawful for any person to drive over any hose lines or other equipment of the fire department except in obedience to the direction of a firefighter or police officer. (as added by Ord. #08-01, Feb. 2008)

15-138. City fee. All motor vehicles owned by residents within the City of Bartlett, Tennessee shall be required to pay a city fee of twenty-five dollars ($25.00) per year for each vehicle. "Motor vehicles" means any passenger car, truck, motorvan, motorcycle or any motor driven vehicle using streets within the corporate limits of the City of Bartlett and registered to an address within the corporate limits of the City of Bartlett, Tennessee. (as added by Ord. #08-01, Feb. 2008)

15-139. Shelby County Court Clerk to collect fees. The Mayor of the City of Bartlett is authorized to contract with the Shelby County Clerk to collect the applicable motor vehicle fees. (as added by Ord. #08-01, Feb. 2008)

15-140. Adoption of state traffic statutes. By the authority granted under Tennessee Code Annotated, § 16-18-302(a), the City of Bartlett adopts by reference the appropriate provisions of the "Rules of the Road," as codified in Tennessee Code Annotated, §§ 55-8-101 through 55-8-131, §§ 55-8-133 through 55-8-150, and §§ 55-8-152 through 55-8-180. Additionally, the City of Bartlett adopts by reference the appropriate provisions of Tennessee Code Annotated, §§ 55-8-181 through 55-8-193, §§ 55-9-601 through 55-9-606, § 55-12-139 and § 55-21-108 not specifically adopted or adopted as modified in this title. (as added by Ord. #08-01, Feb. 2008)

CHAPTER 2

SPEED LIMITS

SECTION

15-201. In general. It shall be unlawful for any person to operate a motor vehicle upon the streets of the City of Bartlett at a speed greater than thirty (30) miles per hour, except in areas designated for a greater speed. (as added by Ord. #08-01, Feb. 2008)

15-202. At intersections. It shall be unlawful for any person to operate or drive a motor vehicle through any intersection at a rate of speed in excess of fifteen (15) miles per hour unless such person is driving on a street regulated by traffic control signals or signs which require traffic to stop or yield on the intersecting streets. (as added by Ord. #08-01, Feb. 2008)

15-203. In school zones. No vehicle shall be driven at a greater rate of speed than fifteen (15) miles per hour on that portion of any street which has been designated as a school zone by official signs, during any time when school children are on the streets or sidewalks within such school zone, either en route to or returning from school or while school safety patrols or police officers are on duty. Such school zones shall be confined to such portions of the streets adjacent to school grounds, or for a distance not to exceed one thousand (1,000) feet beyond the boundaries of such grounds. (as added by Ord. #08-01, Feb. 2008)

15-204. Speed of railroad trains regulated within city. (1) The maximum speed of any freight train, passenger train, or any type of motor-driven vehicle, using the railroad tracks through the city limits of the City of Bartlett, shall not exceed thirty (30) miles per hour.

(2) This section shall not apply, wherein an emergency shall exist, that shall require the clearing of all railroad tracks, for the safety and well being of the citizens of the City of Bartlett.

(3) The penalty for the violations of this section shall be fifty dollars ($50.00). (as added by Ord. #08-01, Feb. 2008)

CHAPTER 3

TURNING MOVEMENTS

SECTION

15-301. Duty of safety turning maneuvers. No person shall turn a vehicle at an intersection, or turn a vehicle to enter a private road or driveway, or otherwise turn a vehicle from a direct course or move right or left upon a roadway unless and until such movement can be made with reasonable safety. (as added by Ord. #08-01, Feb. 2008)

15-302. Right turns generally. Both the approach for a right turn and a right turn shall be made as close as practical to the right-hand curb or edge of the street. (as added by Ord. #08-01, Feb. 2008)

15-303. Left turns generally. At any intersection where traffic is permitted to move in both directions on each roadway entering the intersection, an approach for a left turn shall be made in that portion of the right half of the roadway nearest the center line thereof and by passing to the right of such center line where it enters the intersection, and after entering the intersection the left turn shall be made so as to leave the intersection to the right of the center line of the roadway being entered. Whenever practicable, the left turn shall be made in that portion of the intersection to the left of the center of the intersection. (as added by Ord. #08-01, Feb. 2008)

15-304. Left turns on one-way streets. At any intersection where traffic is restricted to one direction on one or more of the roadways, the driver of a vehicle intending to turn left at such intersection shall approach the intersection in the extreme left-hand lane lawfully available to traffic moving in the direction of travel of such vehicle, and after entering the intersection, as nearly as practicable, proceed in the left-hand lane lawfully available to traffic moving in such direction upon the roadway being entered. (as added by Ord. #08-01, Feb. 2008)

15-305. Turns by trucks, buses and larger vehicles. The driver of any truck, bus or any large vehicle which cannot comply with the foregoing provisions due to the size of the vehicle may use such additional portions of the street or roadway as may be necessary for a right turn; provided, however, that the driver of such vehicle, before making such turn, shall first determine that this movement may be made in safety. (as added by Ord. #08-01, Feb. 2008)

15-306. Turns may be prohibited by sign. Whenever authorized signs are erected indicating that no right or left turn is permitted, no driver of a vehicle shall disobey the direction of any such sign. (as added by Ord. #08-01, Feb. 2008)

15-307. Left turns at intersections. The driver of a vehicle within an intersection intending to turn to the left shall yield the right-of-way to any vehicle approaching from the opposite direction which is within the intersection or so close thereto as to constitute an immediate hazard, but said driver, having so yielded and having giving a signal when and as required by this chapter, may make such left turn and the drivers of all other vehicles approaching the intersection from the opposite direction shall yield the right-of-way to the vehicle making the left turn. (as added by Ord. #08-01, Feb. 2008)

15-308. U-turns. No driver of any motorized vehicle shall make a u-turn (reverse direction) upon any street, unless such street is divided by a median and then, only where there is a curb cut provided for such and not at locations on these streets where a no u-turn sign is posted. (as added by Ord. #08-01, Feb. 2008)

CHAPTER 4

STOPPING AND YIELDING

SECTION

15-401. Stops to be signaled. (1) The driver of any vehicle who intends to stop or turn, or partly turn from a direct line, shall first see that such movement can be made in safety, and whenever the operation of any other vehicle may be affected by such movement, shall give an appropriate signal, plainly visible to the driver of such other vehicles of his intention to make such movement. Such signal shall be given continuously for a distance of at least fifty (50) feet before slowing down, stopping, turning, partly turning or materially altering the course of the vehicle. The signal herein required shall be given by means of the hand and arm or by some mechanical or electrical device approved by the state department of safety.

(2) Whenever the signal required by subsection (1) is given by means of the hand or arm, the driver shall indicate his intention to stop or turn, or partly turn, by extending the hand and arm from and beyond the left side of the vehicle, in the following manner:

(a) Left turn. For a left turn, or to pull to the left, the arm shall be extended in a horizontal position straight from and level with the shoulder.

(b) Right turn. For a right turn, or to pull to the right, the arm shall be extended upward.

(c) Slowing down or stopping. For slowing down or to stop, the arm shall be extended downward. (as added by Ord. #08-01, Feb. 2008)

15-402. Change of driver's signal prohibited--exception. Drivers having once given a hand, electrical or mechanical device signal, must continue the course thus indicated, unless they alter the original signal and take care

that the drivers of the vehicles and pedestrians have seen and are aware of the change. (as added by Ord. #08-01, Feb. 2008)

15-403. Driver's response to signal required. Drivers receiving a signal from another driver shall keep their vehicles under complete control and shall be able to avoid an accident resulting from a misunderstanding of such signal. (as added by Ord. #08-01, Feb. 2008)

15-404. Entering traffic with safety required. No vehicle shall be pulled out or backed from a curb into traffic until such movement may be made without danger to persons or property, and all vehicles proceeding in a street shall have the right-of-way over all vehicles pulling from a curb into traffic. (as added by Ord. #08-01, Feb. 2008)

15-405. At traffic control signals generally. Whenever traffic controlled by traffic-control signals exhibiting the words "go," "caution" or "stop," or exhibiting different colored lights successively one at a time, or with arrows, the following colors only shall be used and such terms and lights shall indicate and apply to drivers of vehicles and pedestrians as follows:

(1) Green alone or "Go":

(a) Vehicular traffic facing the signal may proceed straight through or turn right or left, unless a sign at such place prohibits either such turn, but vehicular traffic, including vehicles turning right or left, shall yield the right-of-way to other vehicles and to pedestrians lawfully within the intersection or an adjacent crosswalk at the times such signal is exhibited.

(b) Pedestrians facing the signal may proceed across the roadway within any marked or unmarked crosswalk.

(2) Yellow alone or "Caution" when shown following the green or "Go" signal:

(a) Vehicular traffic facing the signal is thereby warned that the red or "Stop" signal will be exhibited immediately thereafter and such vehicular traffic shall not enter or be crossing the intersection when the red or "Stop" signal is exhibited.

(b) Pedestrians facing such signal are thereby advised that there is insufficient time to cross the roadway, and any pedestrian then starting to cross shall yield the right-of-way to all vehicles.

(3) Red alone or "Stop":

(a) Vehicular traffic facing the signal shall stop before entering the crosswalk on the nearside of the intersection or, if none, then before entering the intersection and shall remain standing until green or "Go" is shown alone.

(b) No pedestrian facing such signal shall enter the roadway until the green or "Go" is shown alone, unless authorized to do so by a pedestrian "Walk" signal.

(4) Red with green arrow:

(a) Vehicular traffic facing such signal may cautiously enter the intersection only to make the movement indicated by such arrow but shall yield the right-of-way to pedestrians lawfully within a crosswalk and to other traffic lawfully using the intersection.

(b) In the event an official traffic-control signal is erected and maintained at a place other than an intersection, the provisions of this section shall be applicable except as to those provisions which by their nature can have no application. Any stop required shall be made at a sign or marking on the pavement indicating where the stop shall be made, but in the absence of any such sign or marking, the stop shall be made at the signal. (as added by Ord. #08-01, Feb. 2008)

15-406. Driver's duty to observe flashing signal. (1) Whenever an illuminated flashing red or yellow signal is used in a traffic sign or signal it shall require obedience by vehicular traffic as follows:

(a) Flashing red (stop signal). When a red lens is illuminated with rapid intermittent flashes, drivers of vehicles shall stop before entering the nearest crosswalk at an intersection or at a limit line when marked, or, if none, then before entering the intersection, and the right to proceed shall be subject to the rules applicable after making a stop at a stop sign.

(b) Flashing yellow (caution signal). When a yellow lens is illuminated with rapid intermittent flashes, drivers of vehicles may proceed through the intersection or past such signal only with caution.

(2) This section shall not apply at railroad grade crossings. Conduct of drivers of vehicles approaching railroad grade crossings shall be governed by the rules set forth in § 15-411 of this code. (as added by Ord. #08-01, Feb. 2008)

15-407. At pedestrian control signals. Wherever special pedestrian control signals exhibiting the words "Walk" or "Wait" or "Don't Walk" are in place, such signals shall indicate as follows:

(1) "Walk." Pedestrians facing such signals may proceed across the roadway in the direction of the signal and shall be given the right-of-way by the drivers of all vehicles.

(2) "Wait" or "Don't Walk." No pedestrian shall start to cross the roadway in the direction of such signal, but any pedestrian who has partially completed crossing on the walk signal shall proceed to a sidewalk or safety island while the wait signal is showing. (as added by Ord. #08-01, Feb. 2008)

15-408. Right-of-way at intersection. The driver of a vehicle approaching an intersection not controlled by a traffic sign or signal shall yield the right-of-way to a vehicle which has entered the intersection from a different street. When two (2) vehicles enter an uncontrolled intersection from different streets at approximately the same time, the driver of the vehicle on the left shall yield the right-of-way to the driver of the vehicle on the right. (as added by Ord. #08-01, Feb. 2008)

15-409. At yield signs. (1) Whenever a "yield" sign has been placed at or near an intersection, all drivers approaching such sign shall proceed with caution, slowing down or stopping if necessary so as not to interfere with traffic moving on the intersecting street and such drivers shall not proceed into the intersecting street until such movement can be made with safety.

(2) Where there is provided more than one (1) lane for vehicular traffic entering a through highway or other public roadway, if one (1) or more lanes at such entrance are designated a yield lane by appropriate marker, this section shall control the movement of traffic in any lane so marked with a yield sign, even though traffic in other lanes may be controlled by an electrical signal device or other signs, signals, markings or controls. (as added by Ord. #08-01, Feb. 2008)

15-410. At stop signs. (1) When official stop signs are erected at or near the entrance to any intersection, every driver of a vehicle approaching a stop sign shall stop before entering the crosswalk on the near side of the intersection or, in the event there is no crosswalk, shall stop at a clearly marked stop line, but if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway, before entering the intersection except when directed to proceed by a police officer or traffic control signal.

(2) Every driver who has stopped his vehicle at a stop sign, in compliance with this section, shall remain stopped and shall not proceed into or through the intersecting street until such movement can be made in safety. Such driver shall yield the right-of-way to all vehicles moving in lawful manner upon the intersecting street. (as added by Ord. #08-01, Feb. 2008)

15-411. At railroad crossings. Whenever any person driving a vehicle approaches a railroad grade crossing under any of the following circumstances, the driver of such vehicle shall stop within fifty (50) feet but not less than fifteen (15) feet from the nearest rail of such railroad, and shall not proceed until he can do so safely. The foregoing requirements shall apply when:

(1) A clearly visible electric or mechanical signal device gives warning of the immediate approach of a railroad train.

(2) A crossing gate is lowered or when a human flagman gives or continues to give a signal of the approach or passage of a railroad train.

(3) A railroad train approaching within approximately one thousand five hundred (1,500) feet of the street crossing emits a signal audible from such distance, or when such railroad train, by reason of its speed or nearness to such crossing is an immediate hazard.

(4) An approaching railroad train is plainly visible and is in hazardous proximity to such crossing.

(5) No person shall drive any vehicle through, around or under any crossing gate or barrier at a railroad crossing while such gate or barrier is closed or is being opened or closed. (as added by Ord. #08-01, Feb. 2008)

15-412. <u>When emerging from alleys etc</u>. The drivers of all vehicles emerging from alleys, parking lots, driveways, or buildings shall stop such vehicles immediately prior to driving onto a sidewalk or onto the sidewalk area extending across any alleyway or driveway, and shall yield the right-of-way to any pedestrian as may be necessary to avoid collision, and upon entering the roadway shall yield the right-of-way to all vehicles approaching on the roadway. (as added by Ord. #08-01, Feb. 2008)

15-413. <u>To prevent obstructing an intersection</u>. No driver shall enter any intersection or marked crosswalk unless there is sufficient space on the other side of such intersection or crosswalk to accommodate the vehicle he is operating without obstructing the passage of traffic in or on the intersecting street or crosswalk. This provision shall be effective notwithstanding any traffic control signal indication to proceed. (as added by Ord. #08-01, Feb. 2008)

CHAPTER 5

PARKING

SECTION

15-501. Generally. No person shall leave any motor vehicle unattended on any street without first setting the brakes thereon, stopping the motor, removing the ignition key, and turning the front wheels of such vehicle toward the nearest curb or gutter of the street.

Except as hereinafter provided, every vehicle parked upon a street within this city shall be so parked that its right wheels are approximately parallel to and within twelve (12) inches of the right edge or curb of the street. On one-way streets where the city has not placed signs prohibiting the same, vehicles may be permitted to park on the left side of the street, and in such cases the left wheels shall be required to be within twelve (12) inches of the left edge or curb of the street.

Furthermore, no person shall wash, grease, or work on any vehicle, except to make repairs necessitated by an emergency, while such vehicle is parked on a public street. (as added by Ord. #08-01, Feb. 2008)

15-502. Parking vehicles on residential streets. (1) It shall be unlawful for any person to park, or knowingly permit, any passenger vehicle on any residential street in the city for a period of time longer than seventy-two (72) hours consecutively.

(2) No truck, bus, or other vehicle having a declared maximum Gross Vehicle Weight Rating (GVWR) of fourteen thousand (14,000) pounds and/or more than six (6) wheels, shall be parked or left unattended in any residential zoning district, unless actively engaged in the normal delivery of goods and/or services at this location. (as added by Ord. #08-01, Feb. 2008, and amended by Ord. #09-02, June 2009)

15-503. Parking non-motor equipment/vehicle on residential streets restricted. (1) It shall be unlawful for any person to park or knowingly permit any non-motorized vehicle or equipment, such as, but not limited to, campers, trailers, boats, or other recreational type equipment, on any residential street in the city.

(2) Such non-motorized vehicles or equipment may be removed by the Bartlett Police Department in accordance with the provisions of § 15-604 relating to the impounding of vehicles obstructing the streets. (as added by Ord. #08-01, Feb. 2008)

15-504. Improper parking. (1) It shall be deemed improper parking for a motorized or non-motorized vehicle to park:

(a) Blocking a traffic lane;

(b) Within eight (8) feet of a mailbox Monday through Saturday 7:00 A.M. until 5:00 P.M. except on federal holidays;

(c) On a sidewalk or between the curb and adjacent sidewalk; provided, however; that a bicycle may be parked on a sidewalk if it does not impede the normal and reasonable movement of a pedestrian or other traffic;

(d) More than twelve (12) inches from the curb;

(e) In front of a public or private drive;

(f) Within an intersection or twenty (20) feet of the curvature of an intersection;

(g) Within a pedestrian crosswalk;

(h) Within ten (10) feet of a fire hydrant;

(i) Any place where a lawful sign prohibits parking;

(j) Double parked;

(k) Where the left side of the vehicle is to the curb, except on one-way streets where the city has not placed signs prohibiting the same;

(l) Within twenty (20) feet of the driveway entrance to any fire station, and on the side of the street opposite the entrance to any fire station within seventy-five (75) feet of such entrance when properly signposted;

(m) Alongside or opposite any street excavation or obstruction when stopping, standing or parking would obstruct traffic;

(n) Upon any bridge or other elevated structure upon a highway;

(o) In a parking space clearly identified by an official sign as being reserved for the physically handicapped, unless, however, the person driving the vehicle is:

(i) Physically handicapped; or

(ii) Parking such vehicle for the benefit of a physically handicapped person.

A person parking in such a space shall display a certificate of identification or a disabled veteran's license place issued under Tennessee Code Annotated, title 55, chapter 21.

(2) Improperly parked vehicles creating a safety hazard may be towed in accordance with § 15-604.

(3) Temporary exemptions and exclusions to this law may be made with the approval of the chief of police for special events or unusual circumstances.

(4) The fine for improper parking shall be twenty dollars ($20.00) payable by mail or in person to the Bartlett City Court Clerk by using a provided envelope/ticket left on the vehicle. The registered owner of the vehicle will be deemed responsible for the violation. The matter can be placed on the court docket at the registered owner's request. The ticket must be paid within thirty (30) days of issuance or a late fee of fifteen dollars ($15.00) will be assessed. (as added by Ord. #08-01, Feb. 2008)

15-505. Occupancy of more than one space. No person shall park a vehicle in any designated parking space so that any part of such vehicle occupies more than one space or protrudes beyond the official markings on the street or curb designating such space unless the vehicle is too large to be parked within a single designated space. (as added by Ord. #08-01, Feb. 2008)

15-506. Loading and unloading zones. No person shall park a vehicle for any purpose or period of time other than for the expeditious loading or unloading of passengers or merchandise in any place marked by the city as a loading and unloading zone. (as added by Ord. #08-01, Feb. 2008)

15-507. Presumption with respect to illegal parking. When any unoccupied vehicle is found parked in violation of any provision of this chapter, there shall be a prima facie presumption that the registered owner of the vehicle is responsible for such illegal parking. (as added by Ord. #08-01, Feb. 2008)

CHAPTER 6

ENFORCEMENT[1]

SECTION

15-601. Issuance of traffic citations. When a police officer halts a traffic violator other than for the purpose of giving a warning, and does not take such person into custody under arrest, he shall take the name, address, and operator's license number of said person, the license number of the motor vehicle involved, and such other pertinent information as may be necessary, and shall issue to him a written traffic citation containing a notice to answer to the charge against him in the city court at a specified time. The officer, upon receiving the written promise of the alleged violator to answer as specified in the citation, shall release such person from custody. It shall be a civil offense for any alleged violator to give false or misleading information as to his or her name or address. (as added by Ord. #08-01, Feb. 2008)

15-602. Failure to obey citation. It shall be unlawful for any person to violate his or her written promise to appear in court after giving said promise to an officer upon the issuance of a traffic citation, regardless of the disposition of the charge for which the citation was originally issued. (as added by Ord. #08-01, Feb. 2008)

15-603. Illegal parking. Whenever any motor vehicle without a driver is found parked or stopped in violation of any of the restrictions imposed by this code, the officer finding such vehicle shall take its license number and may take any other information displayed on the vehicle which may identify its user, and shall conspicuously affix to such vehicle a citation for the driver and/or owner to answer for the violation within thirty (30) days during the hours and at a place specified in the citation. (as added by Ord. #08-01, Feb. 2008)

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[1]Municipal code reference
Police and arrest: title 6, chapter 1.

15-604. Impoundment of vehicles. Members of the police department are hereby authorized, when reasonably necessary for the security of the vehicle or to prevent obstruction of traffic, to remove from the streets and impound any vehicle whose operator is arrested or any unattended vehicle which is parked so as to constitute an obstruction or hazard to normal traffic, or which has been parked for more than one (1) hour in excess of the time allowed for parking in any place, or which has been involved in two (2) or more violations of this title for which citation tags have been affixed to the vehicle and the vehicle not removed. Any impounded vehicle shall be stored until the owner or other person entitled thereto claims it, gives satisfactory evidence of ownership or right to possession, and pays all applicable fees and costs of impoundment and storage, or until it is otherwise lawfully disposed of. (as added by Ord. #08-01, Feb. 2008)

15-605. Deposit of driver's license in lieu of bail. (1) Deposit allowed. Whenever any person lawfully possessed of a chauffeur's or operator's license theretofore issued to him by the Tennessee Department of Safety, or under the driver licensing laws of any other state or territory or the District of Columbia, is issued a citation or arrested and charged with a violation of any city ordinance or state statute regulating traffic, except those ordinances and statutes, the violation of which call for the mandatory revocation of an operator's or chauffeur's license for any period of time, such person shall have the option of depositing his or her chauffeur's or operator's license with the officer or court demanding bail in lieu of any other security required for his or her appearance in the city court of this city in answer to such charge before said court.

(2) Receipt to be issued. Whenever any person deposits his or her chauffeur's or operator's license as provided, either the officer or the court demanding bail as described above, shall issue the person a receipt for the license upon a form approved or provided by the department of safety, and thereafter the person shall be permitted to operate a motor vehicle upon the public highways of this state during the pendency of the case in which the license was deposited. The receipt shall be valid as a temporary driving permit for a period not less than the time necessary for an appropriate adjudication of the matter in the city court, and shall state such period of validity on its face.

(3) Failure to appear--disposition of license. In the event that any driver who has deposited his or her chauffeur's or operator's license in lieu of bail fails to appear in answer to the charges filed against him or her, the clerk or judge of the city court accepting the license shall forward the same to the Tennessee Department of Safety for disposition by said department in accordance with the provisions of Tennessee Code Annotated, § 55-50-801, et seq. (as added by Ord. #08-01, Feb. 2008)

15-606. Violation and penalty. Any violation of this chapter shall be a civil offense punishable by a civil penalty up to fifty dollars ($50.00) and cost for each separate offense, and a separate offense shall be deemed committed for each day of violation. (as added by Ord. #08-01, Feb. 2008)

TITLE 16

STREETS AND SIDEWALKS, ETC[1]

CHAPTER

CHAPTER 1

MISCELLANEOUS

SECTION

16-101. Curb, gutter and/or sidewalk standards for future development. (1) Planning commission authority to waive curbs, gutters and/or sidewalks. The planning commission is hereby authorized to grant approval of subdivisions without requiring curbs, gutters, and/or sidewalks in those specific instances where the size of the development and the implicit dangers imposed and the design implications of drainage, street planning and community development by substantial persuasion dictate that it would be in the best interest of the city to do so; provided that the cost of curbs, gutters and/or sidewalks released, as calculated and certified by the city engineer, is deposited in cash with the city to defray increased maintenance and in consideration for the assessment-free standard hereinafter provided.

(2) Deposits in lieu of improvements to general fund. The deposits in lieu of improvements shall be paid into the general fund and utilized in the ordinary course for street maintenance and to partially defray over a period of years the increased street maintenance costs incurred.

(3) Future assessments released. Should in the future the city determine that the curbs, gutters and sidewalks so released would then be necessary, those lot owners or their predecessors in title who had paid the deposit in lieu of improvements would be subject to no assessments for said curbs, gutters and sidewalks. (Ord. #81-8, May 1981)

16-102. Road cut and boring permit fee. (1) Fees of ten dollars ($10.00) per twenty-five (25) feet of trench, and ten dollars ($10.00) per thirty-

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[1]Municipal code reference
Related motor vehicle and traffic regulations: title 15.

seven and one-half (37 ½) feet of bore are hereby established to defray the cost of review and inspection on the issuance of road cut and boring permits in City of Bartlett roads and right-of-ways.

(2) The fees are established by the City of Bartlett Board of Mayor and Aldermen and may be changed by said board by ordinance.

(3) Any organization, company or individual which requests a permit to cut or bore a City of Bartlett road or right-of-way, must give the City of Bartlett City Engineer notice in writing three (3) weeks before the work is to begin and at the same time supply to the City of Bartlett City Engineer, three (3) copies of the blueprints of the cutting or boring of city roads or rights-of-way proposed. (Ord. #85-16, Aug. 1985, modified)

CHAPTER 2

BUILDING AND MAINTAINING SIDEWALKS

SECTION

16-201. Purposes of streets and sidewalks. The City of Bartlett built and maintains its streets and sidewalks for the purpose of affording pedestrians comfortable, safe and convenient means of going from place to place in the said City of Bartlett, for the purpose of carrying out the normal, customary and usual pursuit of everyday life. Said city built and maintains the vehicular portions of its streets for the additional purpose of affording the public in general comfortable, safe and convenient means for transporting persons and property from place to place in said city, principally by vehicles, for the purpose of carrying out the normal, customary and usual pursuits of everyday life. Use of said sidewalks and streets by any person or persons for purposes other than those above set out interfere with the right of the public in general to use said sidewalks, and streets for the purposes for which they were built and are maintained, and is therefore contrary to public convenience, is conductive to public disorder, is dangerous to public safety, and is calculated to cause breaches to the peace. (Ord. #65-9, Oct. 1965)

16-202. Certain uses of streets and sidewalks are unlawful. It shall be unlawful for any person or persons without the written permission of the Chief of Police of the City of Bartlett, Tennessee, to conduct or participate in any parade of marching on the sidewalks or streets of the City of Bartlett, Tennessee or to walk, ride or stand in organized groups on said sidewalks or

streets while carrying banners, placards, signs or the like, or to sit, kneel, or recline on the sidewalks or streets of said city, or to engage in public speaking, group shouting, group singing or any other similar distractions in groups on any sidewalk or street in such numbers or manner as to block or interfere with the customary and normal use thereof by the public, unless the persons so assembled in such groups are engaged in watching a march or parade authorized by the provisions hereof; provided, however, that no written permission of the Chief of Police of said City of Bartlett shall be required for a bona fide funeral procession enroute to a cemetery or for any parade or march by any unit of the Tennessee National Guard or the United States Army, Navy, Air Corps, or Marine Corps, or by personnel of the police or fire department of said City of Bartlett, Tennessee. (Ord. #65-9, Oct. 1965, modified)

16-203. Unlawful to throw or place certain articles and debris on sidewalks or streets. It shall be unlawful for any person or persons to throw or place nails, tacks, bottles, rocks, bricks, paper, trash or other debris of any kind on any sidewalk or street of the City of Bartlett, Tennessee. (Ord. #65-9, Oct. 1965)

16-204. Police authorized to enforce. Any member of the police force or any other duly authorized law enforcement official is authorized to arrest, with or without a warrant, any person or persons violating any of the provisions of this chapter. (Ord. #65-9, Oct. 1965)

16-205. [Deleted.] (Ord. #58-2, June 1958, as amended by Ord. #89-21, Nov. 1989, modified, and deleted by Ord. #07-01, Feb. 2007)

16-206. [Deleted.] (Ord. #89-21, Nov. 1989, as deleted by Ord. #07-01, Feb. 2007)

16-207. [Deleted.] (Ord. #89-21, Nov. 1989, modified, as deleted by Ord. #07-01, Feb. 2007)

16-208. [Deleted.] (Ord. #89-21, Nov. 1989, modified, as deleted by Ord. #07-01, Feb. 2007)

16-209. [Deleted.] (Ord. #58-2, June 1958, as deleted by Ord. #07-01, Feb. 2007)

16-210. [Deleted.] (Ord. #58-2, June 1958, as amended by Ord. #89-21, Nov. 1989, and deleted by Ord. #07-01, Feb. 2007)

16-211. [Deleted.] (Ord. #58-2, June 1958, as deleted by Ord. #07-01, Feb. 2007)

16-212. [Deleted.] (Ord. #58-2, June 1958, as deleted by Ord. #07-01, Feb. 2007)

16-213. [Deleted.] (Ord. #58-2, June 1958, as deleted by Ord. #07-01, Feb. 2007)

16-214. [Deleted.] (Ord. #90-16, Nov. 1990, as deleted by Ord. #07-01, Feb. 2007)

16-215. [Deleted.] (Ord. #58-2, June 1958, as deleted by Ord. #07-01, Feb. 2007)

16-216. Penalty. Any person violating any of the provisions of this chapter shall, upon conviction, be punished by a fine of not less than two dollars ($2.00) and not more than fifty dollars ($50.00). (Ord. #65-9, Oct. 1965)

CHAPTER 3

DELETED

(Ord. #97-06, Aug. 1997, and Ord. #04-12, Aug. 2004, and deleted by Ord. #07-01, Feb. 2007)

TITLE 17

REFUSE AND TRASH DISPOSAL[1]

CHAPTER

CHAPTER 1

REFUSE

SECTION

17-101. Yard waste removal. All residences within the City of Bartlett will receive yard waste collection service. Citizens have the option to purchase a yard waste cart from the public works department for yard/natural debris. Bagged debris and yard waste carts will be collected during weekly garbage collection.

Larger yard waste, such as tree limbs, shrubs or bushes, will be collected weekly when placed in piles of twelve (12) cubic yards or less. Piles should be placed curbside away from structures such as mailboxes, fire hydrants, and utility poles. Additionally, no loose yard debris should be placed near drainage ditches, gutters, storm drains, or on the street pavement or sidewalk.

During autumn and winter seasons, leaves may be placed loose (unbagged) in a dome-shaped pile no more than five feet (5') from the street surface and not on the sidewalk. Debris should never be placed on the road way. Loose leaf collection times will not likely coincide with weekly garbage collection. (Ord. #79-28, Nov. 1979, as replaced by Ord. #17-07, Jan. 2018)

17-102. Excess yard waste. If more than twelve (12) cubic yards of yard waste is set out for a single pickup, the public works department will notify the resident that the amount is in excess of city ordinance. Upon notice of excess, the resident will have five (5) business days to remove the excess yard waste. Such notice may be served personally on the owner of the property, may be

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[1]Municipal code references
Property maintenance code: title 13, chapter 1.

mailed to the last known address on such owner by registered or certified mail or may be posted on the property on which such refuse exists. Service of notice by any of the above methods shall be due notice to such owner.

Citizens have three (3) options to remove excess yard waste within the five (5) business-day time frame:

(1) Hire a professional contractor to remove the excess yard debris.

(2) Personally transport the yard debris to the city's solid waste facility at a time pre-arranged with solid waste division.

(3) Contact the city's solid waste division for a cost estimate to pick up the excess yard waste. Cost will be based on the current average commercial rate, and/or set by resolution. It is subject to change in the city's annual budget ordinance. (Ord. #79-28, Nov. 1979, as replaced by Ord. #17-07, Jan. 2018.)

17-103. Trash receptacles or garbage can areas to be enclosed or screened. (1) This receptacle can either be designed and hidden into the scheme of structure of the building itself, or be constructed as a durable enclosure in accordance with design standards adopted by the city and available in the city planning department.

(2) On all commercial building sites where the building was constructed prior to 1979, with no enclosed area for trash receptacles, the dumpsters or other trash receptacles shall be located behind the building setback line and hidden from street view when it is possible to do so. In the event the owner or tenant feels that this is not possible, the design and review commission shall review the site for possible alternatives.

(3) On all commercial building sites where construction has taken place since 1979, and trash receptacle areas were approved at the time site plan approval was obtained and approved by the design review commission, the trash receptacle area shall be maintained according to the original site plan approval. In the event that a trash receptacle area was not addressed for any reason on the original site plan approval, then in that event, these building locations shall be required to comply with this section as if it were a new structure.

(4) All temporary dumpsters located at building construction sites and all dumpsters placed for the special purpose of collecting recyclable material are exempt from all provisions of this section. (Ord. #95-14, Sept. 1995)

17-104. Curbside garbage carts regulated. (1) The ninety (90) gallon wheeled garbage carts are to be placed at the curb by 7:00 A.M. on the homeowners scheduled collection day and the carts shall not be placed at the curb sooner than 7:00 P.M. the day before collection day. The cart is not to be placed in the road. If there is no curb at the residence then the cart is placed at the end of the driveway or along the roadside.

(2) The garbage carts are to be returned to a location behind the front of the residence by 7:00 A.M. of the morning following the scheduled day of pickup.

(3) Penalty for failure to comply shall be up to a fifty dollar ($50.00) fine with each day being a separate offense. (Ord. #96-14, Nov. 1996)

17-105. Exceptions. When a federal or state emergency is declared, this ordinance shall be suspended until such time as the declaration expires or the mayor determines that sufficient order has been restored.

The mayor may provide for the collection and removal of garbage and rubbish from any place or premise at times in addition to those when regular collection service is provided. The mayor shall have the authority to provide for the collection and removal of garbage above and beyond the extent of any contract in time of an emergency. (Ord. #79-28, Nov. 1979, as replaced by Ord. #17-07, Jan. 2018)

17-106. Violation/penalty. If excess yard waste is not redressed in the time frame and manner as set within this chapter, the resident may receive a citation to Shelby County Division 14 General Sessions Court for enforcement of city ordinances involving environmental violations. (as added by Ord. #17-07, Jan. 2018)

TITLE 18

WATER AND SEWERS[1]

CHAPTER

CHAPTER 1

WATER

SECTION

18-101. Fluoridation authorized. (1) The Water Department of the City of Bartlett, Tennessee, is hereby authorized and instructed to make plans for the fluoridation of the water supply of the City of Bartlett, Tennessee; to submit such plans to the Department of Environment and Conservation of the State of Tennessee for approval, and upon approval to add such chemicals as fluoride to the water supply in accord with such approval as will adequately provide for the fluoridation of said water supply.

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[1]Municipal code references
Building, utility and housing codes: title 12.
Refuse disposal: title 17.
Stormwater management: title 14, chapter 2.

(2) The cost of such fluoridation will be borne by the revenue of the Water Department of the City of Bartlett, Tennessee. (Ord. #61-1, March 1961)

18-102. Water meter required. No water shall be furnished to any user unless there shall have been installed a water meter satisfactory to the superintendent of the water system. (Ord. #1974-4, March 1974)

18-103. Water meter reading. Each water meter shall be read monthly and bills shall be rendered as promptly as may be practical following the respective readings. In the event any such bill or bills are not paid by the due date, a penalty of ten percent (10%) shall be added thereto. Service may be discontinued after sixty (60) days of non-payment of amount due. Exceptions may be made based on extenuating circumstances. (Ord. #1974-4, March 1974, modified, as amended by Ord. #11-07, Oct. 2011)

18-104. Estimated water usage permitted. If the employees of the Bartlett Water Department are unable to obtain access to the water meter to read same during regular business hours, or if a meter should for any reason fail to register or fail to correctly register the consumption, the Bartlett Water Department reserves the right to render a bill to the customer on the best information available. (Ord. #92-2, Feb. 1992)

18-105. Service connection fee established. A non-refundable service connection fee will be charged for each new water service customer, or change in existing customer, according to the following schedule:

City	
Residential	$ 35.00
Commercial	$100.00
Rural	
Residential	$ 50.00
Commercial	$150.00 (Ord. #02-09, Aug. 2002)

18-106. [Deleted.] (Ord. #94-9, July 1994, as amended by Ord. #05-03, June 2005, and deleted by Ord. # 14-07, Sept. 2014)

18-107. Temporary fire hydrant permit and connection. Any operation of a fire hydrant within the City of Bartlett's water system without an approved fire hydrant meter permit is prohibited. Permits can be obtained from the public works department and will be approved administratively.

A refundable user fee of one thousand dollars ($1,000.00) is required prior to the issuance of any fire hydrant meter permit. Permit holders will also be required to pay a twenty-five dollar ($25.00) monthly rental fee, plus the cost of

all water used at the current commercial rate for city users. (Ord. #02-09, Aug. 2002, as replaced by Ord. #09-05, Aug. 2009)

18-108. Discontinuance of water service. A disconnect/reconnect fee of thirty dollars ($30.00) will be assessed any water service customer who has had their service disconnected by the Bartlett Water Department for non-payment of water or sewer service charges or for tampering with a water meter or other department equipment.

Payment of all service charges due, including the reconnection fee, shall be made in full, in cash or by authorized credit or debit card or any other verifiable form of payment, for service to be restored. (Ord. #02-09, Aug. 2002, as amended by Ord. #11-10, Nov. 2011)

18-109. Meter installation--existing tap. The water meter installation fee for an existing tap to be collected at the time of a building permit is issued shall be as follows:

¾" Meter	$ 350.00
1" Meter	$ 500.00
1 ½ Meter	$ 800.00
2" Meter	$1,200.00 (Ord. #02-09, Aug. 2002)

18-110. Damaged meter box, meter, register, transponder or meter lock fee. (1) If a meter box is damaged by the customer, or his contractor or representative and has to be replaced, the fee will be:

¾" Box	$100.00
1" Box	$150.00
1½ Box	$150.00
2" Box	$150.00

(2) If a meter is damaged by the customer, or his contractor or representative and has to be replaced, the fee will be:

¾" Meter	$125.00
1" Meter	$175.00
1½ Meter	$300.00
2" Meter	$400.00

(3) If a register is damaged by the customer, or his contractor or representative and has to be replaced, the fee will be:

¾" Register	$100.00
1" Register	$125.00
1½ Register	$150.00
2" Register	$200.00

(4) If a transponder is damaged by the customer, or his contractor or representative and has to be replaced, the fee will be:

¾" Transponder	$250.00
1" Transponder	$275.00

1½ Transponder $275.00
2" Transponder $275.00

(5) If a meter lock mechanism is damaged and cannot be used again, the customer will be charged a fee of one hundred dollars ($100.00). (Ord. #02-09, Aug. 2002)

18-111. [Deleted.] (Ord. #96-07, July 1996, as deleted by Ord. #14-07, Sept. 2014)

18-112. Unpaid bill; prior address. Any customer's unpaid bill accrued at a prior address shall be added to the customer's bill for his current address, and be subject to any additional fees or penalties imposed by this section. (Ord. #1974-4, March 1974)

18-113. [Deleted.] (Ord. #1974-4, March 1974, as deleted by Ord. #11-09, Oct. 2011)

18-114. Excess bill procedure. In the event a customer is rendered a bill in excess of his average bill and said excess is due to a leak at the meter, damaged meter, or in any way the responsibility of the Bartlett Water Department, the bill is to be adjusted so as to make the amount due equal to the average amount as ascertained by the previous six (6) months' billings, or, if this information is not available, by the best information available.

In the event of a water leak on the customer's side of the meter the procedure of the Bartlett Water Department is to check the customer's average bill for the same month in previous years and divide the excess usage in half. The customer shall pay the amount equal to an average bill, plus one-half (½) of the excess. The customer shall be allowed one (1) leak adjustment in a twelve (12) month period. (Ord. #02-09, Aug. 2002)

CHAPTER 2

SEWERS

SECTION

18-201. Sewer connection required. All owners, tenants or occupants of each lot or parcel of land abutting a street or public way containing sanitary sewers, and upon which a building exists for residential, commercial or industrial purposes or which may be hereafter built for such purposes, shall, within sixty (60) days after the sewer system is complete and in operation, connect to said sewer system, at their own expense, and pay the sewer service charge hereinafter fixed. (Ord. #57-3, May 1957)

18-202. [Deleted.] (Ord. #96-07, July 1996, as deleted by Ord. #14-07, Sept. 2014)

18-203. [Deleted.] (Ord. #05-01, March 2005, as deleted by Ord. #14-07, Sept. 2014)

18-204. [Deleted.] (Ord. #79-32, Jan. 1980, as deleted by Ord. #12-12, Oct. 2012)

18-205. [Deleted.] (Ord. #87-2, March 1987, as deleted by Ord. #12-11, Oct. 2012)

18-206. Approved septic system. All owners, tenants or occupants of existing residences, commercial or industrial establishments now using approved septic tank disposal systems and whose systems pass the periodic inspections of state and county health authorities, shall be given an additional period of sixty (60) months from the effective date of the ordinance comprising this section within which to connect to the town's sewage system though they shall not be relieved of the sewer service charge hereinabove fixed. (Ord. #57-3, May 1957)

18-207. Unapproved septic systems prohibited. In the event any septic tank disposal system fails to pass the periodic inspections of the state and

county health authorities, or should otherwise fail to function properly, said owner, tenant or occupant shall immediately connect to said sewer system as provided in § 18-201 hereof. (Ord. #57-3, May 1957)

CHAPTER 3

COMMERCIAL AND INDUSTRIAL DISCHARGES TO SEWER SYSTEM

SECTION

18-301. Definitions. Unless the context specifically indicates otherwise, the meaning of terms used in this chapter shall be as follows:

(1) "Additional treatment cost" shall mean that portion of the service charge which is levied on those users whose wastes are greater in strength than the concentration values established as representative of normal sewage or wastewater.

(2) "Alkalinity" shall mean the mass of a one hundred (100) percent sulfuric acid required to reduce the pH of a given volume of wastewater to a pH of 7.0. The value is expressed as pounds of sulfuric acid per day.

(3) "Approving authority" shall mean the director of engineering of the City of Bartlett or his duly authorized agent or representative or the Director of Public Works of the City of Memphis or his duly authorized representatives, if applicable.

(4) "Authorized representative of industrial user." An authorized representative of an industrial user shall be:

(a) A responsible corporate officer if the industrial user is a corporation. A responsible corporate officer means

(i) A president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or

(ii) The manager of one or more manufacturing, production, or operation facilities employing more than two hundred fifty (250) persons or having gross annual sales or expenditures exceeding twenty-five million dollars ($25,000,000.00) (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

(b) A general partner or proprietor if the industrial user is a partnership or sole proprietorship respectively.

(c) A duly authorized representative of the individual designated in subsection (a) or (b) if:

(i) The authorization is made in writing by the individual described in subsection (a) or (b);

(ii) The authorization specifies either an individual or a position having responsibility for the overall operation of the facility from which the industrial discharge originates, such as the position of plant manager, operator of the well, or well field

superintendent, or a position of equivalent responsibility, or having overall responsibility for environmental matters for the company; and

(iii) The written authorization is submitted to the control authority.

(d) If an authorization under subsection (c) is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, or overall responsibility for environmental matters for the company, a new authorization satisfying the requirements of subsection (c) must be submitted to the control authority prior to or together with any reports to be signed by an authorized representative.

(5) "Beneficial use" shall mean uses of the waters of the state that may be protected against quality degradation. Uses include domestic, municipal, agricultural and industrial supply, power generation, recreation, aesthetic enjoyment, navigation and the preservation, and enhancement of fish, wildlife, and other aquatic resources or reserves, and other uses, both tangible or intangible, as specified by federal or sate law.

(6) "BOD (denoting biochemical oxygen demand)" shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at twenty (20) degrees centigrade, expressed in milligrams per liter.

(7) "Buildings sewer" shall mean the extension from the building to the public sewer or other place of disposal, also called "house connection."

(8) "Categorical standards" shall mean national pretreatment standards.

(9) "Chlorine requirement" shall mean the amount of chlorine, in milligrams per liter, which must be added to sewage to produce a residual chlorine content or to meet the requirements of some other objective in accordance with procedures set forth in standard methods.

(10) "COD (denoting chemical oxygen demand)" shall mean the measure of oxygen-consuming capacity of inorganic and organic matter present in wastewater. It is expressed as the amount of oxygen consumed from a chemical oxidant in a specific test. It is expressed in milligrams per liter.

(11) "Combined sewer" shall mean a sewer receiving both surface runoff and sewage.

(12) "Contributing industry" shall mean those industries discharging into the municipally owned sewer system.

(13) "Director" shall mean the Director of Engineering of the City of Bartlett or the Director of Public Works of the City of Memphis, if applicable.

(14) "Discharge agreement" is the control mechanism issued by the City of Bartlett to selected industrial/commercial users that establish specific parameter limits and other requirements for proper control and monitoring of the wastewater discharges. Failure to comply with the requirements set forth

in these documents will result in enforcement actions which may include administrative fines and withdrawal of the privilege to use the City of Bartlett Wastewater System.

(15) "EPA" shall be defined as the Environmental Protection Agency of the Federal Government.

(16) "Garbage" shall mean solid wastes from the domestic and commercial preparation, cooking and dispensing of food, and from the handling, storage and sale of produce.

(17) "Holding-tank waste" shall mean any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks and vacuum-pump tank trucks.

(18) "Hydrogen ion concentration." See "pH."

(19) "Industrial wastes" shall mean the wastewater from industrial processes, trade or business, as distinct from domestic sanitary sewage.

(20) "Interference" shall mean inhibition or disruption of the sewer system, treatment processes or operations or which contributes to a violation of any requirement of the city's NPDES permit. The term includes prevention of sewage sludge use or disposal by the POTW in accordance with criteria, guidelines or regulations developed pursuant to the Solid Waste Disposal Act (SWDA), the Clean Air Act, the Toxic Substances Control Act, or more stringent state criteria (including those contained in any state sludge management plan prepared pursuant to Title IV of SWDA) applicable to the method of disposal or use employed by the POTW.

(21) "Local hearing authority" means the Mayor of the City of Bartlett which is responsible for the administration and enforcement of that program and provisions of this chapter, created pursuant to Tennessee Code Annotated, § 69-3-103.

(22) "Mass emission rate" shall mean the weight of material discharged to the community sewer system during a given time interval. Unless otherwise specified, the mass emission rate shall mean pounds per day of a particular constituent or combination of constituents.

(23) "mg/l" shall be defined as a concentration unit of milligrams per liter of solution.

(24) "National pretreatment standards" (or pretreatment standard) means any regulation containing pollutant discharge limits promulgated by the Environmental Protection Agency in accordance with the act which applies to industrial users.

(25) "Natural outlet" shall mean any outlet, including storm sewers and combined sewer overflows into a watercourse, pond, ditch, lake or other body of surface or ground water.

(26) "pH" shall mean the logarithm of the reciprocal of the hydrogen ion concentration. The concentration is the weight of hydrogen ions in grams per liter of solution. Natural water, for example, has a pH value of seven (7) and a hydrogen ion concentration of ten (10) to the negative seventh power.

(27) "Polluted waters" are those waters which, when discharged to a watercourse, cause the deterioration of water quality so as to make such water unsuitable for uses as defined by the regulatory agency.

(28) "Pretreatment agency" shall mean the City of Bartlett.

(29) "Pretreatment program" shall mean, pursuant to Tennessee Code Annotated, § 69-3-103, the rules, regulations and ordinances of the City of Bartlett regulating the discharge and treatment of industrial waste which complies with said state statute 33 U.S.C. 1251 et seq., and 40 C.F.R. 403.1 et seq.

(30) "Priority pollutants" shall mean any chemical substance specified by the EPA or State of Tennessee as being toxic and which is regulated in quantity or in concentration.

(31) "Properly shredded garbage" shall mean the wastes from the preparation, cooking and dispensing of food that has been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half (½) inch in any dimension.

(32) "Publicly owned treatment works" or "POTW." A treatment works which is owned by the city. This definition includes any sewers that convey wastewater to such a treatment works, but does not include pipes, sewers or other conveyances not connected to a facility providing treatment. The term also means the city, which has jurisdiction over the indirect discharges to and the discharges from such a treatment works.

(33) "Regulatory" agent shall mean the City of Bartlett, the Tennessee Water Quality Control Board, or the Memphis/Shelby County Health Department, or the Division of Water Pollution Control of the Tennessee Department of Public Health and Environment, whichever has jurisdiction.

(34) "Sanitary sewer" shall mean a sewer which carries sewage or wastewater to which storm, surface and ground waters are not intentionally admitted.

(35) "Service charge" shall mean the assessment levied on all users of public sewer system.

(36) "Sewage" or "wastewater" shall mean a combination of the water-carried wastes from residences, business buildings, institutions, and industrial establishments, together with any groundwater, surface water, and storm water that may be present.

(37) "Sewage or wastewater treatment plant" shall mean an arrangement of devices and structures for treating wastewater, industrial wastes and sludge; sometimes used as synonymous with "waste-treatment plant" or "water pollution control plant."

(38) "Significant industrial user" or "SIU." Any industrial/commercial user of the City of Bartlett Wastewater System or wastewater systems connected to the City of Bartlett Wastewater System that is subject to Categorical Pretreatment Standards under 40 CFR 403.6 and 40 CFR chapter I,

subchapter N, and/or has a discharge flow of twenty-five thousand (25,000) gallons or more per average work day and/or; has a discharge which is greater than five (5) percent of the hydraulic flow and/or organic design capacity of the portion of the City of Bartlett Wastewater System being utilized and/or; has a discharge which contains toxic pollutants or priority pollutants as defined pursuant to section 307 of the Act of Tennessee Statutes and Rules and Regulation and/or; is found by the City of Bartlett, the State of Tennessee or the EPA to have significant impact, either singly or in combination with other contributing industries on the wastewater system, the quality of sludge produced the wastewater system's effluent quality, groundwater in the area, or air emission generated by the wastewater system.

(39) "Sludge or wastewater system" shall mean all facilities for collecting, pumping, treating and disposing of sewage.

(40) "Slug discharge" is any discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch discharge or of any discharge of water or wastewater which, in concentration of any given constituent or in quantity of flow, is "found" to be detrimental to the operation of the wastewater treatment plant or collection system.

(41) "Standard methods." The analytical procedures set forth in the latest edition of "Standard Methods for the Examination of Water and Wastewater" published by the American Public Health Association; and/or "EPA Methods for Chemical Analysis of Water and Wastes" as per 40 CFR part 136 and amendments thereto; and/or City of Bartlett laboratory procedures for certain tests that detail specific requirements that are not addressed elsewhere or are presented as optional.

(42) "Storm drain" (sometimes termed storm sewer) shall mean a sewer which carries storm and surface waters and drainage, but excludes sewage and industrial wastes other than unpolluted cooling water.

(43) "Suspended solids" shall mean total suspended matter that either floats on the surface of, or is in suspension in, water, wastewater, or other liquids, and this is removable by laboratory filtering as prescribed by Standard Methods.

(44) "The Act" shall mean the Federal Water Pollution Control Act, Public Law 92-500, and any amendments thereto; as well as any guidelines, limitations and standards promulgated by the Environmental Protection Agency pursuant to the Act.

(45) "TOC (denoting total organic carbon)" shall mean the measure of the concentration of covalently bonded carbon which is combustible to carbon dioxide. It is not to be confused with elemental carbon, dissolved carbon dioxide, inorganic carbonates or bicarbonates.

(46) "Unpolluted water" is water of quality equal to or better than the effluent criteria in effect or water that would not cause violation of receiving-water quality standards and would not be benefitted by discharge to the sanitary sewers and wastewater treatment facilities provided.

(47) "User" shall mean any person that discharges, causes or permits the discharge of wastewater into a community sewer.

(48) "Watercourse" shall mean a channel or conduit in which a flow of water occurs, either continuously or intermittently.

Nothing contained in this chapter shall be construed to interfere with any additional requirements that may be imposed by the regulatory agency. When industrial wastes, prior to discharge to a watercourse, are treated in a manner that is approved by the regulatory agency, no connection to the public sewer shall be required. Terms for which definitions are not specifically herein provided shall be interpreted as defined in the current edition of Glossary: Water and Wastewater Control Engineering, as published by the Water Pollution Control Federation, Washington, D.C. (Ord. #03-13, July 2003)

18-302. Discharge agreements required of certain dischargers. Written agreements shall be required of commercial and industrial dischargers who are subject to additional treatment costs, or have potential for discharge of acidic wastewater, or have a process or processes subject to U.S.E.P.A. categorical standards, or discharge wastewater containing priority pollutants, or discharge substances which may be detrimental to the treatment system, or have flow rates of twenty-five thousand (25,000) gallons per day or more. Such commercial and industrial dischargers as designated by the approving authority as requiring discharge agreements shall enter into such agreements to have the use of the municipal wastewater treatment facilities and shall not discharge to the system without such agreements. (Ord. #03-13, July 2003)

18-303. Application for discharge agreement. (1) All contributing industries shall apply for and obtain a discharge agreement before connecting or discharging to the municipal system.

(2) The application for a discharge agreement shall contain, but not be limited to, the following information: Standard industrial classification; name and address; volume of wastewater to be discharged; wastewater constituents and characteristics; time and duration of discharge; average wastewater flow rates, including daily, monthly and seasonal variations; site plans and floor plans showing all drains and sewers; and description of activities, facilities and plant processes.

(3) Users seeking a wastewater discharge agreement shall complete and file with the approving authority an application in the form prescribed by the approving authority. (Ord. #03-13, July 2003)

18-304. Contents, matters subject to agreement. Wastewater discharge agreements shall be expressly subject to all provisions of this chapter and all other ordinances, regulations, charges and fees administered by the approving authority. The conditions of wastewater discharge agreements shall be uniformly enforced in accordance with such chapter, applicable state

regulations and promulgated pretreatment standards. Agreements may contain, and are not limited to, the following conditions:

(1) The unit charge or schedule of charges and fees for the wastewater to be discharged to a community sewer.

(2) The average and maximum permissible wastewater constituents and characteristics.

(3) Limits on rate and time of discharge or requirement for flow regulation and/or equalization.

(4) Requirements for installation of inspection and sampling facilities.

(5) Pretreatment requirements. Effluent limits based on applicable general pretreatment standards in part 403 of the Federal Regulations, categorical pretreatment standards, local limits, and state and local laws.

(6) Self-monitoring, sampling, reporting, notification and recordkeeping requirements including an identification of the pollutants to be monitored, sample location, sampling frequency, and sample type, number, types and standards for tests, based on the applicable general pretreatment standards in part 403 of the Federal Regulations, categorical pretreatment standards, local limits, and state and local law.

(7) Requirements for submission of technical reports or discharge reports and for maintaining plant records relating to wastewater discharge, as specified by the approving authority, and for affording the approving authority access thereto.

(8) Mean and maximum emission rates, or other appropriate limits, when incompatible pollutants are proposed or present in the user's wastewater discharge.

(9) Penalties and damages for violation of the agreement and provisions of this chapter on prohibited discharges, including any per diem charges and damages. Statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule. Such schedules may not extend the compliance date beyond applicable federal deadlines.

(10) Statement of duration (in no case more than five (5) years).

(11) Statement of non-transferability.

(12) Compliance schedules as deemed necessary by the city for meeting local ordinance requirements and/or federal categorical pretreatment standards. The following conditions shall for compliance schedules apply for meeting categorical pretreatment standards and/or local ordinance requirements:

(a) The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment facilities required for the industrial user to meet the applicable categorical pretreatment standards.

(b) No increment of progress shall exceed nine (9) months; and

(c) Not later than fourteen (14) days following each date in the schedule and the final date for compliance, the industrial user shall submit a progress report to the control authority including, at a minimum, whether or not it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay, and the steps being taken by the industrial user to return the construction to the schedule established. In no event shall more than nine (9) months elapse between such progress reports to the control authority.

(13) If sampling performed by an individual use indicates a violation, the user shall notify the control authority within twenty-four (24) hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the city within thirty (30) days after becoming aware of the violation or sooner if so directed by the city authorized representatives.

(14) Other conditions as deemed appropriate by the approving authority to insure compliance with this chapter. (Ord. #03-13, July 2003)

18-305. Time period of agreements; modifications and changes, effects on time period; formulation of standard agreement. Wastewater discharge agreements shall be issued for a specified time period, not to exceed five (5) years. During the life of the agreement, an annual review shall be assessed. It is also the intent of the agreement to commit the city to receiving and treating the effluents allowed and stated in the agreement for the period of time indicated and to commit the industry to all the necessary sewer fees and restrictions outlined in the agreement. A discharge agreement may be entered into for a period of less than one year or may be stated to expire on a specific date in the event plant or process changes or modifications are necessary. After all modifications and changes have been made and approved, a new discharge agreement shall be entered into. These modifications and changes must be approved by the approving authority. The user shall be informed of any proposed change in his agreement at least thirty (30) days prior to the effective date of change. The terms and conditions of the discharge agreement shall be subject to modification and change during the life of the agreement at the request of the user and with the consent of the city. (Ord. #03-13, July 2003)

18-306. Limitation to specific operation of specific user; nontransferable. Wastewater discharge agreements are issued to a specific user for a specific operation. A wastewater discharge agreement shall not be reassigned or transferred or sold to a new owner, new user, different premises, or a new or changed operation which will significantly affect wastewater characteristics. All commercial and industrial dischargers shall promptly notify the approving authority in advance of any substantial change in volume or

character of pollutants in their discharge; especially in regard to any listed hazardous wastes or priority pollutants. (Ord. #03-13, July 2003)

18-307. Revocation of agreements. Any user is subject to having his agreement revoked and sewer services discontinued who willfully violates the conditions of the wastewater discharge agreement or any provision of this chapter, or upon the occurrence of any of the following:

(1) Failure of a user to factually report the wastewater constituents and characteristics of his discharge.

(2) Failure of the user to report significant changes in operations which affect wastewater constituents and characteristics.

(3) Refusal of reasonable access at the user's premises for the purpose of inspection or monitoring the applicable sewage or wastewater system.

(4) Refusal or failure to pay all appropriate fees or charges. (Ord. #03-13, July 2003)

18-308. Monitoring facilities, provisions to be outlined in discharge agreement. Monitoring facilities, in accordance with § 18-327 of this chapter will be required as outlined in the discharge agreement. (Ord. #03-13, July 2003)

18-309. Right of inspection; access to premises of approving authority. The approving authority may inspect the sewage and wastewater facilities of any user to ascertain whether the purpose of this chapter is being met and all requirements are being complied with. Persons or occupants of premises where wastewater is discharged shall allow the approving authority or its representative ready access at all reasonable times for the purposes of inspection or sampling or in the performance of their duties. The approving authority shall have the right to set up on the user's property such devices as are necessary to conduct sampling or metering operations. Where a user has security measures in force which would require proper identification and clearance before entry into the premises, the user shall make necessary arrangements with security personnel so that, upon presentation of suitable identification, personnel from the approving authority shall be permitted to enter without delay for the purposes of performing their specific responsibilities. (Ord. #03-13, July 2003)

18-310. Availability of information on user to public; use of information accepted as confidential. All information and data on a user obtained from reports, questionnaires, the agreement applications, permits and monitoring programs, and from inspections shall be available to the public without restriction unless the user specifically requests confidential treatment and is able to demonstrate to the satisfaction of the approving authority that the release of such information would divulge information regarding processes or

methods which would be detrimental to the user's competitive position. Information accepted by the approving authority as confidential shall not be transmitted to any other governmental agency by the approving authority until and unless prior and adequate notification is received by the user. Information accepted by the approving authority as confidential shall not be transmitted to the general public by the approving authority unless written permission has been obtained from the user. All information relating to the discharge from a user into the sewer system shall not be confidential information. All such information which is submitted to the approving authority shall be available to the public without restrictions. (Ord. #03-13, July 2003)

18-311. Discharges of stormwater, groundwater, etc., into sanitary sewer prohibited; exceptions. No person shall discharge or cause to be discharged any stormwater, groundwater, roof runoff, subsurface drainage or uncontaminated cooling water to any sanitary sewer except by permission of and under permit from the approving authority. (Ord. #03-13, July 2003)

18-312. Discharge of stormwater and other unpolluted drainage to storm sewers and natural outlets, approval required; discharges into sanitary sewer system other than through building sewer, permit required. (1) Stormwater and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as storm sewers or to a natural outlet approved by the regulatory agency. Industrial cooling waters or unpolluted process waters may be discharged, on approval and issuance of an NPDES by the State of Tennessee and approval of the city if to a city storm sewer or natural outlet.

(2) No person shall discharge any substance directly into a manhole or other opening in a public sewer, other than through an approved building sewer, unless he has been issued a permit by the approving authority. No person shall discharge any holding tank waste into a community sewer unless he has been issued a permit by the approving authority. Unless otherwise allowed by the approving authority under the terms and conditions of the permit, a separate permit must be secured for each separate discharge. This permit will state the specific location of discharge, the time of day the discharge is to occur, the volume of the discharge, and wastewater constituents and characteristics. If an agreement or permit is granted for discharge of such waste into a community sewer, the user shall pay the applicable charges and fees and shall meet such other conditions as are required by the approving authority. (Ord. #03-13, July 2003)

18-313. Discharge of certain harmful wastes prohibited. No person shall discharge or cause to be discharged any of the following described contaminated waters to any public sanitary sewers:

(1) Any wastewater containing petroleum oil (gasoline, benzene, naptha, fuel oil), nonbiodegradable cutting oil, products of mineral oil origin or any other pollutants which cause interference or pass-through, or create a fire or explosion in the POTW, including, but not limited to, waste streams with a closed cup flashpoint of less than one hundred forty (140) degrees Fahrenheit or sixty (60) degrees Centigrade using the test methods specified in 40 CFR 261.21, as determined by a Pensky-Martens Closed Cup Tester, using the test method specified in ASTM Standard D-93-79 or D-93-80K or a Setaflash Closed Cup Tester, using the test method specified in ASTM Standard D-3278-78 and pollutants which cause an exceedance of ten (10) percent of the lower explosive limit (LEL) at any point within the POTW.

(2) Any waters or wastes containing toxic or poisonous solids, liquids or gases in sufficient quantity, either singly or by interaction with other wastes, to injure personnel, cause workers to have acute health or safety problems, or interfere with any sewage or wastewater treatment process or any sanitary sewer system, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the sewage or wastewater treatment plant.

(3) Any contaminated waters or wastes having a pH lower than 5.5 or any other corrosive property capable of causing damage or hazard to the structures, equipment, conveyances, and personnel of the sewage works or interfering with the operation of the treatment facility. No wastewaters having a pH of higher than 10.0 standards units can be discharged to the sanitary sewer without prior approval by the city.

(4) Any wastes or wastewaters shall not include solid or viscous substances in quantities of such size as to be capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the wastewater facilities such as, but not limited to, ashes, bones, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, oil, grease, underground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders. Should blood, tissue or other prohibited body parts be unavoidably discharged into the sanitary sewer then such discharge must be accompanied by or immediately followed with a liquid disinfectant, such disinfectant may include bleach.

(5) Any trucked or hauled pollutants, except at discharge points designated by the City of Bartlett's POTW. (Ord. #03-13, July 2003)

18-314. <u>Discharge of certain harmful wastes restricted, approval required</u>. (1) No person shall discharge or cause to be discharged the following described substances, materials, contaminated waters, or wastes if it appears likely, in the opinion of the approving authority, that such wastes harm either the sanitary sewers, sewage treatment process, or equipment, have an adverse effect on the receiving streams, or can otherwise endanger life, limb or public

property, or constitute a nuisance. In forming his opinion as to the acceptability of these wastes, the approving authority will give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment process, capacity of the sewage treatment plant, degree of compatibility of the particular materials involved with the treatment capabilities of the authority's existing or contemplated treatment works, and other pertinent factors. The limitations or restrictions of materials or characteristics of waste or wastewaters discharged to the sanitary sewer which shall not be violated without a variance being granted as provided for under subsection (2) of this section are summarized in Table 1 and discussed as follows: Conditions at the influent of the treatment plant which will be used as guidance in determining acceptability are presented in Table 2.

(a) Any liquid or vapor having temperature higher than one hundred fifty (150) degrees Fahrenheit (sixty-five (65) degrees centigrade).

(b) Any water or waste containing fats, wax, grease, or oils of hydrocarbon or petroleum origin in excess of one hundred (100) mg/l or containing substances which may solidify or become viscous at temperatures between thirty-two (32) and one hundred fifty (150) degrees Fahrenheit (zero and sixty-five (65) degrees centigrade). Substance of the above nature shall be treated to reduce the concentration to a level of one hundred (100) mg/l.

(c) Any waste that has not been properly shredded. The installation and operation of any waste grinder equipped with a motor of three-fourths (3/4) horsepower or greater shall be subjected to the review and approval of the approving authority.

(d) Any waters or wastes containing strong acid, iron pickling wastes, or any waters or wastes containing concentrated plating solutions whether neutralized or not, except by permission of the approving authority.

(e) Any contaminated waters or wastes containing iron, chromium, cooper, zinc, other heavy metals, or toxic substances to such degree that any such discharge exceeds the values in Table 1 or such material received in the composite sewerage at the sewerage plant exceeds the limits established by the approving authority for such material, as shown in Table 2, unless a variance is obtained as described in subsection (2) of this section.

(f) Any waters or wastes containing phenols, to such degree that any such discharge in the composite sewerage at the sewerage treatment plant exceeds the limits established by the approving authority for such material as shown in Table 2, unless a variance is obtained as described in subsection (2) of this section.

(g) Any radioactive wastes or isotopes of long half-life (over one hundred (100) days) without special permit. The radioactive isotopes (I 131 P 32) used at hospitals are not prohibited if properly diluted at the source.

(h) Materials which exert or cause:

(i) Concentrations of inert suspended solids (such as, but not limited to, fuller's earth, lime slurries, and lime residues) or of dissolved solids (such as, but not limited to sodium chloride and sodium sulfate) which will cause obstruction to the flow in sewers, damage to the sewer system, or interference with the sewage treatment plant.

(ii) BOD, chemical oxygen demand, or chlorine requirements in such quantities as to constitute an interference in the sewage treatment works.

(iii) Volume of flow or concentration of wastes constituting "slugs" as defined herein.

(i) Wastewater containing objectionable substances which are not amendable to treatment or reduction by the sewage treatment processes employed, or are amenable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of the regulatory agency.

(j) Any wastewater that may cause the wastewater treatment facility effluent or any product of the treatment process residues, sludges, or scums to be unsuitable for reclamation and reuse or to interfere with the reclamation process.

(k) Any wastewater that could have a detrimental environmental impact or create a nuisance in the waters of the United States of America.

(l) Any wastewater that could cause excessive collection or treatment costs or may use a disproportionate share of the agency facilities.

(m) Wastes not permitted to be discharged into the municipal system and not otherwise adequately treated and discharged, or recycled, must be transported to a state approved disposal site by a permitted waste hauler.

(n) Any wastewater which causes hazard to human life or creates a public nuisance.

(o) Any wastewater containing motor oils or lubricants removed from vehicles or other machinery.

(p) Any wastewater where there is a significant likelihood of producing toxic effects to the biota in the receiving water of the treatment plant or the treatment plant's effluent.

In addition, the following activities are prohibited:

(q) No person shall discharge wastewater into street inlets or through sewer manholes.

(r) No person who generates wastewater at one property shall discharge it at another property without approval from the approving authority.

(s) No person shall store or handle any material including hazardous substances defined by CERCLA, in any area draining to the city sewer system, because discharge or leakage from such storage or handling may create an explosion hazard in the sewer system or treatment plant or may constitute a hazard to human beings or animals or the receiving stream, or in any other way may have a deleterious effect upon the wastewater treatment facilities. Such storage or handling shall be subject to review by the city, and shall require a spill control plan with reasonable safeguards to prevent discharge or leakage of such materials into the sewers.

(t) When it is determined that a user is contributing to the POTW amounts of wastewater described in subsections (a) through (p) or is involved in activities described in subsections (q) through (s) so as to interfere with the operation of the POTW then the approving authority shall:

(i) Advise the user(s) of the impact of the contribution on the POTW; and

(ii) develop effluent limitation(s) for such user to correct the interference with the POTW without the need to amend these regulations.

(2) Notification of the discharge of hazardous wastes.

(a) The industrial/commercial user shall notify the City of Bartlett POTW, the EPA Regional Waste Management Division Director, and State of Tennessee hazardous waste authorities in writing of any discharge into the POTW of a substance, which, if otherwise disposed of, would be a hazardous waste under 40 CFR part 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the industrial user discharges more than one hundred (100) kilograms of such waste per calendar month to the POTW, the notification shall also contain the following information to the extent such information is known and readily available to the industrial user: An identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the wastestream discharged during that calendar month, and an estimation of the mass of constituents in the wastestream expected to be discharged during the following twelve (12) months. All notifications must take place within one hundred eighty (180) days of this rule. Industrial users who commence discharging after the effective date of this

rule shall provide the notification no later than one hundred eighty (180) days after the discharge of the listed or characteristic hazardous waste. Any notification under this subsection need be submitted only once for each hazardous waste discharged. However, notifications of changed discharges must be submitted under 40 CFR 403.12(j). The notification requirement in this section does not apply to pollutants already reported under the self-monitoring requirements of 40 CFR 403.12(b), (d), and (e).

(b) Dischargers are exempt from the requirements of subsection (2)(a) of this section during a calendar month in which they discharge no more than fifteen (15) kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e). Discharge of more than fifteen (15) kilograms of non-acute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e), requires a one-time notification.

(c) In the case of new regulations under section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the industrial user must notify the City of Bartlett, POTW, the EPA Regional Waste Management Waste Division Director, and the State of Tennessee hazardous waste authorities of the discharge of such substances within ninety (90) days of the effective date of such regulations.

(d) In the case of any notification made under subsection (2) of this section, the industrial user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.

(3) For industries covered under a discharge agreement, the aforementioned materials or characteristics of waste or wastewater discharge limitations shall be determined by the city and incorporated into such agreement. Parameters and conditions identified in Table 2 shall be used as guidance in establishing monitoring requirements and in allowing exceptions or variances to Table 1. Such exception or variance will be determined during the preparation and periodic review of the sewer use agreement. Consideration of a variance shall be based on the following criteria as a minimum:

(a) Age, location, land availability, and type of manufacturing processes employed;

(b) Total mass of pollutant discharged by the industry;

(c) Volume of industrial waste in proportion to the total wastewater flow in the system;

(d) Energy requirements of the application of control and treatment technology, but only if the discharger demonstrates that less energy consumptive alternative control technology is not available.

In no case shall a variance be granted for those parameters defined by federal pretreatment regulations as "prohibited discharges."

TABLE 1

MAXIMUM EFFLUENT STANDARDS FOR DISCHARGE OF WASTE INTO THE MUNICIPAL SEWERAGE SYSTEM

Constituent	Daily Average* Maximum Concentration mg/l	Instantaneous Maximum Concentration mg/l
Biochemical oxygen demand	(1)	(1)
Settleable solids (ml/l)	(1)	(1)
Total suspended solids	(1)	(1)
Nitrogen (total Kjeldahl)	(1)	(1)
Arsenic	1.0	2.0
Cadmium	(2)	(2)
Chromium (hexavalent)	1.0	2.0
Chromium (total)	5.0	10.0
Copper	5.0	10.0
Cyanide (oxidizable)	2.0	4.0
Cyanide (total)	4.0	8.0
Lead	(2)	(2)
Mercury	(2)	(2)
Nickel	5.0	10.0
Zinc	5.0	10.0
Ammonia NH3-N	125 ppm	250 ppm

*Based on twenty-four (24) hour flow proportionate composite sample
(1) Consistent with treatment plant capacity
(2) Cadmium, mercury, and lead discharges are severely restricted due to limitations placed on the disposal of sewage sludge containing cadmium, mercury, and/or lead. Actual allowable discharge concentrations for these constituents will be determined on a case by case basis.

No person shall discharge wastewater containing any of the materials listed herein into the municipal sewer system or shall have any connection to the municipal sewer system without obtaining written permission from the approving authority.

Acrylonitrile
Alpha BHC
Adrin
Aluminum
3,3-Dichlorobenzidene
1,1-Dichloroethane
1,2-Dichloroethane

Barium
Benzene

Benzo (a) pyrene
Benzotrichloride
Beryllium
Bis (2-ethylhexyl)phthalate (DEHP)
Bromobenzene
Bromodichloromethane
Bromoform
Carbon tetrachloride
Chlordane
Chlorobenzene
Chlorodibromomethane
Chloroethane
Chloroform
2-Chlorophenol
O-Chlorotoluene
P-Chlorotoluene
Cumene
DDT/DDE/DDD
1,2-Dibromo-3-Chloropropane
Dibutylphthalate
1,4-Dichlorobenzene(p)
Hexachlorobutadiene

Isopropylbenzene
Lindane
Methyl chloride (Chloromenthane)
Molybdenum
PCB-1260

Phenols
Pyrene
Octachlorodibenzo-P-Dioxin
Octachlorodibenzofuran
Total Heptachlorodibenzo-P-Dioxins
Total Heptachlorodibenzofurans
Total Hexachlorodibenzo-P-Dioxins
Total Hexachlorodibenzofurans
Total Pentachlorodibenzo-P-Dioxins
Total Pentachlorodibenzofurans
Total Tetrachlorodibenzo-P-Dioxins
Total Tetrachlorodibenzofurans

1,1-Dichloroethylene
Dichlorethyl ether (Bix(2-chloroethyl)
1,2-Cis, dichlorethylene
1,2-trans, dichloroethylene
1,2-Dichloropropane
1,3-Dichloropropane
2,2-Dchloropropane
1,1-Dichloropropane
1,3-Dichloropropane
M-Dichlorobenzene
O-Dichlorobenzene
Para-Dichlorobenzene
Dieldrin
Diisobutylenes
Dimethylnitrosamine
2,4-Dinitrophenol
2,4-Dinitroluene
Ethyl benzene
Heptachlor
Hexachlorobenzene

Tin
Titanium
Toluene
Toxaphene (chlorinated camphene)
1,1,2-Trichloroethane
Trichloroethylene
1,2,3-Trichloropropane
Vinyl chloride
O, M, P-Xylenes
1,1,1,2-Tetrachloroethane

1,2,3,4,6,7,8-Heptachlorodibenzo-P-Dioxin
1,2,3,4,6,7,8-Heptachlorodibenzofuran
1,2,3,4,7,8-Hexachlorodibenzo-P-Dioxin
1,2,3,4,7,8-Hexachlorodibenzofuran
1,2,3,4,7,8,9-Heptachlorodibenzofuran
1,2,3,6,7,8-Hexachlorodibenzo-P-Dioxin
1,2,3,6,7,8-Hexachlorodoibenzofuran
1,2,3,7,8-Pentachlorodibenzo-P-Dioxin
1,2,3,7,8-Pentachlorodibenzofuran
1,2,3,7,8,9-Hexachlorodibenzo-P-Dioxin
1,2,3,7,8,9-Hexachlorodibenzofuran
2,3,4,6,7,8-Hexachlorodibenzofuran
2,3,4,7,9-Pentachlordibenzofuran
2,3,7,8-Tetrachlorodibenzo-P-Dioxin
2,3,7,8-Tetrachlorodibenzofuran

Approving authority reserves the right to modify this list of materials prohibited from entering the POTW as may become necessary.

TABLE 2
GUIDANCE CONCENTRATIONS IN
MUNICIPAL SEWAGE TREATMENT INFLUENT

Parameter	Average Influent Concentrations
BOD (Biochemical oxygen demand)	(1)
SS (settleable solids)	(1)
TSS (Total suspended solids)	(1)
Nigrogen (Total Kjeldahl)	(1)
pH	6-9
Temperature	(2)
Arsenic	--
Cadmium	.005 ppm
Chromium (Hexavalent)	--
Chromium (Total)	0.375 ppm
Cyanide (Oxidizable)	--
Cyanide (Total)	0.605 ppm
Lead	0.25 ppm
Mercury	0.0042 ppm
Nickel	0.273 ppm
Zinc	1.0 ppm
Copper	0.5 ppm
Silver	0.0294 ppm
Phenols	4.5 ppm

Parameter	Average Influent Concentrations
Oil and Grease	100 ppm
Toluene	2.0 ppm
Phenol	0.909 ppm
Methylene Chloride	0.25 ppm
Benzene	0.043 ppm
1,1,1-Trichloroethane	0.25 ppm
Ethyl Benzene	0.04 ppm
Carbon Tetrachloride	0.075 ppm
Chloroform	0.368 ppm
Tetrachloroethylene	0.139 ppm
Trichloroethylene	0.150 ppm
1,2 Transdichloroethylene	0.030 ppm
Naphthalene	0.312 ppm
Bis(2 Etyl Hexyl) Phthalate	0.105 ppm
Butyl Benzl Phthalate	0.333 ppm
Di-n-butyl Phthalate	0.0625 ppm
Diethyl Phthalate	0.222 ppm

(4) Mass limitations. No individual shall discharge a mass loading of the compounds detailed in Table 2 more than fifteen (15) percent of the average allowable influent loading on a daily average maximum level. When comparing these mass limitations and the concentration based on limitations in Table 1, whichever limitation that is more restrictive will apply, unless a variance is obtained as described in subsection (3) of this section.

(a) Consistent with treatment plant capacity as determined by the director of engineering.

(b) Temperature always to be less than one hundred four (104) degrees Fahrenheit (forty (40) degrees Centigrade). (Ord. #03-13, July 2003)

18-315. Discretionary actions of approving authority with respect to restricted discharges. (1) If any waters or wastes are discharged or are proposed to be discharged to the public sanitary sewers, which waters contain the substances or possess the characteristics enumerated in § 18-314 of this chapter and which, in the judgment of the approving authority, are incompatible with the capacities of the treatment works and may therefore have a deleterious effect upon the sewage works, processes, equipment or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the approving authority shall do one of the following:

(a) Reject the wastes;

(b) Require pretreatment or an acceptable condition for discharge to the public sanitary sewers;

(c) Require control over the quantities and rate of discharge;

(d) Require payment to cover the added cost of handling and treating wastes as provided in § 18-323(1)(b).

(2) If the approving authority permits the pretreatment or equalization of waste flows, the design and installation of any nonprocess pretreatment or flow equalization system installed in connection therewith shall be subject to the review and approval of the approving authority and subject to the requirements of all applicable ordinances and laws. However, this section shall not be interpreted as granting the approving authority any rights to inspect or to require the approval of manufacturing process changes instituted for the purpose of correcting pretreatment or flow equalization problems.

(3) Interceptors, traps, or separators shall be provided by industrial and commercial dischargers (in addition to those cases specified in § 18-314(1)(b) when, in the opinion of the approving authority, they are necessary for the proper handling of water or waste containing such materials as grease, sand, flammable liquids, substances which may solidify or become viscous in the system, or other harmful ingredients. In maintaining these interceptors, the owner shall be responsible for the proper removal and disposal by appropriate means of the captured material and shall maintain records of the dates and means of disposal, which are subject to review by the approving authority. Any removal and hauling of the collected materials not performed by the owner's personnel must be performed by currently licensed waste disposal firms. (Ord. #03-13, July 2003)

18-316. Maintenance and inspection of preliminary treatment or flow equalization facilities. Where preliminary treatment or flow equalization facilities are required for any water or wastewater, they shall be maintained continuously and satisfactorily and in effective operation by the owner at his expense and shall be subject to periodic inspection by the approving authority. The owner shall maintain and make available, as requested, operating records as prescribed by the approving authority. (Ord. #03-13, July 2003)

18-317. Control facilities for sampling and observation of industrial wastes. When required by the approving authority, the owner of any property serviced by a sewer carrying industrial wastes shall install a suitable control facility together with such necessary meters and other appurtenances in the sewer to facilitate observation, sampling and measurement of the wastes. As a minimum, those industries with an average daily maximum BOD5 of ten thousand (10,000) pounds per day or greater and/or with concentrations of one or more of the incompatible waste constituents listed in Table 1 of § 18-314 shall install a monitoring manhole. Those parameters identified in Table 2 of § 18-314 shall be used as guidance in developing the monitoring program. The facility, when required, shall be accessible and safely

located, and shall be constructed in accordance with plans approved by the approving authority. The facility shall be installed by the owner at his expense and shall be maintained by him so as to be safe and accessible at all times. Plans for such facilities for the installation of control and related equipment must be approved by the approving authority before construction is begun. (Ord. #03-13, July 2003)

18-318. Measurement and testing methods. All measurements and tests and analyses of the characteristics of waters and wastes to which reference is made in this chapter shall be determined in accordance with the current edition of Standard Methods for the Examination of Water and Waste Water, published by the American Public Health Association, or as specified by the division of public works and shall be determined at the control facility provided or upon suitable samples taken at such control facility. Laboratory procedures shall be periodically reviewed by the approving authority and appropriate modifications implemented by the user where unacceptable procedures are identified. In the event that no special facility has been required, the control facility shall be considered to be the nearest downstream manhole in the public sanitary sewer to the point at which the sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb and property. For users without a sewer use agreement, the particular analyses involved will determine whether a twenty-four-hour composite of all outfalls of a premise is appropriate or whether a grab sample or samples should be taken. Normally, but not always, BOD and suspended-solids analyses are obtained from twenty-four-hour composites of all outfalls whereas pH's are determined from periodic grab samples. Those users operating under a sewer use agreement will have the method, sample point, and frequency of sampling stated in the agreement. (Ord. #03-13, July 2003)

18-319. Alternate data bases for determination of waste characteristics. Until an adequate analysis of a representative sample of the user's waste has been obtained, the approving authority may make a determination of the character and concentration of the waste by using data based on analyses of similar processes or data for this type of business that are available. This method, if selected by the approving authority, shall continue until an adequate analysis has been made. (Ord. #03-13, July 2003)

18-320. Accidental and slug discharges. Each user shall provide protection from accidental and/or slug discharge of prohibited materials or other substances regulated by these regulations. Facilities to prevent accidental and/or slug discharge of prohibited material shall be provided and maintained at the owner or user's own cost and expense. Detailed plans showing facilities and operation procedures to provide this protection shall be submitted to the

department for review, and shall be approved by the department before construction of the facility. The plan shall contain, at a minimum, the following elements:

(1) Description of discharge practices, including non-routine batch discharges;

(2) Description of stored chemicals;

(3) Procedures for immediately notifying the POTW of slug or accidental discharge, including any discharges that would violate a prohibition under § 18-313, with procedures for follow-up written notification within five (5) days;

(4) If necessary, procedures to prevent adverse impact from accidental spills, including inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operation, control of plant site run-off, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants (include solvents) and/or measure and equipment for emergency response.

All existing users shall complete such a plan within three (3) months of notice to do so by the department. No user who commences a new discharge to the POTW after effective date of these regulations shall be permitted to introduce pollutants into the system until accidental and/or slug discharge procedures have been approved by the city. Review and approval of such plans and operating procedures shall not relieve the industrial user from the responsibility to modify the user's facility as necessary to meet the requirements of these regulations. In the case of accidental discharge, it is the responsibility of the user to immediately notify the department of the incident. The notification shall include volume of discharge, duration of event, and corrective actions.

Written notice: Within five (5) days following an accidental discharge the user shall submit to the department a detailed written report describing the cause of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, fish kills, or any other damage to person or property; nor shall such notification relieve the user of any fines, civil penalties, or other liability which may be imposed by these regulations or other applicable law.

Notice to employees: A notice shall be permanently posted on the user's bulletin board(s) or other prominent places advising employees whom to call in the event of a dangerous discharge. Employers shall insure that all employees who may cause or suffer such a dangerous discharge to occur are advised of the emergency notification procedure. (Ord. #03-13, July 2003)

18-321. <u>Discharge of hauled wastes prohibited</u>. No person may discharge hauled wastewater of any type into the Bartlett Sewer System. (Ord. #03-13, July 2003)

18-322. Damaging sewerage works, etc.; maintaining program integrity; accidental spills. (1) No person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance, or equipment which is a part of the sewerage works. Any person violating this provision shall be subject to immediate arrest, and shall be guilty of a misdemeanor, and shall be responsible for correcting such damages.

(2) If public sewer becomes obstructed or damaged because of any substances improperly discharged into it, the person or persons responsible for such discharge shall be billed and shall pay for the expenses incurred by the city in cleaning out, repairing, or rebuilding the sewer.

(3) No unauthorized person shall enter into or alter any manhole or similar appurtenance of any public sewer, put anything therein, or interfere therewith. No person shall insert or place in any public sewer, manhole or other appurtenance thereof any sticks, rubbish or other materials which such sewer manhole or appurtenance thereof was not intended to receive.

(4) The approving authority shall have the authority to implement a program for acquiring the necessary qualified personnel to perform all tasks related to all wastewater functions to insure the integrity of the total program.

(5) In order to insure the integrity of the wastewater treatment facilities at a high level and protect the treatment process from unacceptable flows, any person causing an accidental spill shall notify the approving authority as to its nature, relating its quantity and the time of such spill, so that action may be taken at the wastewater treatment facility to deal with any problems which the incoming flow may create. (Ord. #03-13, July 2003)

18-323. Commercial and industrial sewer fees and charges.

(1) Sewer service charge. The sewer service charge shall be made up of two (2) types of charges:

(a) Volumetric charge. All customers will be charged a volumetric charge based on the equivalent strength of domestic sewage (BOD5 of two hundred fifty (250) milligrams per liter, SS of three hundred (300) milligrams per liter). The volumetric charge shall be those charges shown in § 18-203, "Sewer rates."

(b) Additional treatment cost. In addition to the volumetric charge, all users who discharge wastewater with a strength greater than domestic sewerage (BOD of two hundred fifty (250) milligrams per liter, SS of three hundred (300) milligrams per liter) will be assessed an additional treatment charge (ATC) based on the following formula:

Where:

$$ATC = \frac{U(B)T(B)}{B} + \frac{U(S)T(S)}{S}$$

UB	=	BOD loading in excess of 250 milligrams per liter
T(B)	=	Treatment costs assigned to BOD (includes debt service, operation, maintenance, and replacement costs)
B	=	Total BOD loading or BOD capacity of treatment plants, whichever is less
U(S)	=	Suspended solids loading in excess of 300 milligrams per liter
T(S)	=	Treatment costs assigned to suspended solids (includes debt service, operation, maintenance, and replacement costs)
S	=	Total suspended solids loading or suspended solids capacity of treatment plants, whichever is less

Sampling frequency for determination of the ATC will be specified in the sewer use agreement.

COD or TOC analytical results may be used in lieu of BOD test if the BOD test is not applicable due to a toxic effect of the wastewater or a substantial correlation can be developed between BOD and the substitute test, and if allowed by the approving authority. If a BOD test is not applicable due to a toxic effect, then the approving authority has the authority to require the discharger to determine the cause of the toxic effect and then to eliminate the constituent causing the toxic effect.

(2) Private wells. Those users having private wells will install either water meters on the wells or approved metering devices on wastewater discharged to the city sewers. Users will be classified as residential or commercial-industrial according to classifications established by the city.

Any user desiring to exercise his option of installing an approved metering device shall notify the approving authority of his exercise of the option, and the approving authority from the date of installation of the metering device shall adjust its charges back to the date of the notice of the user to install the metering device or ninety (90) days, whichever is sooner and such adjustment shall be based upon the average charge for the ninety (90) days following the installation of the metering device. Those users having private wells shall have ninety (90) days in which to install a water meter or a metering device for measuring wastewater discharged into the city sewer system. The city shall estimate charges for the period of time prior to the installation of the device and shall adjust the charges based on ninety (90) days' experience after the installation of the device. If a private well owner installs a water meter and thereafter elects to install a metering device for measuring wastewater discharge into the city sewerage system, then he likewise shall have his charges adjusted from the time of the installation of the device back to the date of notice to the approving authority or ninety (90) days, whichever is sooner, and such adjustment shall be based on the charges for ninety (90) days following the installation. Wherever used in this section, the word "sewer" shall mean "sanitary sewer." (Ord. #03-13, July 2003)

18-324. Sewer fee review. Costs used in the above formulas shall be based upon a five-year average, and rates shall be reviewed annually and approved or adjusted by the board of mayor and aldermen by resolution or ordinance. (Ord. #03-13, July 2003)

18-325. Authority to enter; limitation on extent of inquiry. Representatives of the approving authority, regulatory agency and other duly authorized employees of the city, bearing proper credentials and identification, shall be permitted to enter appropriate property areas at all reasonable times for the purpose of inspection, observation, measurement, sampling, and testing in accordance with the provisions of this chapter. The approving authority shall have no authority to inquire into any processes including metallurgical, chemical, oil refining, ceramic, paper or other industries beyond that point having a direct bearing on the kind and source of discharge to the sewers or waterways or facilities for waste treatment. (Ord. #03-13, July 2003)

18-326. Injury to or by city employees engaged in inspection activities. While performing the necessary work on private properties referred to in § 18-325 above, the approving authority or duly authorized representatives of the city shall observe all safety rules applicable to the premises established by the company. The company shall be held harmless for injury or death to the city employees, except as hereinafter provided, and the city shall indemnify the company against loss or damage to its property by city employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the performance of the necessary work on private property by such city employees, except as such may be caused by negligence or failure of the company to maintain safe conditions as required in § 18-317. (Ord. #03-13, July 2003)

18-327. Authority to enter upon easements for the purposes of inspection of sewerage works. The approving authority and other duly authorized representatives of the city, bearing proper credentials and identification, shall be permitted to enter all private properties through which the city holds a duly negotiated easement for the purposes of inspection, observation, measurement, sampling, repair and maintenance of any portion of the sewerage works lying within such easement. All entry and subsequent work, if any, on such easement shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved. (Ord. #03-13, July 2003)

18-328. Termination of service upon finding of violation. The approving authority may enter upon private property and terminate service to the property in which a violation of any rule or regulation of this chapter is found to exist. Prior to termination of service, however, the approving authority

shall notify, in writing, the owner and tenant, if any, of such property that service is intended to be terminated, and conduct a hearing thereon as herein provided. Such notice shall be mailed to the owner at the address shown on the records of the assessor of the county or as known to the clerk, and a copy shall be delivered to the tenant or posted conspicuously on the property. The notice shall state the date of the proposed termination of service, and reasons therefor, and the approving authority shall hold a hearing upon such intended termination. Such hearing shall not be held less than ninety (90) days subsequent to the giving of notice as herein required. (Ord. #03-13, July 2003)

18-329. Pretreatment program and local hearing authority.

(1) General duties. The local hearing authority, pursuant to Tennessee Code Annotated, § 69-3-103, is responsible for the administration and enforcement of the pretreatment program and the said state statute.

(2) Hearings. Any hearing or rehearing brought before the local hearing authority shall be conducted in accordance with the following:

(a) Upon receipt of a written petition from the alleged violator pursuant to this section, the director shall give the petitioner thirty (30) days' written notice of the time and place of the hearing, but in no case shall such hearing be held more than sixty (60) days from the receipt of the written petition, unless the director and the petitioner agree to a postponement.

(b) The hearing herein provided may be conducted by a local hearing authority at a regular or a special meeting.

(c) A verbatim record of the proceedings of such hearing shall be taken and filed with the local hearing authority, together with the findings of fact and conclusions of law made pursuant to subsection (f) of this section. The transcript so recorded shall be made available to the petitioner or any party to a hearing upon payment of a charge set by the local hearing authority to cover the costs of preparation.

(d) In connection with the hearing, the director shall issue subpoenas in response to any reasonable request by any party to the hearing requiring the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in the hearing. In case of contumacy or refusal to obey a notice of hearing or subpoena issued under this section, the Shelby County Chancery court shall have jurisdiction upon the application of the local hearing authority or the director to issue an order requiring such person to appear and testify or produce evidence as the case may require and any failure to obey such order of the court may be punished by such court as contempt thereof.

(e) The local hearing authority may administer oaths and examine witnesses.

(f) On the basis of the evidence produced at the hearing, the local hearing authority shall make findings of fact and conclusions of law

and enter such decisions and orders as in its opinion will best further the purposes of the pretreatment program and shall give written notice of such decisions and orders to alleged violator. The order issued under this subsection shall be issued no later than thirty (30) days following the close of the hearing by the person or persons designated by the local hearing authority.

(g) The decision of the local hearing authority shall become final and binding on all parties unless appealed to the courts as provided in subsection (3).

(h) Any person to whom an emergency order is directed pursuant to § 18-330(2) shall comply therewith immediately but on petition to the local hearing authority shall be afforded a hearing as soon as possible, but in no case shall such hearing be held later than three (3) days from the receipt of such petition by the local hearing authority.

(3) Appeal. An appeal may be taken from any final order or other final determination of the local hearing authority by any party, including the pretreatment agency, who is or may be adversely affected thereby, to the chancery court pursuant to the common law writ of certiorari set out in Tennessee Code Annotated, § 27-8-101, within sixty (60) days from the date such order or determination is made. (Ord. #03-13, July 2003)

18-330. Complaint procedures. (1) Complaint issued by director.

(a) Whenever the director has reason to believe that a violation of any provision of the pretreatment program of the pretreatment agency or orders of the local hearing authority issued pursuant thereto has occurred, is occurring, or is about to occur, the director may cause a written complaint to be served upon the alleged violator or violators.

(b) The complaint shall specify the provision or provisions of the pretreatment program or order alleged to be violated or about to be violated, the facts alleged to constitute a violation thereof, may order that necessary corrective action be taken within a reasonable time to be prescribed in such order, and shall inform the violators of the opportunity for a hearing before the local hearing authority.

(c) Any such order shall become final and not subject to review unless the person or persons named therein request by written petition a hearing before the local hearing authority as provided in § 18-329(2)(h), no later than thirty (30) days after the date such order is served; provided, however, that the local hearing authority may review such final order on the same grounds upon which a court of the state may review default judgments.

(2) Emergency circumstances. (a) Whenever the director finds than an emergency exists imperatively requiring immediate action to protect the public health, safety or welfare, the health of animals, fish or aquatic life, a public water supply, or the facilities of the publicly owned

treatment works of the pretreatment agency, the local administrative officer may, without prior notice, issue an order reciting the existence of such an emergency and requiring that such action be taken as the director deems necessary to meet the emergency up to and including immediate termination of sewer service.

(b) If the violator fails to respond or is unable to respond to the director's order, the director may take such emergency action as he deems necessary, or contract with a qualified person or persons to carry out the emergency measures. The director may assess the person or persons responsible for the emergency condition for actual costs incurred by the local administrative officer in meeting the emergency.

(3) Except as otherwise expressly provided, any notice, complaint, order or other instrument issued by or under authority of this section may be served on any person affected thereby personally, by the director or any person designated by him, or such service may be made in accordance with Tennessee statutes authorizing service of process in civil action. Proof of service shall be filed in the office of the director. (Ord. #03-13, July 2003)

18-331. Violations and penalties. (1) Violations. (a) Any person including, but not limited to industrial users, who does any of the following acts or omissions shall be subject to a civil penalty of up to ten thousand dollars ($10,000) per day for each day during which the act or omission continues or occurs:

(i) Violates an effluent standard or limitation imposed by a pretreatment program;

(ii) Violates the terms or conditions of a discharge agreement issued pursuant to a pretreatment program;

(iii) Fails to complete a filing requirement of a pretreatment program;

(iv) Fails to allow or perform an entry, inspection, monitoring or reporting requirement of a pretreatment program;

(v) Fails to pay user or cost recovery charges imposed by a pretreatment program; or

(vi) Violates the regulations for transportation or disposal of hauled wastes.

(b) Any civil penalty shall be assessed in the following manner:

(i) The director may issue an assessment, administrative order, cease and desist order, or notice of violation against any person or industrial user responsible for the violation;

(ii) Any person or industrial user against whom an assessment has been issued may secure a review of such assessment by filing with the director a written petition setting forth the grounds and reasons for his objections and asking for a hearing in the matter involved before the local hearing authority

and if a petition for review of the assessment is not filed within thirty (30) days after the date the assessment is served, the violator shall be deemed to have consented to the assessment and it shall become final;

(iii) Whenever any assessment has become final because of a person's failure to appeal the director's assessment, the director may apply to the appropriate court for a judgment and seek execution of such judgment and the court, in such proceedings, shall treat a failure to appeal such assessment as a confession of judgment in the amount of the assessment.

(iv) In assessing the civil penalty the director may consider the following factors:

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

(B) Damages to the pretreatment agency, including compensation for the damage or destruction of the facilities of the publicly owned treatment works, and also including any penalties, costs and attorneys' fees incurred by the pretreatment agency as the result of the illegal activity, as well as the expenses involved in enforcing this section and the costs involved in rectifying any damages;

(C) Cause of the discharge or violation;

(D) The severity of the discharge and its effect upon the facilities of the publicly owned treatment works and upon the quality and quantity of the receiving waters;

(E) Effectiveness of action taken by the violator to cease the violation;

(F) The technical and economic reasonableness of reducing or eliminating the discharge;

(G) The economic benefit gained by the violator.

(v) The director may institute proceedings for assessment in the chancery court in which all or part of the pollution or violation occurred, in the name of the pretreatment agency.

(c) The local hearing authority may establish by regulation a schedule of the amount of civil penalty which can be assessed by the director for certain specific violations or categories of violations.

(i) Any civil penalty assessed to a violator pursuant to this section may be in addition to any civil penalty assessed by the commissioner of the department of health and environment for violations of Tennessee Code Annotated, § 69-3-115(a)(1)(F). Provided, however the sum of penalties imposed by this section and by Tennessee Code Annotated, § 69-3-115(a) shall not exceed ten thousand dollars ($10,000.00) per say for each day during which the act or omission continues or occurs. The state's share of

any additional costs of this section shall be funded in accordance with Tennessee Code Annotated, § 9-4-5303, from the increase in state imposed taxes which are earmarked to counties and which are not designated by such counties for a particular purpose.

(2) Public notification and significant noncompliance. (a) As required by 40 CFR 403.8, Federal Pretreatment Program Requirement of the City of Bartlett will publish annually in the largest daily newspaper the names of all industrial/commercial users which at any time during the year were in significant noncompliance with applicable pretreatment requirements. For purposes of this chapter, an industrial user is in significant noncompliance if its violation meets one or more of the following criteria:

(i) Chronic violations of wastewater discharge limits, defined here as those in which sixty six (66) percent or more of all of the measurements taken during a six-month period exceed (by any magnitude) the daily maximum limit or the average limit for the same pollutant parameter;

(ii) Technical review criteria (TRC) violations, defined here as those in which thirty-three (33) percent or more of all the measurements for each pollutant parameter taken during a six-month period equal or exceed the product of the daily maximum limit or the average limit multiplied by the applicable TRC (TRC=1.4 for BOD, TSS, fats, oil and grease, and 1.2 for all other pollutants except pH).

(iii) Any other violation of a pretreatment effluent limit (daily maximum or long term average) that control authority determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of POTW personnel or general public);

(iv) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the POTW's exercise of its emergency authority.

(v) Failure to meet, within ninety (90) days after the schedule date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance;

(vi) Failure to provide, within thirty (30) days after the due date, required reports such as baseline monitoring reports, ninety-day compliance reports, and reports on compliance with compliance schedules;

(vii) Failure to accurately report noncompliance;

(viii) Any other violation or group of violations which the control authority determines will adversely affect the operation or

implementation of the local pretreatment program. (Ord. #03-13, July 2003)

18-332. Damages assessment. (1) The director may assess the liability of any polluter or violator for damages to the pretreatment agency resulting from any person's or industrial user's pollution or violation, failure, or neglect in complying with any permits or orders issued pursuant to the provisions of the pretreatment program or §§ 18-329, 18-330, 18-331 or 18-332 herein.

(2) If an appeal from such assessment is not made to the local hearing authority by the polluter or violator within thirty (30) days of notification of such assessment, he shall be deemed to have consented to such assessment and it shall become final.

(3) Damages may include any expenses incurred in investigating and enforcing the pretreatment program or Tennessee Code Annotated, § 69-3-103 in removing, correcting, and terminating any pollution, and also compensation for any actual damages caused by the pollution or violation.

(4) Whenever any assessment has become final because of a person's failure to appeal within the time provided, the director may apply to the appropriate court for a judgment, and seek execution on such judgment. The court, in such proceedings, shall treat the failure to appeal such assessment as a confession of judgment in the amount of the assessment. (Ord. #03-13, July 2003)

CHAPTER 4

CROSS CONNECTIONS AND AUXILIARY INTAKES

SECTION

18-401. Definitions. The following definitions and terms shall apply in the interpretation and enforcement of this chapter:

(1) "Public water system." The waterworks system which furnishes water to the City of Bartlett for general use and which is recognized as a public water system by the Tennessee Department of Environment and Conservation.

(2) "Cross connection." Any physical arrangement whereby a public water supply is connected, directly or indirectly, with any other water supply system, sewer, drain, conduit, pool, storage reservoir, plumbing fixture, or other device which contains, or may contain, contaminated water, sewage, or other waste or liquid of unknown or unsafe quality which may be capable of imparting contamination to the public water system as a result of backflow. Bypass arrangements, jumper connections, removable sections, swivel or change-over devices through which, or because of which, backflow could occur are considered to be cross connections.

(3) "Auxiliary intake." Any piping connection or other device whereby water may be secured from a source other than that normally used.

(4) "Bypass." Any system of piping or other arrangement whereby the water may be diverted around any part or portion of a water purification plant.

(5) "Interconnection." Any system of piping or other arrangement whereby the public water supply is connected directly with a sewer, drain, conduit, pool, storage reservoir, or other device which does or may contain sewage or other waste or liquid which would be capable of imparting contamination to the public water system.

(6) "Person." Any corporation, company, association, partnership, state, municipality, utility district, water cooperative, or federal agency. (Ord. #79-3, Feb. 1979, as amended by Ord. #86-13, June 1986)

18-402. Standards. The City of Bartlett Public Water System is to comply with Tennessee Code Annotated, §§ 68-221-701 through 68-221-720 as well as the Rules and Regulations for Public Water Systems, legally adopted in accordance with this code, which pertain to cross connections, auxiliary intakes, bypasses, and interconnections, and establish an effective ongoing program to control these undesirable water uses. (Ord. #79-3, Feb. 1979, as amended by Ord. #86-13, June 1986)

18-403. Construction, operation, and supervision. It shall be unlawful for any person to cause a cross connection, to be made, or allow one to exist for any purpose whatsoever, unless the construction and operation of same have been approved by the Tennessee Department of Environment and Conservation and the operation of such cross connection, auxiliary intake, bypass or interconnection is at all times under the direct supervision of the Cross Connection Supervisor of the City of Bartlett Public Water System. (Ord. #79-3, Feb. 1979, as amended by Ord. #86-13, June 1986)

18-404. Statement required. Any person whose premises are supplied with water from the public water supply and who also has on the same premises a separate source of water supply, or stores water in an uncovered or unsanitary storage reservoir from which the water stored therein is circulated through a piping system, shall file with the cross connection supervisor a statement of the non-existence of unapproved or unauthorized cross connections, auxiliary intakes, bypasses, or interconnections. Such statement shall also contain an agreement that no cross connection, auxiliary intake, bypass, or interconnection will be permitted upon the premises. (Ord. #79-3, Feb. 1979, as amended by Ord. #86-13, June 1986)

18-405. Inspections required. It shall be the duty of the cross connection supervisor of the public water system to cause inspections to be made of all properties served by the public water supply where cross connections with the public water supply are deemed possible. The frequency of inspections and reinspections, based on potential health hazards involved, shall be established by the Cross Connection Supervisor of the Bartlett Public Water System and as approved by the Tennessee Department of Environment and Conservation. (Ord. #79-3, Feb. 1979, as amended by Ord. #86-13, June 1986)

18-406. Right of entry for inspections. The cross connection supervisor or authorized representative shall have the right to enter, at any reasonable time, any property served by a connection to the Bartlett Public Water System for the purpose of inspecting the piping system or systems therein for cross connections, auxiliary intakes, bypasses, or interconnections. On request, the owner, lessee, or occupant of any property so served shall furnish to the inspection agency any pertinent information regarding the piping system

or systems on such property. The refusal of such information or refusal of access, when requested, shall be deemed evidence of the presence of cross connections. (Ord. #79-3, Feb. 1979, as amended by Ord. #86-13, June 1986)

18-407. Correction of existing violations. Any person who now has cross connections, auxiliary intakes, bypasses, or interconnections in violation of the provisions of this chapter shall be allowed a reasonable time within which to comply with the provisions of this chapter. After a thorough investigation of existing conditions and an appraisal of the time required to complete the work, the amount of time shall be designated by the Cross Connection Supervisor of the Bartlett Public Water System.

The failure to correct conditions threatening the safety of the public water system as prohibited by this chapter and the Tennessee Code Annotated, § 68-221-711, within a reasonable time and within the time limits set by the Bartlett Public Water System shall be grounds for denial of water service. If proper protection has not been provided after a reasonable time, the utility shall give the customer legal notification that water service is to be discontinued and shall physically separate the public water system from the customer's on-site piping system in such a manner that the two systems cannot again be connected by an unauthorized person.

Where cross connections, interconnections, auxiliary intakes, or bypasses are found that constitute an extreme hazard of immediate concern of contaminating the public water system, the management of the water system shall require that immediate corrective action be taken to eliminate the threat to the public water system. Immediate steps shall be taken to disconnect the public water system from the on-site piping system unless the imminent hazard(s) is (are) corrected immediately. (Ord. #79-3, Feb. 1979, as amended by Ord. #86-13, June 1986)

18-408. Use of protective devices. Where the nature of use of the water supplied a premises by the water system is such that it is deemed:

(1) Impractical to provide an effective air-gap separation;

(2) That the owner and/or occupant of the premises cannot, or is not willing, to demonstrate to the official in charge or the water system, or his designated representative, that the water use and protective features of the plumbing are such as to propose no threat to the safety or potability of the water system;

(3) That the nature and mode of operation within a premises are such that frequent alterations are made to the plumbing;

(4) There is a likelihood that protective measures may be subverted, altered, or disconnected. The Cross Connection Supervisor of the Bartlett Public Water System or his designated representative, shall require the use of an approved protective device on the service line serving the premises to assure that any contamination that may originate in the customer's premises is

contained therein. The protective devices shall be a reduced pressure zone type backflow preventer approved by the Tennessee Department of Environment and Conservation as to manufacture, model, and size. The method of installation of backflow protective devices shall be approved by the Cross Connection Supervisor of the Bartlett Public Water System prior to installation and shall comply with the criteria set forth by the Tennessee Department of Environment and Conservation. The installation shall be at the expense of the owner or occupant of the premises.

Personnel of the Bartlett Public Water System shall have the right to inspect and test the device or devices on an annual basis or whenever deemed necessary by the cross connection supervisor or his designated representative. Water service shall not be disrupted to test the device without the knowledge of the occupant of the premises.

Where the use of water is critical to the continuance of normal operations or protection of life, property, or equipment, duplicate units shall be provided to avoid the necessity of discontinuing water service to test or repair the protective device or devices. Where it is found that only one unit has been installed and the continuance of service is critical, the cross connection supervisor shall notify, in writing, the occupant of the premises of plans to discontinue water service and arrange for a mutually acceptable time to test and/or repair the device. The water system shall require the occupant of the premises to make all repairs indicated promptly, to keep the unit(s) working properly, and the expense of such repairs shall be borne by the owner or occupant of the premises. Repairs shall be made by qualified personnel acceptable to the Cross Connection Supervisor of the Bartlett Public Water System.

The failure to maintain backflow prevention device(s) in proper working order shall be grounds for discontinuing water service to a premises. Likewise, the removal, bypassing, or altering of the protective device(s) or the installation thereof so as to render the device(s) ineffective shall constitute grounds for discontinuance of water service. Water service to such premises shall not be restored until the customer has corrected or eliminated such conditions or defects to the satisfaction of the Bartlett Public Water System. (Ord. #79-3, Feb. 1979, as amended by Ord. #86-13, June 1986)

18-409. <u>Unpotable water to be labeled</u>. In order that the potable water supply made available to premises served by the public water system shall be protected from possible contamination as specified herein, any water outlet which could be used for potable or domestic purposes and which is not supplied by the potable system must be labeled in a conspicuous manner as:

WATER UNSAFE

FOR DRINKING

The minimum acceptable sign shall have black letters at least one-inch high located on a red background. (Ord. #79-3, Feb. 1979, as amended by Ord. #86-13, June 1986)

18-410. Violations. The requirements contained herein shall apply to all premises served by the Bartlett Public Water System whether located inside or outside the corporate limits and are hereby made a part of the conditions required to be met for the city to provide water services to any premises. Such action, being essential for the protection of the water distribution system against the entrance of contamination which may render the water unsafe healthwise, or otherwise undesirable, shall be enforced rigidly without regard to location of the premises, whether inside or outside the Bartlett Corporate Limits.

Any person who neglects or refuses to comply with any of the provisions of this chapter shall be deemed guilty of a misdemeanor and, upon conviction therefor, shall be fined not more than fifty dollars ($50.00), and each day of continued violation after conviction shall constitute a separate offense. (Ord. #79-3, Feb. 1979, as amended by Ord. #86-13, June 1986, modified)

TITLE 19

ELECTRICITY AND GAS

[RESERVED FOR FUTURE USE]

TITLE 20

MISCELLANEOUS

CHAPTER

CHAPTER 1

AIR POLLUTION CONTROL CODE

SECTION

20-101. Words and phrases substituted in state regulations adopted by reference. (1) For the purpose of enforcement of the City of Bartlett, Tennessee--Air Pollution Control Code, the following shall apply:

(a) Wherever the terms Air Pollution Control Board of the State of Tennessee, Tennessee Air Pollution Control Board, or board appear, they shall be replaced by Memphis and Shelby County Air Pollution Control with the following exceptions:

(i) 05(109) 1200-3-9-.04
(ii) 05(107) 1200-3-7-.06
(iii) 05(106) 1200-3-6-.01
(iv) 05(114) 1200-3-14-.01(1)(a), and
(v) 05(111) 1200-3-11-.01(1)

(b) Wherever the terms Tennessee, State of Tennessee, or state appear, they shall be replaced by City of Bartlett with the following exceptions:

(i) 05(109) 1200-3-9-.04
(ii) 05(114) 1200-3-14-.01(1)(a)
(iii) When referring to Tennessee Code Annotated, and
(iv) When referring to the Tennessee Air Quality Act.

(c) Wherever the terms Technical Secretary of the Tennessee Air Pollution Control Board, technical secretary, or secretary appear, they shall be replaced by health officer except in items § 20-104(5)(b)(i) and (ii) for the purposes of Tennessee Code Annotated, § 68-201-116(b)(1).

(d) Wherever the terms "Department of Environment and Conservation of the State of Tennessee," "Tennessee Department of Environment and Conservation," or "department" appear, they shall be replaced by "Memphis and Shelby County Health Department."

(e) Wherever the terms Tennessee Air Pollution Control Division of Air Pollution Control, or division appear, they shall be replaced by Memphis and Shelby County Health Department, Air Pollution Control Section.

(f) Wherever the terms Tennessee Air Pollution Control Regulations or regulations appear, they shall be replaced by City of Bartlett, Tennessee--Air Pollution Control Code.

(g) Wherever the term Nashville Office appears, it shall be replaced by Memphis and Shelby County Health Department.

(h) Wherever the term "State Civil Defense" appears, it shall be replaced by "Memphis and Shelby County Emergency Management Agency."

(i) Wherever the terms "Chapter 1200-3-26," Rule 1200-3-26-.02" or other citations involving "1200-3-26" appear, they shall be replaced by §§ 20-110 through 20-119.

(i) That Rules and Regulations of Tennessee Chapter 1200-03-02 titled Definitions; Chapter 1200-03-03 titled Ambient Air Quality Regulations; Chapter 1200-03-05 titled Visible Emission Regulations; Chapter 1200-03-06 titled Nonprocess Emission Standards; Chapter 1200.03-07 titled Process Emissions Standards; Chapter 1200-03-09 titled Construction and Operating Permits Chapter 1200-03-10 titled Required Sampling, Recording and Reporting, Chapter 1200-3-11 titled Hazardous Air Contaminants; Chapter 1200-03-12 titled Methods of Sampling and Analysis; Chapter 1200-03-14 titled Control of Sulfur Dioxide Emissions; Chapter 1200-03-15 titled Emergency Episode Plan; Chapter 1200-03-15 titled Emergency Episode Plan; Chapter 1200-03-16 titled New Source Performance Standards; Chapter 1200-03-18 titled Volatile Organic Compounds; Chapter 1200-03-20 titled Limits on Emissions due to Malfunctions, Startups and Shutdowns; Chapter 1200-03-21 titled General Alternate Emission Standards; Chapter 1200-3-22 titled Lead Emission Standards; Chapter 1200-03-24 titled Good Engineering Practices Stack Height Regulations; Chapter 1200-03-25 titled Standards for Infectious Waste Incinerators, Chapter 1200-03-30 titled Acid Precipitation Standard; Chapter 1200-03-31 titled National Emission Standards for Hazardous Air Pollutants for Source Categories; Chapter 1200-03-32 titled Prevention of Accidental Releases; Chapter 1200-03-34 titled Conformity, are incorporated herein by reference as if set out in their entirety and shall be approved as requirements of this jurisdiction upon adoption by the board of mayor and aldermen. Section nomenclature for these regulations is identified in accordance with the table located in (ii) below.

(ii) That the state rules and regulations that had previously been adopted by reference in to the Bartlett Air Pollution Control Code and are referenced in the second column of this table are deleted and substituted instead with the State Rules and Regulations, effective as of December 5, 2018, that are adopted by this ordinance and described in the fourth column of this table:

Bartlett Air Pollution Control Code Section	Previously adopted State Rules and Regulations to be deleted in Bartlett Air Pollution Control Code		State Rules and Regulations Effective as of December 5. 2018 and substituted in Bartlett Air Pollution Control Code Section
05(102)	1200-3-2	Definitions	1200-03-02
05(103)	1200-3-3	Ambient Air Quality Standards	1200-03-03
	1200-3-5	Visible Emission Regulations	1200-03-05
05(106)	1200-3-6	Non-Process Emission Standards	1200-03-06
05(107)	1200-3-7	Process Emission Standards	1200-03-07
05(109)	1200-3-9	Construction and Operating Permits	1200-03-09
05(110)	1200-3-10	Required Sampling. Recording and Reporting	1200-03-10
05(111)	1200-3-11	Hazardous Air Contaminants	1200-03-11
05(112)	1200-3-12	Methods of Sampling and Analysis	1200-03-12
05(114)	1200-3-14	Control of Sulfur Dioxide Emissions	1200-03-14
05(115)	1200-3-15	Emergency Episode Plan	1200-03-15
05(116)	1200-3-16	New Source Performance Standards	1200-03-16
05(118)	1200-3-18	Volatile Organic Compounds	1200-03-18
05(120)	1200-3-20	Limits on Emissions Malfunctions. Startups & Shutdowns	1200-03-20
05(121)	1200-3-21	General Alternate Emission Standards	1200-03-21
05(122)	1200-3-22	Lead Emissions Standards	1200-03-22
05(124)	1200-3-24	Good Engineering Practice Stack Height Regulations	1200-03-24
05(125)	1200-3-25	Standards for Infectious Waste Incinerators	1200-03-25
05(130)	1200-3-30	Acid Precipitation Control	1200-03-30
05(131)	1200-3-31	Case by Case Determinations of Hazardous Air Pollutant Control Requirements	1200-0 :31
05(132)	1200-3-32	Prevention of Accidental Releases	1200-03-32
05(134)	1200-3-34	Conformity	1200-03-34

(Ord. #70-3, Sept. 1970, as amended by Ord. #73-1, June 1973, Ord. #86-6, May 1986, Ord. #03-06, April 2003, and Ord. #20-08, Dec. 2020 ***Ch7_12-08-20***)

20-102. <u>Open burning</u>. (1) No person shall cause, suffer, allow or permit open burning of refuse, garbage, trade waste, trees, limbs, brush, or materials from salvage operations. The open burning of tires and other rubber products, vinyl shingles and siding, other plastics, asphalt shingles and other asphalt roofing materials, and/or asbestos containing materials is expressly prohibited, and such materials shall not be lawful in any open burning conducted under the provisions of § 20-102.

(2) Open burning as listed below may be conducted without permit subject to fire department approval and provided further that no public nuisance is or will be created by the open burning.

(a) Fires used for the cooking of food or for ceremonial, recreational or comfort-heating purposes including barbecues and outdoor fireplaces. This exception does not include commercial food preparation facilities and their operation.

(b) Fires set for the training and instruction of firemen or for research in fire protection or prevention. However, routine demolition of structures via supervised open burning by responsible fire control persons will not be considered fire training. Additionally, the person responsible for such burning, unless conducted at a recognized fire training academy, must certify compliance with the following requirements by written statement. The certification must be delivered to the Pollution Control Section of the Memphis-Shelby County Health Department (department) at least ten (10) working days prior to commencing the burn:

(i) The open burning is being conducted solely for fire training purposes.

(ii) All vinyl siding, carpet, vinyl flooring, asphalt roofing materials, and any other materials expressly prohibited in § 20-102(1) have been removed.

(iii) All regulated asbestos containing materials have been removed in accordance with Subsection 05(111) [Reference 1200-3-11-.02(2)(d)3.(x)].

(iv) A traffic hazard will not be caused by the air contaminants generated by the fire training.

(v) A public nuisance will not be created by the open burning.

(c) Smokeless flares or safety flares for the combustion of waste gases provided other applicable subsections of this section are met.

(d) Fire used for carrying out recognized agricultural procedures necessary for the production or harvesting of crops or for the control of diseases or pests, in accordance with practices acceptable to the department.

(e) Fires for the burning of bodies of dead animals, including poultry, where no other safe and/or practical disposal method exists.

(3) Exceptions to subsection (1) of this section may be permitted for vegetation if all of the following conditions are met when an air curtain destructor is used:

(a) A request is filed with the health officer giving the reason why no method except open burning can be employed to dispose of the material involved, the amount and kind of material to be burned, the exact location where the burning will take place, and the dates when the open burning will be done. All changes in types of, or increase in quantities of, materials burned must be preceded by notification. The notification must be delivered to the department at least ten (10) working days prior to commencing the change in the burn.

(b) The person applying for the permit certifies, by written statement, compliance with following distance requirements, at a minimum:

(i) The open burning site must be at least five hundred (500) feet from any federal and from any state highway; and

(ii) The open burning site must be at least one thousand (1,000) feet from any school, national or state park, national reservation, national or state forest, wildlife area, and/or residence not on the same property as the air curtain destructor; and

(iii) The open burning site must be at least one-half (½) mile from any airport, nursing home or hospital.

(c) The plume from the air curtain destructor must meet the visible emission standards specified in subsection 05(105) [Reference 1200-3-5-.01(1)]; however, for certain materials the department may allow one start-up period in excess of the standard, per day, not to exceed twenty (20) minutes in twenty-four (24) hours.

(d) All material to be burned must be dry and in other respects be in a state to sustain good combustion. Open burning must be conducted when ambient conditions are such that good dispersion of combustion products will result. Priming materials used to facilitate such burning shall be limited to #1 or #2 grade fuel oils.

(e) No fire shall be ignited while any air pollution emergency episode is in effect in the area of the burn. No fire shall be ignited during any exceedance of the National Ambient Air Quality Standard for ozone, oxides of nitrogen, carbon monoxide, or particulate matter. Permittee is required to contact the department's Computerized Local Air Index Reporting System (CLAIR) recorded line at (901)544-7489 or 544-7490 before igniting a fire to determine if it is a burning day or a no-burning day.

(f) Approval is received from the health officer in writing.

(g) Permission is secured from the fire department in the jurisdiction involved.

(h) The burning will be done between the hours of 9:00 A.M. and 4:00 P.M. or as authorized by the health officer.

This approval will not relieve the person responsible for such burning from the consequences of any damages, injuries, or claims resulting from such burning.

(4) Definitions. (a) "Air curtain destructor" is a portable or stationary combustion device that directs a plane of high velocity forced draft air through a manifold head into a burn chamber with vertical walls in such a manner as to maintain a curtain of air over the surface of the burn chamber and a recirculating motion of air under the curtain. The use of an air curtain destructor is considered controlled open burning.

(b) "Air pollution emergency episode" is defined as air pollution alerts, warnings, or emergencies declared by the health officer during adverse air dispersion conditions that may result in harm to public health or welfare.

(c) "Natural disaster" is defined as any event commonly referred to as an "Act of God" and includes but is not limited to the following weather related or naturally occurring categories of events: tornadoes, hail and wind storms, snow or ice storms, flooding, and earthquakes.

(d) "Open burning" is the burning of any matter under such conditions that products of combustion are emitted directly into the open atmosphere without passing directly through a stack.

(e) "Person" is any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, political subdivision, an agency, authority, commission, or department of the United States government, or of the State of Tennessee government; or any other legal entity, or its legal representative, agent, or assigns.

(5) Burning after natural disasters. (a) Open burning of materials resulting from a natural disaster, and when conducted in conformity with the following conditions, may be permitted:

(i) Fires disposing of structural and household materials and vegetation are allowed only when those structures or materials are destroyed or severely damaged by natural disaster. Input from emergency management personnel may be requested in determining qualifications with this criteria. The provisions of this subsection pertaining to structural and household materials may be waived if the persons seeking to open burn under this provision make a reasonable effort to remove all expressly prohibited material from the structural remains before ignition. The department reserves the right to inspect the proposed materials to be burned before ignition. The alternative use of chippers and grinders, landfilling, or on-site burial of waste in lieu of burning, if lawful, is encouraged.

(ii) If a governmental collective burn site for disposing of structural and household materials and vegetation damaged by a natural disaster is planned, the person responsible for such burning must notify the department of the proposed location. The notification must be delivered to the department at least three (3) days prior to commencing the burn. The department may request that alternate sites be identified to minimize impact to air quality. The alternative use of chippers and grinders in lieu of burning is encouraged.

(iii) A traffic hazard shall not be caused by the air contaminants generated by the fire.

(iv) No fire shall be ignited while any air pollution emergency episode is in effect in the area of the burn. No fire shall be ignited during any exceedance of the National Ambient Air Quality Standard for ozone, oxides of nitrogen, carbon monoxide, or particulate matter. Contact the department's Computerized Local Air Index Reporting system (CLAIR) recorded line at (901) 544-7489 or 544-7490 before igniting a fire to determine if it is a burning day or no-burning day.

(v) Open burning conducted under this exception is only allowed where no other safe and/or practical means of disposal is available.

(b) The health officer reserves the right to require a person to cease or limit open burning if emissions from the fires are deemed by the health officer or his designee to jeopardize public health or welfare, create a public nuisance or safety hazard, create a potential safety hazard, or interfere with the attainment or maintenance of the air quality standards.

(c) Any exception to the open burning prohibition granted by this subsection does not relieve any person of the responsibility to obtain a permit required by any other agency, or of complying with other applicable requirements, ordinances, or restrictions.[1] (Ord. #70-3, Sept. 1970, as amended by Ord. #73-1, June 1973, Ord. #86-6, May 1986, and Ord. #03-06, April 2003)

20-103. Enforcement--violations of chapter--notice; citation; injunctive relief. (1) Whenever evidence has been obtained or received establishing that a violation of this code has been committed, the health officer

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[1]Particular attention is directed to Tennessee Code Annotated, § 39-14-306, which prohibits open air fires between October 15 and May 15 within five hundred (500) feet of any forest, grasslands or woodlands without first securing a permit from the state forester in unincorporated portions of Shelby County.

shall issue a notice to correct the violation or a citation to cease the violation. Such notice or citation shall briefly set forth the general nature of the violation and specify a reasonable time within which the violation shall be rectified or stopped. If the violation is not corrected within the time so specified, or the violation stopped, or reasonable steps taken to rectify the violation, the health officer shall have the power and authority to issue an order requiring the violator to cease or suspend operation of the facility causing the violation until the violation has been corrected, or initiate proceedings to prosecute the violator for violation of this code.

(2) In the event any person fails to comply with a cease or suspend operation order, that is not subject to a stay pending administrative or judicial review, the health officer shall institute proceedings in a court of competent jurisdiction for injunctive relief to enforce the regulations or orders pursuant hereto. (Ord. #70-3, Sept. 1970, as amended by Ord. #73-1, June 1973, Ord. #86-6, May 1986, and Ord. #03-06, April 2003)

20-104. Enforcement penalties--misdemeanor, civil, and noncompliance. (1) Failure to comply with any of the provisions of the City of Bartlett, Tennessee--Air Pollution Control Code shall constitute a violation thereof and shall subject the person or persons responsible therefore to any and all of the penalties provided by law.

(2) The Memphis-Shelby County Health Department in conjunction with the local air pollution control board shall have authority, at their option, to institute and litigate proceedings for violations as set out therein. Any person who knowingly:

(a) Violates or fails to comply with any provision of the City of Bartlett, Tennessee--Air Pollution Control Code, any board or administrative order or any permit condition;

(b) Makes any false material statement, representation, or certification in any record, report, plan or other document required by permit to be either filed or maintained;

(c) Falsifies, tampers with, renders inaccurate or fails to install any monitoring device or method required to be maintained or followed;

(d) Fails to pay a fee;

(e) Commits a Class C misdemeanor pursuant to the Tennessee Code Annotated with the fine not to exceed ten thousand dollars ($10,000.00) per day per violation. For the purpose of this subsection, each day of continued violation constitutes a separate offense and is punishable as such.

No warrant, presentment or indictment arising under § 20-104(2) shall be issued except upon application, authorized in writing, by the health officer on behalf of the local air pollution control program operating under a certificate of exemption pursuant to Tennessee Code Annotated, § 68-201-115, for a violation within its jurisdiction.

(3) Willful and knowing violation of any provision of the City of Bartlett, Tennessee--Air Pollution Control Code is declared to be a misdemeanor, and each day of violation shall constitute a separate offense. Conviction of a misdemeanor is punishable with the fine not to exceed ten thousand dollars ($10,000.00) per day per violation or with imprisonment not greater than thirty (30) days, or both.

(4) In addition and supplemental to any criminal action which may be prosecuted under this subsection, the health officer has and is vested with jurisdiction and authority to determine whether or not any provision of the City of Bartlett, Tennessee--Air Pollution Control Code, any permit condition, or any order has been violated, and whether or not such violation constitutes a public nuisance. Upon such finding that a public nuisance exists, the health officer has authority to abate any such public nuisance in the manner provided by the general law relating to the abatement of public nuisances.

(5) Orders and assessments of damages and civil penalties and appeals:

(a) When the health officer discovers that any provisions of the City of Bartlett, Tennessee--Air Pollution Control Code has been violated, the health officer may issue an order for correction to the responsible person, and this order shall be complied with within the time limit specified in the order. Such order shall be served by personal service or sent by certified mail, return receipt requested. The recipient of such an order may appeal in the same manner as with an assessment of damages or civil penalty under subsection (b) of this section.

(b) (i) In addition to the criminal penalties in this subsection, any person who violates or fails to comply with any provision of the City of Bartlett, Tennessee--Air Pollution Control Code or any standard adopted pursuant thereto in a permit, shall be subject to a civil penalty of up to twenty-five thousand dollars ($25,000.00) per day for each day of violation. Any person against whom an assessment in excess of ten thousand dollars ($10,000.00) for each violation has been issued by a local pollution control program pursuant to this subsection may petition the technical secretary for de novo review of the assessment under the provisions of Tennessee Code Annotated, § 68-201-116. The technical secretary shall render an initial determination, and that initial determination may be appealed to the Tennessee Air Pollution Control Board pursuant to this section. Each day such violation continues constitutes a separate punishable offense, and such person shall also be liable for any damages to the municipality resulting therefrom.

(ii) Any civil penalty or damages shall be assessed in the following manner:

(A) The health officer on behalf of the Memphis-Shelby County Health Department operating under a certificate of exemption pursuant to Tennessee Code Annotated, § 68-201-115 may issue an assessment against any person responsible for the violation or damages. Such person shall receive notice of such assessment by certified mail, return receipt requested;

(B) Any person against whom an assessment has been issued may appeal the assessment by filing a petition for review with the health officer, or with the technical secretary of an assessment in excess of ten thousand dollars ($10,000.00) for each violation, within thirty (30) days after receipt of the assessment, setting forth the grounds and reasons for such person's objections and requesting a hearing on the matter; and

(C) If a petition for review of the assessment is not filed within thirty (30) days after the date the assessment is served, the violator shall be deemed to have consented to the assessment and it shall become final.

(iii) In assessing such civil penalty, the factors specified in Tennessee Code Annotated, § 68-201-106 and title 42 U.S.C. §7413 and §7420 may be considered. Damages to the state or to the City of Bartlett may include any expenses incurred in investigating the enforcing of this subsection; in removing, correcting, or terminating the effects of air pollution; and also compensation for any expense, loss or destruction of plant or animal life or any other actual damages or clean-up expenses caused by the pollution or by the violation. The plea of financial inability to prevent, abate or control pollution by the polluter or violator shall not be a valid defense to liability for violations of the provisions of the City of Bartlett, Tennessee--Air Pollution Control Code.

(iv) The issuance of an order or assessment of civil penalty by the Memphis-Shelby County Health Department operating under a certificate of exemption as provided for in this subsection is intended to provide additional and cumulative remedies to prevent, abate and control air pollution in Tennessee. Nothing herein shall be construed to preempt, supersede, abridge or otherwise alter any rights, action or remedies of the technical secretary, Tennessee Air Pollution Control Board or Commissioner of the Tennessee Department of Environment and Conservation.

(v) (A) Whenever any order or assessment under this subsection has become final, a notarized copy of the order or assessment may be filed in the office of the clerk of the

Chancery Court of Shelby County if the final order or assessment is from the Memphis-Shelby County Health Department.

(B) When filed in accordance with subsection (v)(A), a final order or assessment shall be considered as a judgment by consent of the parties on the same terms and conditions as those recited therein. Such judgment shall be promptly entered by the court. Except as otherwise provided in this subsection, the procedure for entry of the judgment and the effect thereof shall be the same as provided in Tennessee Code Annotated, title 26, chapter 6.

(C) Within forty-five (45) days after entry of a judgment under subsection (v)(B), any citizen of the City of Bartlett shall have the right to intervene on the ground that the penalties or remedies provided are inadequate or are based on erroneous findings of facts. Upon receipt of a timely motion to intervene, the court shall determine whether it is duplicitous or frivolous, and shall notify the movant and the parties of its determination. If the motion is determined not to be duplicitous or frivolous, all parties shall be considered to have sought review of the final order or assessment, and the court shall proceed in accordance with Tennessee Code Annotated, § 4-5-322. If no timely motion to intervene is filed, or if any such motion is determined to be duplicitous or frivolous, the judgment shall become final forty-five (45) days after the date of entry.

(D) A final judgment under this subsection has the same effect, is subject to the same procedures, and may be enforced or satisfied in the same manner, as any other judgment of a court of record of this state. (Ord. #70-3, Sept. 1970, as amended by Ord. #73-1, June 1973, Ord. #86-6, May 1986, and Ord. #03-06, April 2003)

20-105. Enforcement--variances. (1) Any person who owns or is in control of any plant, building, structure, establishment, process or equipment including a group of persons who own or control like processes or like equipment may apply to the air pollution control hearing board, hereinafter referred to as "the board," for a variance from rules or regulations governing the quality, nature, duration or extent of discharge of air contaminants. The application for a variance shall include information and data sufficient for the board to make the findings required below. The hearing held hereunder shall be conducted in accordance with the rules of evidence as set forth in § 20-104(5) of this chapter. The board may grant such variance, but only after public hearing on due notice

and subject to the certificate of exemption issued pursuant to Tennessee Code Annotated, § 68-201-115 if it finds that:

(a) The emissions proposed to occur as a result of a variance would not endanger or tend to endanger human health, safety, or welfare, and would not cause or tend to cause property damage; and

(b) Compliance with the rules or regulations from which variance is sought would produce serious hardship without equal or greater benefits to the public or a variance is needed only until a rule adopted by the Tennessee Air Pollution Control Board becomes state effective. If economic hardship is claimed, a description of expected monetary losses shall be included.

(2) No variance shall be granted or denied pursuant to this subsection until the board has considered the relative interests of the applicant, other owners of property likely to be affected by the discharges, and others who may be affected by granting or denying a request for variance.

(3) Any variance or renewal thereof shall be granted within the requirements of subsection (1) for time periods and under conditions consistent with the reasons therefore, and with the following limitations:

(a) If the variance is granted on the grounds that there is no practicable means known or available for the adequate prevention, abatement, or control of the air pollution involved, the variance shall be permitted only until the necessary means for prevention, abatement, or control become known and available, and the variance shall be subject to the taking of any substitute or alternate measures that the board may prescribe.

(b) If the variance is granted on the ground that compliance with the particular requirement or requirements from which variance is sought will necessitate the taking of measures which, because of their extent or cost, must be spread over a considerable period of time, it shall be for a period not to exceed such reasonable time as, in view of the board, is requisite for the taking of necessary measures. A variance granted on the ground specified herein shall contain a timetable for the taking of action in an expeditious manner and shall be conditioned on adherence to such timetable and submittal of proof that such timetable is being met.

(c) Any variance or renewal granted shall be for a time period not to exceed one (1) year.

(4) Any variance granted pursuant to this subsection may be renewed by the Air Pollution Control Hearing Board on terms and conditions and for periods which would be appropriate on initial granting of the variance following the same procedures required for issuance of the initial variance. If complaint is made to the board on account of the variance, no renewal thereof shall be granted, unless, following public hearing on the complaint, the board finds that renewal is justified. No renewal shall be granted except on application therefore. Any such application shall be made at least sixty (60) days prior to

the expiration of the variance. Immediately upon a receipt of an application for renewal, the board shall give public notice of such application in accordance with rules and regulations of the board.

(5) A variance or renewal shall not be a right of the applicant or holder thereof, but shall be in the discretion of the board. However, any applicant adversely affected by the denial or the terms and conditions of the granting of an application for a variance or renewal of a variance by the board may obtain judicial review thereof only in a court of competent jurisdiction.

(6) Nothing in this subsection and no variance or renewal granted pursuant hereto shall be construed to prevent or limit the application of the emergency provisions and procedures of § 20-106 and 05(115) [Reference 1200-3-15] to any person or his property. (Ord. #70-3, Sept. 1970, as amended by Ord. #73-1, June 1973, Ord. #86-6, May 1986, and Ord. #03-06, April 2003)

20-106. Enforcement--emergency powers of health officer. (1) Any other provisions of the law notwithstanding, if the health officer finds that a generalized condition of air pollution exists and that it creates an emergency requiring immediate action to protect human health or safety, the health officer shall order persons causing or contributing to the air pollution to reduce or discontinue immediately the emission of air contaminants. Upon issuance of any such order, the health officer shall fix a place and time, not later than twenty-four (24) hours thereafter, for a hearing to be held before the air pollution control hearing board. Such hearing shall be held in conformity with the provisions of subsection 05(8), insofar as applicable. Not more than twenty-four (24) hours after the commencement of such hearing, and without adjournment thereof, the air pollution control hearing board shall affirm, modify or set aside the order of the health officer.

(2) In the absence of a generalized condition of air pollution of the type referred to in subsection (1) of this section, but if the health officer finds that emissions from the operation of one or more air contaminant sources is causing imminent danger to human health or safety, he may order the person responsible for the operation in question to reduce or discontinue operations immediately, without regard to the provisions of this chapter. In such event, the requirements for hearing and affirmance, modification or setting aside of orders set forth in subsection (1) of this section shall apply. (Ord. #70-3, Sept. 1970, as amended by Ord. #73-1, June 1973, Ord. #86-6, May 1986, and Ord. #03-06, April 2003)

20-107. Air pollution control hearing board--created; membership; term of office; jurisdiction; hearings; appeals. (1) There is hereby created the Memphis and Shelby County Air Pollution Control Board, hereinafter referred to as "the board" to be composed of nine (9) members to be appointed as described in subsections (a) and (b) below. No member of the board shall hold any elective office or receive any governmental salary except as a

member of the faculty or staff of a school in the Tennessee education system. Otherwise, all members shall serve without compensation. Any member of the board who has any conflict of interest or potential conflict of interest shall make adequate disclosure of it and abstain from matters related to it.

(a) Eight (8) members of the board are to be appointed by the Mayor of the City of Memphis and the Mayor of Shelby County and confirmed by both the Memphis City Council and the Shelby County Board of Commissioners. These eight (8) members shall consist of the following: One professional engineer knowledgeable in the field of air pollution control, one physician licensed to practice in Tennessee, one attorney licensed to practice law in Tennessee, one member of academia, a representative of industry at large, and such other citizen members as may be appointed, except that industry may have no more than two (2) representatives.

(b) One member of the board is to be appointed by the Executive Committee of the Memphis Area Association of Governments. This member is to be a representative for the municipalities of Arlington, Bartlett, Collierville, Germantown, Lakeland, and Millington and is to be a citizen of one of these communities.

(2) The terms of the members shall be four (4) years except that of the initially appointed members, of which three (3) shall serve for four (4) years, two (2) shall serve for three (3) years, two (2) shall serve for two (2) years and two (2) shall serve for one (1) year as designated at the time of appointment. Whenever a vacancy occurs, the vacancy shall be filled for the unexpired term in the same manner as the original appointment. Should the term of any board member expire without a replacement member being appointed, the existing member shall continue to hold the board membership until such appointment or reappointment occurs.

(3) The board shall select annually a chairman from among its members. The board shall hold at least four (4) regular meetings each year and such additional meetings as the chairman deems necessary. All hearings conducted by the board shall be open to the public. The health director shall act as secretary to the board and shall keep records of its hearings and other official actions. All hearings shall be held before not less than a majority of the board.

(4) The board is hereby vested with the following jurisdiction and authority:

(a) Grant, deny or revoke variance applications;

(b) To decide appeals from any decisions, rulings, or determinations of the health director or his designated representative under this chapter

(c) To hear appeals arising from the failure of the health director or his designated representative to act within a reasonable period on complaints under this chapter.

(5) Any person taking exception to and who is uniquely affected by any decision, ruling, requirement, rule, regulation, or order of the health director or by his failure to act within a reasonable amount of time may take an appeal to the board as established by this subsection. Such appeals shall be made within fifteen (15) days after receiving notice of such decision, ruling, requirement, rule, regulation, or order or failure to act by filing a written notice of appeal directly to the board specifying the ground thereof and the relief requested. Such an appeal shall act as a stay of the decision, ruling, requirement, rule, regulation or order in question until the board has taken final action on the appeal, except when the health director has acted under subsection 05(7), "Emergency Order" or except when an appeal has been filed pursuant to subsection 05(109) [Reference 1200-3-9.05(8)]. The board, not more than thirty (30) days after the date of filing an appeal, shall set a date for the hearing not more than sixty (60) days after the date of filing of the appeal and shall give notice thereof by mail to the interested parties.

(6) Hearings before the board shall be conducted in the following manner:

(a) Notice of any and all hearings shall be given at least fifteen (15) days prior to the scheduled date of the hearing by public advertisement in a newspaper of general circulation in Shelby County, Tennessee giving the date, time, place and purpose of the hearing; and

(b) The chairman of the board shall act as the hearing examiner to conduct such hearing; and

(c) Any person seeking a variance or any party who has filed a written notice of appeal pursuant to § 20-107 or subsection 05(109) [Reference 1200-3-9-.05], may appear in person or by agent or attorney and present evidence, both written or oral, relevant to the questions and issues involved and may examine and cross examine witnesses.

(d) All testimony shall be under oath and recorded. The board is authorized to have all testimony transcribed and a transcript of such testimony, if transcribed, shall be made available to the respondent or any party to the hearing upon payment of the normal fee, which shall not exceed the cost of transcribing such testimony.

(e) After due consideration of the written and oral statements, the testimony and arguments submitted at the hearing upon such complaint, or, upon default in appearance of the respondent on the return date specified in the formal notice of complaint, the board shall issue and enter such final order or make such final determination as it shall deem appropriate not later than sixty (60) days after the hearing date, and shall immediately notify the respondent thereof, in writing, by certified mail. Such order or determination shall be approved by a least a majority of members to which the board is entitled.

(f) Upon failure of the board to enter a final order or determination within sixty (60) days after the final argument of such

hearing, the respondent shall be entitled to treat for all purposes such failure to act as a finding favorable to the respondent.

(g) The burden of proof shall be on the health director or his duly authorized representative where appeal has been sought pursuant to § 20-107 or subsection 05(109). The burden of proof is on the applicant where a variance has ben sought pursuant to § 20-105, in accordance with Tennessee Code Annotated, § 68-201-118(k).

(h) Any person aggrieved by any final order or determination of the board hereunder shall have judicial review thereof by writ of certiorari pursuant to Tennessee Code Annotated, § 27-9-101, et seq. No judicial review shall be available until and after all administrative remedies have been exhausted. (Ord. #70-3, Sept. 1970, as amended by Ord. #73-1, June 1973, Ord. #86-6, May 1986, and Ord. #03-06, April 2003)

20-108. Abatement. (1) When dust, fumes, gases, mist, vapors, or any combination thereof escape from a building or equipment in such a manner and amount as to cause a nuisance or to violate any regulation, the health officer may order that the building or equipment in which processing, handling and storage are done by tightly closed and ventilated in such a way that all air and gases and air or gas-borne material leaving the building or equipment are treated by removal or destruction of air contaminants before discharge to the open air.

(2) No person shall cause, suffer, allow, or permit any air contaminant source to be operated without employing suitable measures for the control of the emission of objectionable odors. Suitable measures shall include permit limitations, wet scrubbers, incinerators, or such other devices as may be approved by the health officer. (Ord. #70-3, Sept. 1970, as amended by Ord. #73-1, June 1973, Ord. #86-6, May 1986, and Ord. #03-06, April 2003)

20-109. Dust. No person shall cause, suffer, allow, or permit any materials to be handled, transported, or stored; or a building, its appurtenances, or a road to be used, constructed, altered, repaired or demolished without taking reasonable precautions to prevent particulate matter from becoming airborne. Such reasonable precautions shall include, but not be limited to, the following:

(1) Use, where possible, water or chemicals for control of dust in the demolition of existing buildings or structures, construction operations, the grading of roads or the clearing of land;

(2) Application of asphalt, oil, water, or suitable chemicals on material stockpiles, and other surfaces which can create airborne dusts;

(3) Installation and use of hoods, fans, and fabric filters to enclose and vent the handling of dusty materials. Adequate containment methods shall be employed during sandblasting or other similar operations;

(4) Covering, at all times when in motion, open bodied trucks transporting materials likely to become airborne;

(5) Conduct of agricultural practices such as tilling of land, application of fertilizers, etc. in such manner as to not create a nuisance to others residing in the area;

(6) The paving of roadways and their maintenance in a clean condition;

(7) The prompt removal of earth or other material from paved streets which earth or other material has been transported thereto by trucking or earth moving equipment or erosion by water. (Ord. #70-3, Sept. 1970, as amended by Ord. #73-1, June 1973, Ord. #86-6, May 1986, and Ord. #03-06, April 2003)

20-110. Permits and fees--applicability and enforcement authority. (1) The provisions of this section on permit fees shall apply to any person required to make application on or after July 1, 1992, to the Memphis-Shelby County Health Department for issuance, re-issuance or modification of a permit in accordance with this chapter, and shall be subject to the fee schedule set out in § 20-111. The provisions of this section on emissions fees shall apply to any person holding or obtaining a valid air pollution permit from the Memphis and Shelby County Health Department on or after July 1, 1992, and shall be subject to the fees set out in § 20-119.

(2) The Memphis-Shelby County Health Department (hereinafter referred to as the department) is designated to carry out and enforce the provisions of this chapter and to promulgate any regulations consistent with it as may be required for proper administration of the fee system created herein. (Ord. #70-3, Sept. 1970, as amended by Ord. #73-1, June 1973, Ord. #86-6, May 1986, and Ord. #03-06, April 2003)

20-111. Permits and fees--permit fee schedule. Fees for permits are hereinafter set out as follows, and shall apply to any "person" as defined in this chapter:

(1) Construction permits. (a) Any person making application to the Shelby County Health Department for a construction permit shall pay an initial filing fee of two hundred dollars ($200.00) per permit unit. The filing fee shall not be refundable if the permit is denied or if the application is withdrawn, nor shall it be applied to any subsequent application.

(b) In addition to the fees in (1)(a), the largest of the following fees, if applicable, shall be paid:

(i)	Prevention of significant deterioration (PSD) review	$3,960
(ii)	Major source or major modification review, except PSD sources review, requiring modeling	$2,640

(iii)	Minor source or minor modification review, requiring modeling	$660
(iv)	New source performance standard (NSPS) source review, per permit unit	$660
(v)	National Emission Standards for Hazardous Air Pollutant (NESHAP) source review, per permit unit	$660

(2) Inspection/operating permit. (a) Any person making application to the Shelby County Health Department for an inspection/operating permit shall pay the larger of the applicable fees in accordance with the following schedule:

(i)	Asbestos demolition/renovation removal, per notice	$130
(ii)	Air curtain destructor, per permit unit	$130
(iii)	NSPS source, per permit unit	$130
(iv)	NESHAP source, per permit unit	$130
(v)	Any source issued a permit pursuant to local rules implementing Title 40, Code of Federal Regulations, Section 70 (Major Source Permits)	$2,000
(vi)	Any permit unit with actual emissions of 50 tons or more a year, but less than 100 tons per year of any single pollutant	$130
(vii)	Any permit unit with actual emissions of 25 tons or more per year, but less than 50 tons per year of a single pollutant	$100
(viii)	Any permit unit with actual emissions of less than 25 tons per year of a single pollutant	$65
(ix)	Any permit issued as the result of a permit by rule or annual notification and general standards application to a particular business or business group	$130
(x)	Any source issued an operating permit for which a construction permit was never obtained. (Enforcement action may also apply.)	$265

(b) No portion of the inspection/operating fee shall be refundable in the event the source discontinues operation or service during the permitted period.

(3) Modification of a permit. Any person making application to the Shelby County Health Department for the modification of a permit shall pay a fee for each permit unit being modified, except that no fee is required for

modification of a permit to correct clerical, typographical, or calculation errors. This fee shall be set out as follows:

(i)	If the modifications is anticipated to result in an increase in all pollutants less than 10 tons per year	$130
(ii)	If the modification is anticipated to result in an increase in all pollutants equal to or greater than 10 tons per year, but less than 50 tons per year	$330
(iii)	If the modification is anticipated to result in an increase in all pollutants equal to or greater than 50 tons per year	$660
(iv)	Name change	$130
(v)	Ownership change - new owner pays inspection and operating fees, based on tonnage	Varies based on tonnage fees
(vi)	Address change - new owner pays inspection and operating fees, based on tonnage, for the new address	$265 plus tonnage fees
(vii)	Permit revision with no emissions consequences	$130

(4) Stack sampling (a) If a source is required to demonstrate compliance by stack sampling its emission, it shall pay the following additional fees:

(i)	Any testing requiring U.S./EPA Methods 1 through 4 only, per stack test	$130
(ii)	Particulate emissions testing requiring U.S./ EPA Method 5, per stack test	$400
(iii)	Any other pollution testing by methods other than U.S./EPA Method 5, except those subject to subsection (D)(1)(a) of this section, per stack test	$660

(b) Any retest required to demonstrate compliance shall be subject ot the fee schedule as stated in subsection (4)(a)(i) through (iii) of this section. (Ord. #70-3, Sept. 1970; as amended by Ord. #73-1, June 1973, Ord. #86-6, May 1986, and Ord. #03-06, April 2003; and replaced by Ord. #16-09, Nov. 2016)

20-112. Permits and fees--emissions fee for stationary sources.

(1) Emissions fee. A fee shall be collected annually from each stationary air pollution source which emits more than one (1) ton of actual emissions annually of a regulated pollutant as defined herein, called the "emissions fee,' which shall equal the amount determined by the requirements set forth as follows:

Forty-eight dollars ($48.00) per ton of actual emissions emitted during calendar year 2013 to be collected beginning in 2015 and for successive years until such time as the board of mayor and aldermen approve a further increase or decrease, not including fugitive emissions and actual excess emissions that are the result of process malfunctions and facility start-up and shutdown determined by the Shelby County Health Department to be in compliance with the air pollution code sections that excuse these emissions from enforcement of each regulated pollutant as defined in section 502(b)(3)(B)(ii) of the Federal Clean Air Amendments of 1990.

This is the effective emissions fee rate, after adjustment for carryover overage, approved by the City of Bartlett:

Approved Rate	Adopted In	Effective Rate	Applicable to
$9.00	1992	$9.00	1991 Emissions
$18.00	1993	$18.00	1992 Emissions
$19.00	1994	$17.10	1993 Emissions
$29.65	1995	$29.65	1994 Emissions
--	--	$29.65	1995 Emissions
--	--	$29.65	1996 Emissions
$29.65	1998	$29.65	1997 Emissions
$29.65	1999	$29.65	1998 Emissions
$29.65	2001	$29.65	1999 Emissions
$29.65	2001	$29.65	2000 Emissions
$29.65	2003	$29.65	2002 Emissions
$29.65	2004	$26.68	2003 Emissions
$30.63	2005	$27.57	2004 Emissions
$31.67	2006	$28.50	2005 Emissions
$30.00	2008	$27.00	2006 Emissions
$30.00	2009	$27.00	2007 Emissions
$43.00	2012	$43.00	2011 Emissions
$48.00	2014	$48.00	2013 Emissions

(2) Maximum amount subject to emissions fee. Each stationary air pollution source shall be assessed the emissions fee on no more than four thousand (4,000) tons per year of each regulated pollutant it emits.

(3) Exemption for units subject to section 404 Provisions of the Federal Clean Air Amendments of 1990. No fee will be charged until the year 2000 with respect to remissions from any unit which is classified as "an affected unit" under section 404 of the Federal Clean Air Act amendments of 1990, entitled "Phase 1 Sulfur Dioxide Requirements." (Ord. #70-3, Sept. 1970, as amended

by Ord. #73-1, June 1973, Ord. #86-6, May 1986, and Ord. #03-06, April 2003, and replaced by Ord. #16-09, Nov. 2016)

20-113. Permits and fees--payment of fees. (1) Any person acquiring a permit shall be subject to the following payment of permit fees and the following procedure shall be used in payment thereof:

(a) Initial filing fees for construction permits must be submitted with the initial permit applications.

(b) Additional fees related to construction permits including those related to public notice are due within thirty (30) days of receipt of billing by the department.

(c) Fees related to stack testing are due within thirty (30) days of receipt of billing by the department.

(d) Inspection/operating fees are assessed annually on the anniversary date of the issuance of the permit where applicable.

(i) Fees for asbestos removal must be submitted with the written notice of intent to remove.

(ii) Fees for air curtain destructors must be submitted within ten (10) days of receipt of permit.

(e) Fees related to modification of a permit shall be submitted with the permit application.

(f) Fees related to public notice necessary for the regulation of a source shall be due within thirty (30) days of receipt of billing by the department.

(2) If the emissions fees assessed to a stationary air pollution source are less than five thousand dollars ($5,000.00), the fees owed shall be submitted by September 30 of the year following the year the emissions occurred. If more than five thousand dollars ($5,000.00) is owed, then the amount due shall be submitted by January 31 of the year two (2) years after the emissions occurred. (Ord. #70-3, Sept. 1970, as amended by Ord. #73-1, June 1973, Ord. #86-6, May 1986, and Ord. #03-06, April 2003)

20-114. Permits and fees--allowable uses for emissions fee. The department shall collect an annual emissions fee from those entities within the City of Bartlett which operate stationary air pollutant sources required to make application on or after July 1, 1992, to the Memphis-Shelby County Health Department for issuance, re-issuance or modification of a permit in accordance with the City of Bartlett, Tennessee--Air Pollution Control Code, and shall be subject to the fee schedule set out in § 20-111. This fee shall be used for:

(1) Reviewing and acting upon any application for a permit or permit modification under the City of Bartlett, Tennessee--Air Pollution Control Code as amended;

(2) Implementing and enforcing the terms and conditions of any permit issued under the City of Bartlett, Tennessee--Air Pollution Control Code,

provided, however, such cost shall not include any court cost or other costs associated with any judicial enforcement action;

(3) Emissions and ambient monitoring and inspection of source operated monitoring programs;

(4) Preparing generally applicable regulations or guidance;

(5) Modeling, analyses and demonstrations;

(6) Preparing inventories and tracking emissions;

(7) Development of and support for the small business stationary source technical and environmental compliance assistance program as it applies to part 70 sources;

(8) Information management activities to support and track permit applications, compliance certifications and related data entry.

The emissions and annual operating/inspection fees collected from major stationary air pollution sources as defined herein, shall be used exclusively for and be sufficient to pay, the direct and indirect costs of the major stationary source operating permit program allowable under the Federal Clean Air Act and under regulations in support of those federal provisions as adopted locally in the City of Bartlett, Tennessee--Air Pollution Control Code. The owner or operator of any stationary source shall also pay any cost of expense associated with public notices or notifications required pursuant to the City of Bartlett, Tennessee--Air Pollution Control Code or the Federal Clean Air Act. (Ord. #70-3, Sept. 1970, as amended by Ord. #73-1, June 1973, Ord. #86-6, May 1986, and Ord. #03-06, April 2003)

20-115. Permits and fees--reporting requirements. (1) Except as provided below, each permitted stationary air pollution source must submit to the department an annual report that establishes the amount of actual emissions of each regulated pollutant, including carbon monoxide, for that source. This report will be for the emissions of that source that occurred during the calendar year starting in 1991 and continuing for succeeding years thereafter. The department may request, and the air pollution source shall provide, additional information on the emissions data submitted when the department determines, the data previously provided is inadequate to establish the actual type or amount of emissions from the source subject to fees.

(2) Not including air toxins as they are defined in the Clean Air Act Amendments of 1990 and the amendments thereto, if the source emits fewer than twenty-five (25) tons of actual emissions of pollutant during a year, it may at its option, use as the actual emissions figure, its permitted pollutant levels where available and known. If the source is a "major source" under the air toxics provisions of the Clean Air Act Amendments of 1990 it too must calculate its actual emission of regulated pollutants. Failure to provide, on a timely basis, any additional information requested shall be considered failure to pay the fees. (Ord. #70-3, Sept. 1970, as amended by Ord. #73-1, June 1973, Ord. #86-6, May 1986, and Ord. #03-06, April 2003)

20-116. Permits and fees--small business waiver. The director of the department, in his discretion but consistent with section 507(f) of the Clean Air Act Amendments of 1990, may, upon written petition setting forth in detail the justification therefore, reduce or waive for up to three (3) years, any emissions fee required under this chapter to take into account the financial resources of small business stationary air pollution sources as defined under the federal act or regulations promulgated pursuant thereto. A decision to deny the waiver may be appealed to the local air pollution control board by the party requesting the waiver and will be heard under the same procedures as any other decision that is appealed to this board. If a waiver is granted, it will be reviewed by the board in its annual review process and is then subject to revocation or modification by the board if found to be unwarranted or granted in an arbitrary fashion. Such action will have no effect on prior years emissions fees and will only apply to the collection of future emissions fees. (Ord. #70-3, Sept. 1970, as amended by Ord. #73-1, June 1973, Ord. #86-6, May 1986, and Ord. #03-06, April 2003)

20-117. Permits and fees--surplus funds carry forward. Any surplus in emissions fee funds shall be carried forward from year to year for these stated purposes only. If, however, in any year after 1993, this carry forward surplus exceeds on February 15th thirty five percent (35%) of the previous twelve (12) months fee, a ten percent (10%) per ton credit on the established emissions fee amount shall be given to all stationary sources in the next emissions fee payment. (Ord. #70-3, Sept. 1970, as amended by Ord. #73-1, June 1973, Ord. #86-6, May 1986, and Ord. #03-06, April 2003)

20-118. Permits and fees--penalty provisions. Failure to pay the fees set forth in this Air Pollution Control Code shall be a violation of the City of Bartlett, Tennessee--Air Pollution Control and can result in the assessment of penalties and injunction against the stationary air pollution source. In addition to any fees owed, a maximum penalty equal to fifty percent (50%) of the fees owed may be assessed for late payment. Interest in the amount equal to the maximum allowed under state law shall also be charged for all fees paid more than thirty (30) days late. When an emissions fee amount is contested, only the contested portion can be withheld. Any uncontested fee amount must be paid by the due date for payment. Due process for contested amounts is provided by appeal under the administrative and judicial review provisions of the City of Bartlett, Tennessee--Air Pollution Control Code for appeal of decisions of the health officer. (Ord. #70-3, Sept. 1970, as amended by Ord. #73-1, June 1973, Ord. #86-6, May 1986, and Ord. #03-06, April 2003)

20-119. Permits and fees--annual review of fee structure and financial need. The Memphis-Shelby County Air Pollution Control Board shall annually review the fee structure established for the local air pollution control program and recommended to the Shelby County Commission any change in

rate or make-up of the fee it determines, after public hearing, is necessary to meet the financial requirements of the Memphis-Shelby County Health Department Air Pollution Control Program to fulfill the activities allowed to be funded by these fees. Such review shall include an estimate of other funds available to the program including surplus or carry forward funds as well as changes in state or federal laws that could effect the program. The recommendation shall be provided to the commission no later than April 1 of each year. The county commission shall not, however, be required to adopt this recommendation, nor to change fees on any predetermined schedule. If the Shelby County Commission adopts a change in the rate or makeup of the fee, that adoption shall be provided to the Bartlett Board of Mayor and Aldermen for adoption prior to collection of changed emission fees by the Memphis-Shelby County Health Department. (Ord. #70-3, Sept. 1970, as amended by Ord. #73-1, June 1973, Ord. #86-6, May 1986, and Ord. #03-06, April 2003)

20-120. Regulation of particulate matter from incinerators.

(1) No person shall cause, suffer, allow or permit the emissions from any incinerator having a charging rate of two thousand (2,000) pounds per hour or less, fly ash or other particulate matter in quantities exceeding 0.2 grains per cubic foot of flue gas at standard conditions corrected to twelve percent (12%) carbon dioxide by volume excluding the contribution of auxiliary fuel.

(2) No person shall cause, suffer, allow or permit the emissions from any incinerator having a charging rate greater than two thousand (2,000) pounds per hour, fly ash or other particulate matter in quantities exceeding 0.1 grains per standard cubic foot of flue gas at standard conditions corrected to twelve percent (12%) carbon dioxide by volume excluding the contribution of auxiliary fuel.

(3) No person shall cause, suffer, allow or permit the emissions of particles of unburned waste or ash from any incinerator which are individually large enough to be visible while suspended to the atmosphere.

(4) No person shall construct, install, use or cause to be used any incinerator which will result in odors being detectable by sense of smell in any area of human use or occupancy.

(5) No person shall install or construct an incinerator to be used for disposal of combustible waste from dwelling units if such incinerator is to be used to burn such wastes produced by fewer than twenty-five (25) dwelling units.

(6) No person shall use or cause to be used any incinerator unless all components connected to or attached to, or serving the incinerator, including control apparatus, are functioning properly and are in use. Incinerators shall be operated so as to comply with recognized good practices.

(7) Incinerators having 2.5 cubic feet furnace volume or less used solely for the disposal of infective dressings and other similar material shall not be required to meet these emission standards.

(8) No person shall cause, suffer, allow, or permit to be discharged into the atmosphere from any incinerator, visible emissions with an opacity in excess of twenty percent (20%). (Ord. #70-3, Sept. 1970, as amended by Ord. #73-1, June 1973, Ord. #86-6, May 1986, and Ord. #03-06, April 2003)

20-121. Right of entry. For the purpose of carrying out the requirements of the City of Bartlett, Tennessee--Air Pollution Control Code, the health officer and his authorized representatives, including engineers, assistants, environmentalists and other employees, shall be permitted at all reasonable times to enter into any manufacturing plants, business buildings or other buildings, and all lots, grounds and premises, in order to thoroughly examine any items in relation to public health and air pollution thereon and therein. (Ord. #70-3, Sept. 1970, as amended by Ord. #73-1, June 1973, Ord. #86-6, May 1986, and Ord. #03-06, April 2003)

20-122. Rules and Regulations of Tennessee adopted by reference.[1] The Rules and Regulations of Tennessee Chapters 1200-3-2, title Definitions; 1200-3-3, titled Ambient Air Quality Regulations; 1200-3-5, titled Visible Emissions; 1200-3-6, titled Nonprocess Emission Standards; 1200-3-7, titled Process Emissions Standards; 1200-3-9, titled Construction and Operating Permits; Chapter 1200-3-10, titled Required Sampling, Recording and Reporting; 1200-3-11, titled Hazardous Air Contaminants; 1200-3-12, titled Methods of Sampling and Analysis; 1200-3-14, titled Control of Sulphur Dioxide Emissions; chapter 1200-3-15, titled Emergency Episode Plan; Chapter 1200-3-16, titled New Source Performance Standards; 1200-3-18, titled Volatile Organic Compounds; 1200-3-20, titled Limits on Emissions due to Malfunctions, Startups and Shutdowns; 1200-3-21, titled General Alternate Emission Standards; 1200-3-22, titled Lead Emission Standards; 1200-3-24, titled Good Engineering Practices Stack Height Regulations; 1200-3-25, titled Standards for Infectious Waste Incinerators; 1200-3-30, titled Acid Precipitation Standard; 1200-3-31, titled National Emission Standards for Hazardous Air Pollutants for Source Categories; and 1200-3-32, titled Prevention of Accidental Releases; Tennessee Code Annotated, §§ 68-201-101 through 68-201-118, as effective on December 31, 2000; Chapter 1200-3-34, titled Conformity, as effective on November 14, 2001; and, the New Source Performance Standards (with the exception of Subparts B, C, Cb, Cc, Cd, Ce, AAA) of the Code of Federal Regulations, title 40, part 60 (40 CFR 60) (Revised as of July 1, 2002), and Appendices A, B and F of 40 CFR 60 (Revised as of July 1, 2001), are incorporated herein by reference as if set out in their entirety and shall be

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[1]NOTE: Rules incorporated by reference herein have been filed in the office of the clerk of the county commission as required by Tennessee Code Annotated, § 68-201-115.

adopted and approved as part of the City of Bartlett, Tennessee--Air Pollution Control Code, thereby amending the City of Bartlett, Tennessee--Air Pollution Control Code. Subsection nomenclature is identified in accordance with the following table:

Bartlett Code Nomenclature	State Regulations	Federal Regulations	Title
05(102)	1200-3-2	_____	Definitions
05(103)	1200-3-3	_____	Ambient Air Quality Regulations
05(105)	1200-3-5	_____	Visible Emissions
05(106)	1200-3-6	_____	Nonprocess Emission Standards
05(107)	1200-3-7	_____	Process Emissions Standards
05(109)	1200-3-9	_____	Construction and Operating Permits
05(110)	1200-3-10	_____	Required Sampling, Recording and Reporting
05(111)	1200-3-11	_____	Hazardous Air Contaminants
05(112)	1200-3-12	_____	Methods of Sampling and Analysis
05(114)	1200-3-14	_____	Control of Sulfur Dioxide Emissions
05(115)	1200-3-15	_____	Emergency Episode Plan
05(116)	1200-3-16	40 CFR 60 as defined above	New Source Performance Standards
05(118)	1200-3-18	_____	Volatile Organic Compounds
05(120)	1200-3-20	_____	Limits on Emissions due to Malfunctions, Startups & Shutdowns
05(121)	1200-3-21	_____	General Alternate Emission Standards
05(122)	1200-3-22	_____	Lead Emission Standards
05(124)	1200-3-24	_____	Good Engineering Practice Stack Height Regulations
05(125)	1200-3-25	_____	Standards for Infectious Waste Incinerators
05(130)	1200-3-30	_____	Acid Precipitation Standard
05(131)	1200-3-31	_____	National Emission Standards for Hazardous Air Pollutants for Source Categories
05(132)	1200-3-32	_____	Prevention of Accidental Releases
05(134)	1200-3-34	_____	Conformity

(Ord. #03-06, April 2003)

20-123. Amendments to Rules and Regulations of Tennessee adopted by reference.[1] (1) Definitions, be amended by adding at the end of

[1]NOTE: Rules incorporated by reference herein have been filed in the office

(continued...)

the subsection the following definitions for "health officer" and "odor" that read as follows:

(a) "Health officer" is the Health Officer for Memphis and Shelby County.

(b) "Odor" is a sensation of smell perceived as a result of olfactory stimulation. An odor is deemed objectionable, and therefore a nuisance, when one third (⅓) or more of a sample of persons exposed to it believe it to be objectionable in usual places of occupancy. The sample size is to be at least twenty-five (25) persons, or when fewer than twenty-five (25) are exposed, one (½) must believe it to be objectionable.

(2) Reference 1200-3-9, Construction and Operating Permits, be amended by deleting in its entirety item 1200-3-9-.02(11)(b)14.(ii)(XXVII) and substituting in lieu thereof a new item 1200-3-9-.02(11)(b)14.(ii)(XXVII) so that it reads as follows:

(XXVII) Any other stationary source category, which as of August 7, 1980 is being regulated under section 111 or 112 of the Act;

(3) Reference 1200-3-9, Construction and Operating Permits, be amended by replacing the phrase "T.C.A. Section 68-201-108" in the last sentence of paragraph 1200-3-9-.05(5) with the phrase (City of Bartlett, Tennessee--Air Pollution Control Code Subsection 05(8)" so that the paragraph reads as follows:

(5) In any case where a condition is placed on a permit, the imposition of that permit condition may be appealed by filing a petition for reconsideration of the permit condition. The position for reconsideration of permit conditions shall specify which conditions and portions of conditions are objected to and specifying in detail the objections. The petition of appeal must be delivered to the technical secretary within thirty (30) days after the mailing date of the permit.

If the technical secretary is considering denying the petition he shall schedule a conference with the petitioner to discuss the matters under appeal within forty-five (45) days of his receipt of the petition. If the technical secretary's resultant decision on the matters under appeal aggrieves the petitioner, the petitioner may request a hearing pursuant to City of Bartlett, Tennessee--Air Pollution Control Code § 20-107

(4) Reference 1200-3-9, Construction and Operating Permits, be amended by replacing the phrase "T.C.A. Section 4-5-301 et seq., in paragraph

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[1](...continued)
of the clerk of the county commission as required by Tennessee Code Annotated, § 68-201-115.

1200-3-9-.05(6) with the phrase: "City of Bartlett, Tennessee--Air Pollution Control Code § 20-107 so that the paragraph reads as follows:

> (6) All applicable provisions of City of Bartlett, Tennessee--Air Pollution Control Code § 20-107, on contested cases shall apply to the hearing before the board on such appeals.

(5) That the City of Bartlett, Tennessee--Air Pollution Control Code Subsection 05(118), Reference 1200-3-18-.79, Volatile Organic Compounds, be amended by adding language to part 1200-3-18-.79(1)(e)2. so that it reads as follows:

> 2. Sources subject to source-specific standards approved in lieu of standards in Rules .11 through .77 of this chapter and sources subject to a National Emissions Standard for Hazardous Air Pollutants (also called a MACT standard) that applies to all volatile organic compound emissions at the source; and

(Ord. #03-06, April 2003)

CHAPTER 2

FAIR HOUSING

SECTION

20-201. Policy. It is the policy of the City of Bartlett, Tennessee to provide, within constitutional limitations, for fair housing throughout the city. (Ord. #84-5, March 1984)

20-202. Definitions. (1) "Discriminatory housing practice" means an act that is unlawful under §§ 20-204, 20-205 or 20-206.

(2) "Dwelling" means any building, structure, or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof.

(3) "Family" includes a single individual.

(4) "Person" includes one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers, and fiduciaries.

(5) "To rent" includes to lease, to sublease, to let and otherwise to grant for a consideration the right to occupy premises owned by the occupant. (Ord. #84-5, March 1984)

20-203. Unlawful practice. Subject to the provisions of subsection (2) and § 20-207, the prohibitions against discrimination in the sale or rental of housing set forth in § 20-204 shall apply to:

(1) All dwellings except as expected by subsection (2).

(2) Nothing in § 20-204 shall apply to:

(a) Any single-family house sold or rented by an owner: Provided, that such private individual owner does not own more than three (3) such single-family houses at any one time: Provided further, that in the case of the sale of any such single-family house by a private individual owner not residing in such house at the time of such sale or who was not the most recent resident of such house prior to such sale, the exemption granted by this subsection shall apply only with respect to one such sale within any twenty-four (24) month period: Provided further, that such bona-fide private individual owner does not own any interest in, nor is there owned or reserved on his behalf, under any express or voluntary agreement, title to or any right to all or a portion of the proceeds from the sale or rental of, more than three (3) such single-family houses at any one time: Provided further, that the sale or rental of any such single-family house shall be excepted from the application of this chapter only if such house is sold or rented

(i) Without the use in any manner of the sales or rental facilities or the sales or rental services of any real estate broker, agent, or salesman, or of such facilities or services of any person in the business of selling or renting dwellings, or of any employee or agent of any such broker, agent, salesman, or person and

(ii) Without the publication, posting or mailing, after notice of any advertisement or written notice in violation of § 20-204 of this chapter ;

(iii) Nothing in this provision shall prohibit the use of attorneys, escrow agents, abstractors, title companies, and other such professional assistance as necessary to perfect or transfer the title, or

(b) Rooms or units in dwellings containing living quarters intended or intended to be occupied by no more than four (4) families living independently of each other, if the owner actually maintains and occupies one of such living quarters as his residence.

(2) For the purposes of subsection (2), a person shall be deemed to be in the business of selling or renting dwellings if:

(a) He has, within the preceding twelve (12) months, participated as principal in three (3) or more transactions involving the sale or rental of any dwelling or any interest therein, or

(b) He has, within the preceding twelve (12) months, participated as agent, other than in the sale of his own personal residence in providing sales or rental facilities or sales or rental services in two (2) or more transactions involving the sale or rental of any dwelling or any interest therein, or

(c) He is the owner of any dwelling designed or intended for occupancy by, or occupied by, five (5) or more families. (Ord. #84-5, March 1984)

20-204. Discrimination in the sale or rental of housing. As made applicable by § 20-203 and except as exempted by §§ 20-203(2) and 20-207, it shall be unlawful:

(1) To refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, color, religion, or national origin.

(2) To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of race, color, religion, or national origin.

(3) To make, print, or publish, or cause to be made, printed, or published any notice, statement, or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on race, color, religion, or national origin, or any intention to make any such preference, limitation, or discrimination.

(4) To represent to any person because of race, color, religion, or national origin that any dwelling is not available for inspection, sale, or rental when such dwelling is in fact so available.

(5) For profit, to induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, national origin, or disability. (Ord. #84-5, March 1984, modified)

20-205. Discrimination in the financing of housing. It shall be unlawful for any bank, building and loan association, insurance company or other corporation, association, firm or enterprise whose business consists in whole or in part in the making of commercial real estate loans, to deny a loan or other financial assistance to a person applying therefore for the purpose of purchasing, constructing, improving, repairing, or maintaining a dwelling, or to discriminate against him in the fixing of the amount, interest rate, duration, or other terms or conditions of such loan or other financial assistance, because of the race, color, religion, or national origin of such person or of any person associated with him in connection with such loan or other financial assistance, or of the present or prospective owners, lessees, tenants, or occupants of the dwelling or dwellings in relation to which such loan or other financial assistance is to be made or given: Provided, that nothing contained in this section shall impair the scope or effectiveness of the exception contained in § 20-203(2). (Ord. #84-5, March 1984)

20-206. Discrimination in the provision of brokerage services. It shall be unlawful to deny any person access to or membership or participation in any multiple-listing service, real estate brokers organization or other service, organization, or facility relating to the business of selling or renting dwellings, or to discriminate against him in the terms or conditions of such access,

membership, or participation, on account of race, color, religion, or national origin. (Ord. #84-5, March 1984)

20-207. Exemption. Nothing in this chapter shall prohibit a religious organization, association, or society, or any nonprofit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association, or society, from limiting the sale, rental or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to such persons, unless membership in such religion is restricted on account of race, color, or national origin. Nor shall anything in this chapter prohibit a private club not in fact open to the public, which as an incident to its primary purpose or purposes provides lodgings which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodgings to its members or from giving preference to its members. (Ord. #84-5, March 1984)

20-208. Administration. (1) The authority and responsibility for administering this Act shall be in the Chief Executive Officer of the City of Bartlett.

(2) The chief executive officer may delegate any of these functions, duties, and powers to employees of the city or to boards of such employees, including functions, duties, and powers with respect to investigating, conciliating, hearing, determining, ordering, certifying, reporting or otherwise acting as to any work, business, or matter under this chapter. The chief executive officer shall by rule prescribe such rights of appeal from the decisions of this hearing examiners to other hearing examiners or to other officers in the city, to boards of officers or to himself, as shall be appropriate and in accordance with law.

(3) All executive departments and agencies shall administer their programs and activities relating to housing and urban development in a manner affirmatively to further the purposes of this chapter and shall cooperate with the chief executive officer to further such purposes. (Ord. #84-5, March 1984)

20-209. Education and conciliation. Immediately after the enactment of this chapter, the chief executive officer shall commence such educational and conciliatory activities as will further the purposes of this chapter. He shall call conferences of persons in the housing industry and other interested parties to acquaint them with the provisions of this chapter and his suggested means of implementing it, and shall endeavor with their advice to work out programs of voluntary compliance and of enforcement. (Ord. #84-5, March 1984)

20-210. Enforcement. (1) Any person who claims to have been injured by a discriminatory housing practice or who believes that he will be irrevocably injured by a discriminatory housing practice that is about to occur (hereafter

"person aggrieved") may file a complaint with the chief executive officer. Complaints shall be in writing and shall contain such information and be in such form as the chief executive officer requires. Upon receipt of such complaint, the chief executive officer shall furnish a copy of the same to the person or persons who allegedly committed or about to commit the alleged discriminatory housing practice. Within thirty (30) days after receiving a complaint, or within thirty (30) days after the expiration of any period of reference under subsection (3), the chief executive officer shall investigate the complaint and give notice in writing to the person aggrieved whether he intends to resolve it. If the chief executive officer decides to resolve the complaints, he shall proceed to try to eliminate or correct the alleged discriminatory housing practice by informal methods of conference, conciliation, and persuasion. Nothing said or done in the course of such informal endeavors may be made public or used as evidence in a subsequent proceeding under this chapter without the written consent of the persons concerned. Any employee of the chief executive officer who shall make public any information in violation of this provision shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not more than one thousand dollars ($1,000.00) or imprisoned not more than one (1) year.

(2) A complaint under subsection (1) shall be filed within one hundred and eighty (180) days after the alleged discriminatory housing practice occurred. Complaints shall be in writing and shall state the facts upon which the allegations of a discriminatory housing practice are based. Complaints may be reasonably and fairly amended at any time. A respondent may file an answer to the complaint against him and with the leave of the chief executive officer, which shall be granted whenever it would be reasonable and fair to do so, may amend his answer at any time. Both complaints and answers shall be verified.

(3) If within thirty (30) days after a complaint is filed with the chief executive officer, the chief executive officer has been unable to obtain voluntary compliance with this chapter, the person aggrieved may, within thirty (30) days thereafter, file a complaint with the secretary of the Department of Housing and Urban Development. The chief executive officer will assist in this filing.

(4) If the chief executive officer has been unable to obtain voluntary compliance within thirty (30) days of the complaint, the person aggrieved may, within thirty (30) days hereafter commence a civil action in any appropriate court, against the respondent named in the complaint, to enforce the rights granted or protected by this chapter, insofar as such rights relate to the subject of the complaint. If the court finds that a discriminatory housing practice has occurred or is about to occur, the court may enjoin the respondent from engaging in such practice or order such affirmative action as may be appropriate.

(5) In any proceeding brought pursuant to this section, the burden of proof shall be on the complainant.

(6) Whenever an action filed by an individual shall come to trial, the chief executive officer shall immediately terminate all efforts to obtain voluntary compliance. (Ord. #84-5, March 1984)

20-211. Investigations; subpoenas; giving of evidence. (1) In conducting an investigation the chief executive officer shall have access at all reasonable times to all premises, records, documents, individuals, and other evidence or possible sources of evidence and may examine, record, and copy such materials and take and record the testimony or statements of such persons as are reasonably necessary for the furtherance of the investigation: Provided, however, that the chief executive officer first complies with the provisions of the Fourth Amendment relating to unreasonable searches and seizures. The chief executive officer may issue subpoenas to compel his access to or the production of such materials, or the appearance of such persons, and may issue interrogatories to a respondent, to the same extent and subject to the same limitations as would apply if the subpoenas or interrogatories were issued or served in aid of a civil action in the United States district court for the district in which the investigation is taking place. The chief executive officer may administer oaths.

(2) Upon written application to the chief executive officer, a respondent shall be entitled to the issuance of a reasonable number of subpoenas by and in the name of the chief executive officer to the same extent and subject to the same limitations as subpoenas issued by the chief executive officer himself. Subpoenas issued at the request of a respondent shall show on their faces the name and address of such respondent and shall state that they were issued at his request.

(3) Witnesses summoned by subpoena of the chief executive officer shall be entitled to the same witness and milage fees as are witnesses in proceedings in the United States district courts. Fees payable to a witness summoned by a subpoena issued at the request of a respondent shall be paid by him.

(4) Within five (5) days after service of a subpoena upon any person, such person may petition the chief executive officer to revoke or modify the subpoena. The chief executive officer shall grant the petition if he finds that the subpoena requires appearance or attendance at an unreasonable time or place, that it requires production of evidence which does not relate to any matter under investigation, that it does not describe that compliance would be unduly onerous, or for other good reason.

(5) In case of contumacy or refusal to obey a subpoena, the chief executive officer or other person at whose request it was issued may petition for its enforcement in the municipal or state court for the district in which the person to whom the subpoena was addressed resides, was served, or transacts business.

(6) Any person who willfully fails or neglects to attend and testify or to answer any lawful inquiry or to produce records, documents, or other evidence, if in his power to do so, in obedience to the subpoena or lawful order of the chief executive officer shall be fined not more than one thousand dollars ($1,000.00) or imprisoned not more than one (1) year, or both. Any person who,

with intent thereby to mislead the chief executive officer, shall make or cause to be made any false entry or statement of fact in any report, account, record, or other document submitted to the chief executive officer pursuant to his subpoena or other order, or shall willfully neglect or fail to make or cause to be made full, true, and correct entries in such reports, accounts, records, or other documents, or shall willfully mutilate, alter, or by any other means falsify any documentary evidence, shall be fined not more than one thousand dollars ($1,000.00) or imprisoned not more than one (1) year, or both.

(7) The city attorney shall conduct all litigation in which the chief executive officer participates as a party or as amicus pursuant to this chapter. (Ord. #84-5, March 1984)

20-212. <u>Enforcement by private persons</u>. (1) The rights granted by §§ 20-203 through 20-206 may be enforced by civil actions in state or local courts of general jurisdiction. A civil action shall be commenced within one hundred and eighty (180) days after the alleged discriminatory housing practice occurred: Provided, however, that the court shall continue such civil case brought pursuant to this section or § 20-210(4) from time to time before bringing it to trial or renting dwellings; or

(2) Any person because he is or has been, or in order to intimidate such person or any other person or any class of persons from:

(a) Participating, without discrimination on account of race, color, religion or national origin, in any of the activities, services, organizations or facilities described in this chapter; or

(b) Affording another person or class of persons opportunity or protection so to participate; or

(3) Any citizen because he is or has been, or in order to discourage such citizen or any other citizen from lawfully aiding or encouraging other persons to participate, without discrimination on account of race, color, religion or national origin, in any of the activities, services, organizations or facilities described in this chapter, or participating lawfully in speech or peaceful assembly opposing any denial of the opportunity to so participate shall be fined not more than one thousand dollars ($1,000.00), or imprisoned not more than one (1) year, or both; and if bodily injury results shall be fined not more than ten thousand dollars ($10,000.00), or imprisoned not more than ten (10) years, or both; and if death results shall be subject to imprisonment for any term of years or for life. (Ord. #84-5, March 1984)

CHAPTER 3

PARKLAND DEDICATION AND DEVELOPMENT FEE ORDINANCE

SECTION

20-301. General. In all residential developments the Bartlett Planning Commission is designated by the Bartlett Board of Mayor and Aldermen and by Tennessee Code Annotated, § 13-4-303 to provide for adequate open space, recreation, and conditions favorable to health, safety, convenience, and prosperity. The Bartlett Planning Commission, with assistance from the Bartlett Planning Department, Bartlett Public Works Department, and the Bartlett Parks Department, shall act on behalf of the board of mayor and aldermen in the enforcement and administration of the Parkland Development Fee and Dedication Ordinance. The duties of each of these departments is further defined below. (Ord. #92-5, March 1992)

20-302. Payment of parkland development fee. In all residential developments in the City of Bartlett a parkland development fee shall be assessed against the development based upon a rate of three hundred fifty dollars ($350.00) per lot or dwelling unit and no credit is to be given for greenbelt dedications. This fee shall be collected as a part of the subdivision contract between the board of mayor and aldermen and the developer of the proposed residential development, and shall be used exclusively to acquire or improve land for parks. (Ord. #92-5, March 1992, as amended by Ord. #97-07, Aug. 1997)

20-303. Dedication in lieu of development fees. In all residential developments the developer may choose, with approval of the city and in lieu of a fee, to dedicate to the city, free and clear of all liens and encumbrances, land to be used exclusively for city owned parkland in an amount equal to five percent (5%) of the total land area of the residential development, provided, however, that no parcel less than five (5) acres shall be accepted unless such land adjoins other dedicated parkland. When a master plan for a residential subdivision is submitted, the planning, public works, and parks departments shall review the master plan to determine if a park is needed in the area and make a recommendation to the planning commission on the location and size of a proposed park. The dedicated land shall be of good quality as determined by the city and shall not contain an excessive amount of low land or ditches. If the

park site is approved by the planning commission, said park site shall be incorporated into the master, construction, and final plans of the development. If the developer chooses to dedicate land in lieu of a fee, the land is dedicated to the city at the time the subdivision plat is recorded. If the developer chooses to pay the fee, the city may at its sole option, acquire by purchase or condemnation the proposed park site. (Ord. #92-5, March 1992)

20-304. Combination of development fee and dedication. A combination of a development fee and dedication may be allowed, subject to the approval of the city and developer. (Ord. #92-5, March 1992)

20-305. Collection and disbursement of payments. Any payments under this ordinance shall be made immediately upon execution of the subdivision contract and prior to commencement of construction and shall be deposited in a special account segregated from the general funds of the city. Funds distributed from these payments shall be expended for the purpose of improving city parks in all park districts in the City of Bartlett. (Ord. #92-5, March 1992, as amended by Ord. #07-03, as replaced by 20-07, Nov. 2020 ***Ch7_12-08-20***)

CHAPTER 4

ALARM SYSTEM STANDARDS

SECTION

20-401. Purpose. To control false alarms turned into the City of Bartlett by establishing standards for the installation of alarm systems, controlling the number of false alarms received by the various departments of the City of Bartlett, establish a procedure for penalizing owners of alarms for excessive false alarms during a calendar year, and the establishment of fees and methods of issuing citations, amount of fees, and appeal of fees by owners or alarm systems. (Ord. #91-17, Nov. 1991)

20-402. Definitions. As used in this chapter:

(1) "Alarm agent" shall mean any person employed by a licensed alarm business whose duties include the altering, installing, maintaining, moving, repairing, replacing, selling, servicing, or monitoring of an alarm system. This definition shall only include persons who work for an alarm business as defined in this section.

(2) "Alarm business" means a firm, company, partnership or corporation engaged in the sale, installation, maintenance, alteration or servicing of alarm systems. "Alarm business" shall not include a business which only manufactures alarm systems or only sells alarm systems to retail outlets, unless the firm, company, partnership, or corporation also services, installs, and monitors alarm systems. This definition shall not include persons who sell alarm systems strictly in an over-the-counter capacity in an established location.

(3) "ANSI" stands for the American National Standards Institute.

(4) "Answering service" shall mean a telephone answering service providing among its services the receiving, through trained employees, of emergency signals from alarm systems, and the relaying of the message by live voice to the communications center of the police emergency condition which the alarm system is designed to detect.

(5) "Automatic telephone dialing equipment" shall mean an alarm system which automatically sends over regular telephone lines, by direct connection or otherwise, a prerecorded voice message or coded signal to report a police emergency condition which the alarm system is designed to detect.

(6) "False alarm" means the activation or an alarm system through mechanical failure, malfunction, improper installation, or through negligence of the owner or user of the alarm system, which activation results in a response

by a law enforcement agency. "False alarm" does not include an activation caused by violent acts of God; provided, however, that, if the alarm business shall have notified the police services division, before the third such activation that an alarm system is subject to an intermittent repetitive mechanical malfunction which is under investigation by the alarm business, all activations of that alarm system within one continuous three-week period shall be counted as a single such false alarm.

(7) "Interconnect" shall mean to connect an alarm system to a voicegrade telephone line, either directly or through a mechanical device that utilizes a standard telephone, for the purpose of using the telephone line to transmit an emergency message upon the activation of the alarm system.

(8) "Malicious false alarm" shall mean the intentional false reporting to the police of a police emergency condition, or the intentional setting off of an alarm system which will cause another to report the signal to the police. However, this definition is not to include the testing of an alarm system by a licensed alarm business under guidelines established by the police services division or the city.

(9) "Monitoring station" or "central station" shall mean an office to which remote police alarm and supervisory signaling devices are connected, where trained personnel are on duty and in attendance at all times to supervise the circuits terminating therein, investigate signals, and retransmit alarm signals to appropriate agencies.

(10) "Notice" shall mean written notice, given by the issuance of a citation left at the scene of a false alarm by officers of the police services division or given by personal service upon the addressee, or given by the U.S. mail addressed to the person to be notified at his last known address. Service of such notice shall be effective upon the completion of personal service or upon placing of the same in the custody of the U.S. Postal Service.

(11) "Police emergency alarm system" means an assembly of equipment or devices which is designed, arranged, or used for the detection of a hazardous condition or an unauthorized entry or attempted entry into a building, structure or facility, or for alerting persons of a hazardous condition or the commission of an unlawful act within a building, structure or facility, and which emits a sound, or transmits a signal or message when activated, to which annunciation a law enforcement agency or other service agency may be summoned to respond, but shall exclude a proprietary system.

(12) "Primary trunkline" shall mean a telephone line leading directly into the communications center of the police services division that is for the purpose of handling emergency calls on a person-to-person basis, and which is identified as such by a specific number included among the emergency numbers listed in the telephone directory issued by the telephone company and covering the service area within the police services division's jurisdiction.

(13) "Proprietary system" shall mean an alarm system emitting alarm or supervisory signals from within a control center located within a protected

premises. If a proprietary system includes any signal visible or audible outside the protected premises, it thereby becomes a police emergency alarm system as defined in this section.

(14) "Special trunkline" shall mean a telephone line leading into the communications center of the police services division and having the primary purpose of handling emergency signals or messages originating either directly or through a central location from automatic dialing devices.

(15) "Subscriber" or "user" shall mean any person who purchases, leases, contracts for, or otherwise obtains an alarm system.

(16) "Telephone company" shall mean the publicly regulated industry which furnishes telephone communication services to the citizens of the city.

(17) "Transmitting device" shall mean an instrument which sends a signal to a monitoring point indicating intrusion into a given protected area.

(18) "U.L." shall stand for Underwriters' Laboratories. (Ord. #91-17, Nov. 1991)

20-403. Alarm system standards. (1) Any person operating any police emergency alarm system, or causing or permitting one to be operated on premises owned or controlled by him, shall utilize equipment and methods of installation substantially equivalent to or exceeding the minimum applicable UL or ANSI standards.

(2) Every alarm business which has interconnected any automatic dialing device in the city to a special trunkline in the communications center of the police services division or which is designed to terminate in a primary trunkline of the police services division shall maintain a current list of such installations for inspection by the city during the course of its official duties and include in such list:

(a) The name, home address, and telephone number of the device's owner or lessee;

(b) The address of the location where the device is installed and the telephone number at that location;

(c) The name and telephone number of at least one other person who can be reached at any time, day or night, and who is authorized to respond to an emergency signal transmitted by the automatic dialing device, and who can open the premises wherein the device is installed.

(3) The information contained in the lists required by this section shall be restricted to inspection only by the chief of police or his designated representative in the course of their official duties. If the chief of police or any employee of the city is found to have knowingly or willfully revealed the information contained in such list to any other person for any purpose not related to official law enforcement matters and without the express written consent of the alarm business maintaining such list or lists, he shall be found guilty of a misdemeanor.

(4) Automatic dialing devices installed on any premises within the city which are interconnected to a special trunkline transmitting signals into the police services division or to a primary trunkline of the police services division shall meet the following minimum standards, as determined by the city:

(a) The contents of the recorded message to be transmitted by such device must be intelligible and in a format approved by the chief or his designated representative as appropriate for the type of emergency being reported. All callers must first give the name of the business, address, and telephone number, including the telephone number of a contact person.

(b) Upon a single stimulus of the alarm device, an automatic dialing device may place two (2) separate calls to the police services division. No such call shall be longer than one (1) minute and fifteen (15) seconds in duration. There must be at least three (3) minutes between the completion of the first call and the initiation of the second, and the second call must be clearly identified as the second call.

(c) Messages transmitted during such calls, stating the location and nature of the alarm condition, shall not exceed fifteen (15) seconds in length.

(d) The time gap between delivery of messages must be less than five (5) seconds.

(e) All such devices shall be capable of transmitting an emergency message to two (2) separate locations, so that upon activation any message may be sent not only to the police services division, but also to a location where an authorized person is available to respond to the emergency message and to open the premises on which the device is installed.

(f) The sensory apparatus and hardware comprising such devices shall be maintained by the owner or lessee in physical condition that false alarms will be minimized.

(5) No alarm system designed to transmit emergency messages directly to the police services division shall be tested or demonstrated without first obtaining permission from the chief of police or his designated representative. Permission is not required to test or demonstrate alarm devices not retransmitting emergency messages directly to the police services division unless the messages are to be relayed to the police services division.

(6) When an alarm business' service to one of its subscribers is disrupted for any reason by the alarm business, or the alarm business becomes aware of such disruption, it shall promptly notify such subscriber by telephone that protection is no longer being provided. If, however, the alarm business has written instructions from its subscriber not to make such notification by telephone during certain hours, the alarm company may comply with such instructions. (Ord. #91-17, Nov. 1991)

20-404. <u>False alarms</u>. (1) Any location experiencing more than three (3) false alarms during a calendar year beginning in January of each year, will be subject to a fee of fifty dollars ($50.00) per alarm. The subscriber of the alarm will be notified by the chief of police or his designated representative after the third such alarm that the next incidence of a false alarm may result in a citation for excessive false alarms.

(2) Upon receipt of the fourth (4^{th}) false alarm, the responding officer will forward a memo to the chief of police identifying the location, resident or business name, number of alarms received to the location and owner and/or business phone number.

(3) The chief of police or his representative will determine the severity of the problem, and may order representatives to visit the location, determine the nature of the problem, issue a warning citation or a regular citation for "excessive false alarms."

The citation will list the business name, owner/subscriber's name or his representative at the location at time of issuance, date and time of the false alarm, address of alarm, and owners telephone number. The citation shall list "Violation of City of Bartlett Alarm Ordinance: Excessive False Alarms" as the charge upon the face.

(4) An appeal of the fee may be made before the alarm review committee after being requested to be placed on the meeting agenda at the next regularly scheduled alarm review committee meeting, after the fee has been paid to the City of Bartlett Court Clerk's office.

(a) The alarm review committee will be appointed by the mayor and board of aldermen and shall consist of three (3) citizens chosen by the mayor.

(b) Alarm owners have thirty (30) days from the date of issuance to pay the fee.

(c) Any fees overturned by the alarm review committee will be reimbursed through the court clerk's office. (Ord. #91-17, Nov. 1991)

CHAPTER 5

PUBLIC PROPERTY, BUILDINGS AND PARKS

SECTION

20-501. Definitions. The following words and phrases, when used in this chapter, shall have the meanings respectively ascribed to them:

(1) "Public property" is any real property owned or leased by the City of Bartlett.

(2) "Work area" means publicly owned or leased property which is not ordinarily open to the public and is used by municipal employees in the ordinary course of their duties, or in assembling for their duties and includes, but is not limited to, fire station engine houses, fire department shops, sanitation and public works substations, city shops, light gas and water division substations or pumping stations, and other offices within public buildings where it is not normal and routine for members of the public to come for municipal services. For example, city hall is a public building, but the planning room would be a work area and the fire department headquarters would be a public building, but the record room or similar offices would be work area. (Ord. #95-17, Oct. 1995)

20-502. Intent; responsibility of park and recreation department.

(1) It is the purpose of this chapter to prevent interference with the normal use of such property by the general public and to prohibit only use which will unduly interfere with the normal use of public property by other members of the public with an equal right access to it.

(2) The park and recreation department shall establish reasonable nondiscriminatory regulations that preserve peace, order and tranquility in granting permits for organized meetings as authorized above and the regulations shall be forwarded to the board of mayor and aldermen for approval. The regulations shall provide definite and objective standards and the regulations shall be published and available to the public as to how an application for a permit is to be submitted and shall provide for a speedy right of review, either administratively or judicially. The park and recreation department may designate certain parks or open spaces at which no organized

gathering or meeting may be held because of the nature or size of the facilities. (Ord. #95-17, Oct. 1995)

20-503. Opening and closing hours. The administrative department shall have the power to designate the opening and closing hours of public buildings or offices operated by the city. No person, except duly authorized personnel, shall remain in the public building after official closing hours to the general public, and any person, who, after being notified to leave and who refuses to leave, shall be guilty of a violation of this section. (Ord. #95-17, Oct. 1995)

20-504. Entry into the work area. No person shall enter into any work area of public property except with the permission of the supervisor of the area, and any person who inadvertently or with intent to enter the area fails and refuses to comply with any lawful request to leave the area shall be guilty of a violation of this section. (Ord. #95-17, Oct. 1995)

20-505. Park closing hours. No person shall, under any circumstances, enter or remain in any park after the posted park closing time, or enter the park premises between the posted park closing time and the posted park opening time without permission from the city. Any person found in any park between the posted park closing time and the posted park opening time without written authorization from the city will be in violation of this section. The closing time will be 11:00 P.M. and the opening time will be 4:00 A.M. (Ord. #95-17, Oct. 1995)

20-506. Park solicitation. No person will be allowed to solicit, peddle, sell or in any way distribute any article or item in the parks without permission from the board of mayor and aldermen and/or the parks and recreation department. (Ord. #95-17, Oct. 1995)

20-507. Illegal parking in parks. Parking within any park shall be only in designated spaces and shall be for the exclusive use of park users. (Ord. #95-17, Oct. 1995)

20-508. Golf practice in public parks prohibited. The practice of golf on City of Bartlett property is hereby prohibited except in areas so designated by the City of Bartlett Parks Director.

Anyone practicing golf on public property in violation of this section shall be subject to a fine up to fifty dollars ($50.00). (Ord. #89-17, Oct. 1989)

20-509. Penalty. Violations of this chapter shall be punishable by a fine of up to fifty dollars ($50.00). (Ord. #95-17, Oct. 1995, modified, as renumbered)

CHAPTER 6

NEIGHBORHOOD PROTECTION ORDINANCE

SECTION

20-601. Definitions. (1) "House moving" shall mean the relocation of a structure of any size from one building site to another.

(2) "Resubdivision" shall mean any subdivision of an existing lot in a recorded subdivision that creates two (2) or more lots. (Ord. #82-14, Dec. 1982, as amended by Ord. #85-32, Jan. 1986)

20-602. Notice and hearing required. No building permit shall be issued for the relocation of a previously constructed building to be used for residential occupancy unless and until the application for permit is first referred to the board of zoning appeals which board shall issue notice according to its regulations to the surrounding property owners and conduct a full and open hearing upon same. It shall be the responsibility of the board of zoning appeals to determine if the construction proposed will constitute a significant and detrimental effect upon the existing neighborhood and upon such findings shall direct the building department to refuse permit. Conversely, in order for such a permit to be issued, the board of zoning appeals must find that the proposed structure will not constitute an inequitable and detrimental effect upon the existing neighborhood and the board may affix and apply such conditions and terms as it deems appropriate, which terms may include a set time schedule, removal requirements as may be reasonably required; provided, however, it shall be a specific requirement for the board of zoning appeals to require a performance bond of form and type acceptable to the city to guarantee the completion of any house moving project within a period not to exceed ninety (90) days, said bond to be in an amount not less than the fair market value of the completed structure to be determined by the board. (Ord. #82-14, Dec. 1982)

20-603. Notice and hearing for resubdivision. The planning commission shall grant no final subdivision approval to a resubdivision unless and until it has conducted a full and open hearing after actual notice and publication to surrounding property owners within five-hundred (500) feet of any such proposed subdivision. The planning commission is granted specific authority to refuse subdivision approval to a resubdivision in any instance where the proposed subdivision will constitute an inequitable and detrimental effect upon an existing neighborhood area with special concern given to the type, setback, lot size, type and size of proposed construction and location of

surrounding properties. Conversely, the planning commission may grant final approval to a resubdivision. (Ord. #82-14, Dec. 1982, as amended by Ord. #83-7, May 1983, and Ord. #85-32, Jan. 1986)

CHAPTER 7

MUNICIPAL SCHOOL SYSTEM

SECTION

20-701. Municipal school system created. As a result of the referendum of July 16, 2013 (which was approved as confirmed on page 10 of the Shelby County Election Commission report[1]) a municipal school system was created. (as added by Ord. #13-06, May 2013)

20-702. Municipal school board created. (1) A municipal school board for the City of Bartlett was established in compliance with applicable state law.

(2) The municipal school board for the City of Bartlett shall consist of five (5) members to be elected from the municipality at large. The board positions shall be designated as positions one (1) through five (5). In filing for election, a candidate shall select and identify the position sought.

(3) In order to be eligible to be a member of the municipal school board for the City of Bartlett:

(a) Must be a citizen of the State of Tennessee;

(b) Achieved a high school diploma or GED;

(c) Attained the age of eighteen (18) years at the time of their election;

(d) A resident and qualified voter of the City of Bartlett and have lived within the corporate limits of the City of Bartlett for a period of one (1) year immediately preceding the filing deadline for the election;

(e) Filed documentation satisfactory to the Shelby County Election Commission evidencing same; and

(f) Must otherwise meet all other requirements of applicable state law at the time one seeks election.

(4) All elections for the municipal school board for the City of Bartlett shall be conducted on a non-partisan basis.

(5) No member of the governing body of the City of Bartlett shall be eligible for election as a member of the municipal school board for the City of Bartlett.

(6) The initial terms for members of the municipal school board for the City of Bartlett shall vary in length, provided that all subsequently elected members, other than members appointed to fill a vacancy, shall be elected to

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[1]This report is available for review on the Shelby County Election website http://www.shelbyvote.com/ArchiveCenter/ViewFile/Item/532.

four-year terms, with members elected to even numbered positions for an initial term of one (1) year and members elected to odd numbered positions for an initial term of three (3) years, as follows:

Position 1: Initial three (3) year term;
Position 2: Initial one (1) year term;
Position 3: Initial three (3) year term;
Position 4: Initial one (1) year term;
Position 5: Initial three (3) year term.

(7) Members of the municipal school board for the City of Bartlett may succeed themselves.

(8) Vacancies occurring on the municipal school board for the City of Bartlett shall be filled by the board of mayor and aldermen by appointment of a person who would be eligible to serve as a member of the municipal school board, with such member to serve until a successor is elected and qualifies according to applicable law, the successor to be elected at the next general election for which candidates have sufficient time to qualify under applicable law.

(9) The initial municipal school board for the City of Bartlett shall take office on the first day of the first month following certification of the results of the election to select the members of the initial municipal board.

(10) Compensation for the chairperson of the municipal school board for the City of Bartlett shall be four thousand dollars ($4,000.00) per annum and compensation for all other members of the municipal school board for the City of Bartlett shall be three thousand six hundred dollars ($3,600.00) per annum. The board of education shall have the full right, power and authority to reimburse any elected board member for any reasonable out of pocket expenses incurred by said member in travel, or other reasonable expenses actually incurred by said member in serving the municipal school board in accordance with city policy. (as added by Ord. #13-11, Aug. 2013)

Zoning Ordinance for the City of Bartlett, Tennessee

Mayor
David Parsons

Aldermen

Robert Griffin
Harold Brad King
Kevin Quinn
David Reaves
Bobby Simmons
Jack Young

ADOPTED BY THE BOARD OF MAYOR AND ALDERMEN
JULY, 1980

Prepared by
Bartlett Department of Planning and Economic Development

ORDINANCE 80-18

AN ORDINANCE AND ZONING MAP ESTABLISHING COMPREHENSIVE ZONING REGULATIONS FOR THE CITY OF BARTLETT, TENNESSEE, AND PROVIDING FOR THE ADMINISTRATION, ENFORCEMENT, AND AMENDMENT THEREOF, IN ACCORDANCE WITH THE PROVISIONS OF TENNESSEE CODE ANNOTATED SECTION 13-701 ET SEQ., AND FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT HEREWITH

WHEREAS, T.C.A. Section 13-701 et seq. empowers the City of Bartlett, Tennessee, to enact a Zoning Ordinance and to provide for its administration, enforcement, and amendment: and

WHEREAS, the Board of Mayor and Aldermen deems it necessary, for the purpose of promoting the health, safety, morals, or general welfare of the City to enact such an Ordinance: and

WHEREAS, the Board of Mayor and Aldermen, pursuant to the provisions of T.C.A. Section 13-701 et seq., has appointed a Planning Commission to recommend the boundaries of the various original districts and appropriate regulations to be enforced therein: and

WHEREAS, the Planning Commission has divided the City into districts and has prepared regulations pertaining to such districts in accordance with a comprehensive plan and designed to lessen congestion in the street; to secure safety from fire, panic, and other dangers; to promote health and the general welfare; to provide adequate light and air; to prevent the over-crowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements: and

WHEREAS, the Planning Commission has given reasonable consideration, among other things, to the character of the districts and their peculiar suitability for particular uses, with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the municipality: and

WHEREAS, the Planning Commission has submitted its final report to the Board of Mayor and Aldermen: and

WHEREAS, the Board of Mayor and Aldermen, has given due public notice of hearings relating to zoning districts, regulations, and restrictions, and has held such public hearings: and

WHEREAS, all requirements of T.C.A. Section 13-701 et seq., with regard to the preparation of the report of the Planning Commission and subsequent

action of the Board of Mayor and Aldermen of Bartlett, Tennessee, have been fulfilled.

NOW, THEREFORE, BE IT ORDAINED by the Board of Mayor and Aldermen of the City of Bartlett, Tennessee, the following Ordinance and Map, hereinafter referred to as the Bartlett Zoning Ordinance and Map, which is attached hereto and incorporated herein as if specifically set out.

SEVERABILITY

Should any section or provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinance as a whole, or any part thereof other than the part so declared to be unconstitutional or invalid.

EFFECTIVE DATE

This Ordinance shall take effect immediately upon its adoption, the public welfare requiring it.

First Reading	May 27, 1980
Second Reading	June 10, 1980
Third Reading	July 8, 1980

This edition of the Zoning Ordinance is current through March 2006. The last amendment incorporated is Ordinance 05-08.

(Bartlett's first Zoning Ordinance was adopted June 4, 1966.)

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FIGURES

TABLES

AMENDMENTS, 1995 THROUGH OCTOBER 2005

Date Adopted	Ordinance No.	Description
3/28/95	95-5	Added Art. V, Sec. 11 - OR-2 - Neighborhood Office District; and made related amendments to Art. V, Charts 1 and 2
3/12/96	96-2	Amended Art. VI, Sec. 18 -Fences, adding words to paragraph D and adding paragraph F and Plates A, B, and C
12/9/97	97-10	Amended Art. VI, Sec. 5 (now 6) -Accessory Buildings, paragraph B, to allow 1½-story accessory buildings in all residential zones except RS-10
5/12/98	98-03	Added Art. VI, Sec. 22 - Wireless Communication Facilities; and made related amendments to Art. I, Sec. 2 -Definitions; Art. V, Chart 1 -Uses Permitted in Zoning Districts; and Art. VI, Sec. 15 - Exceptions to Height Regulations
5/26/98	98-05	Added Art. VI, Sec. 4 - Planned Commercial or Industrial Development Regulations
10/26/99	99-12	Added Art. VI, Sec. 24, [H -Historic Preservation Overlay Zone]; and Art. VI, Sec. 25, Historic Preservation
1/11/00	99-16	Added Art. VI, Sec. 3A, PRD-1 - Planned Residential Development in Bartlett Station
9/26/00	00-19	Amended parts D.5 and D.8 of Art. VI, Sec. 3A, PRD-1 -Planned Residential Development in Bartlett Station
4/24/01	01-05	Amended Art. V, Chart 2, for the SC-1 district
6/26/01	01-08	Added Art. VI, Sec. 26 -Main Street Commercial Overlay District
6/26/01	01-10	Amended schedule of off-street parking and loading space requirements in Art. VI, Sec. 12, Part B

Date Adopted	Ordinance No.	Description
11/13/01	01-17	Amended Art. VI, Sec. 1 to provide for inventory reduction sales in the industrial districts
3/12/02	02-03	Amended Art. I, Sec. 2 to define yard sales and Art. VI, Sec. 1 regarding temporary uses, to add yard sales and refer to special events; add Art. VI, Sec. 27 to provide for special events
4/9/02	02-04	Amended Art. V, Chart 1 and Art. VI, Sec. 20 to add nursing home, subject to special use permit, in residential zoning districts
8/13/02	02-10	Amended Art. V, Chart 1 to add restaurant (sit-down) in C-L district, with special use permit
10/8/02	02-12	Amended Art. VI, Sec. 12 to add accessible parking spaces requirement
12/10/02	02-16	Amended Art. V, Chart 1, to add and amend permitted uses; amend Art. I to add and amend definitions; amend Art. IX, Sec. 5 to delete Special Exceptions authority from the Board of Zoning Appeals, delete references to special exceptions throughout the Zoning Ordinance, and amend Art. V, Sec. 5 administrative review and variance provisions to conform to statutory language
11/12/02	02-17	Amended Art. VI, Sec. 6 provisions for accessory buildings and added related definitions to Art. I
5/27/03	03-07	Ordinance to Amend Zoning Ordinance, Article V, Chart 1,to add "Church" as permitted use in the 0-R-1, 0-R-2, 0-C and C-L Zoning Districts
7/8/03	03-12	Ordinance to Amend Zoning Ordinance Article V, Chart 2, to Remove the Requirement for Additional Front Yard depth where lots in Non-Residential Zoning Districts abut Major Streets
9/9/03	03-18	Ordinance to Amend the Zoning Ordinance to Add Satellite Automobile Rental as a permitted use in certain districts, with a Special Use Permit; and to add criteria for the approval of such use

Date Adopted	Ordinance No.	Description
2/10/04	04-01	Ordinance to Amend the Zoning Ordinance to add a guest unit as a permitted use in single-family residential districts, and to add criteria for the approval of such use
6/8/04	04-07	Ordinance to Amend the Zoning Ordinance to add Psychic or Fortune Telling Businesses and Day Labor facilities as permitted uses in the C-H highway business district, with special use permits, and to clarify the definition and narrow the locations of Pawn Shops
9/13/05	05-05	Ordinance to Amend Requirements of the Zoning Ordinance regarding the R-THE Zoning District, to Amend the Definition of "Townhouse" and to delete the requirement for Arterial Frontage
9/13/05	05-06	Ordinance to Amend Requirements of the Zoning Ordinance regarding the C-H Zoning District, to amend the maximum height requirement and minimum yard requirements
9/13/05	05-07	Ordinance to Add a Residential Condominium Overlay District to the Zoning Ordinance and to add definitions for Open Space
10/25/05	05-08	Ordinance to Amend Zoning Ordinance Article VI, Section 23, Tree Ordinance, and Article VI, Section 19, Fences and to Amend the Sign Ordinance regarding Landscaping Around Monument Signs

ARTICLE I.

DEFINITIONS OF TERMS USED IN THIS ORDINANCE

Section 1 - Interpretation

For the purpose of interpreting this Ordinance, certain words or terms used are herein defined. Except as defined herein, all other words used in this Ordinance shall have their customary dictionary definition.

All words used in the present tense include the future tense; words used in the singular number include the plural and words used in the plural number include the singular; the word "person" includes a firm, association, organization partnership, corporation, trust and company, as well as an individual; the word "lot" includes the word "plot" or "parcel;" the word "building" includes the word "structure;" the word "shall" is always mandatory and not merely directory; the words "used" or "occupied" as applied to any land or building shall be construed to include the words "intended, arranged, or designed to be used or occupied," the word "map," "Zoning Map," or "Bartlett Zoning Map," shall mean the "Official Zoning Map of the City of Bartlett, Tennessee."

Section 2 - Definitions

Accessory Building: (Ord. 02-17, 11/12/02, amended by Ord. 06-05, 4/25/06)

A structure detached from the principal building, housing a use that (1) is subordinate in area, extent, and purpose to the principal use; (2) contributes to the comfort, convenience, or necessity of the principal use; (3) is located on the same lot and in the same zoning district as the principal use; and (4) is not a principal use, that is, not a use permitted in Article V, Chart 1.

Accessory Use or Structure:

A use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use of the structure.

Administrative Services: (Ord. 02-16, 12/10/02)

Overall management and general supervisory functions, such as executive, personnel, finance, legal, and sales activities. See "Offices."

Agricultural Building: (Added by Ord. 06-05, 4/25/06)

A structure designed and constructed to house farm implements, hay, grain, poultry, livestock or other horticultural products. This structure shall not be a place of human habitation or a place of employment where agricultural products are processed, treated or packaged, nor shall it be a place used by the public.

Amusements, Commercial Indoor: (Ord. 02-16, 12/10/02)

The provision of entertainment or games of skill to the general public for a fee and that is wholly enclosed in a building, including but not limited to a bowling alley or billiard parlor.

Amusements, Commercial Outdoor: (Ord. 02-16, 12/10/02)

The provision of entertainment or games of skill to the general public for a fee where any portion of the activity takes place outside of a building, including but not limited to a golf driving range, archery range, miniature golf course, car race track, or merry-go-round.

Animal Grooming Service: (Ord. 02-16, 12/10/02)

Any place or establishment where animals are bathed, clipped, or combed for the purpose of enhancing their aesthetic value and/or health and for which a fee is charged.

Antique Store: (Ord. 02-16, 12/10/02)

An establishment primarily engaged in retailing works of art, pieces of furniture, decorative objects, or the like, of or belonging to the past, of which 80 percent or more are over 50 years old or have collectible value. This does not include "retail secondhand store."

Assisted-Care Living Facility: (Ord. 02-16, 12/10/02)

Under the terms of Tennessee Code Annotated Title 68, Chapter 11, Part 2, a building, establishment, complex or distinct part thereof which accepts primarily aged persons for domiciliary care; and provides on site to its resident, room, board, non-medical living assistance services appropriate to the residents' respective needs, and medical services as prescribed by each resident's treating physician, subject to the limitations of the statute. An assisted-care living facility resident is primarily an aged ambulatory person who requires domiciliary care, and who may require one (1) or more of the services described in the statute.

ATM: See "Automated Teller Machine." (Ord. 02-16, 12/10/02)

Attic: (Ord. 02-17, 11/12/02, amended by Ord. 06-05, 4/25/06)

Interior space that is enclosed wholly by the roof slope rather than vertical exterior walls; which space typically houses environmental systems (HVAC, water heater), is vented to the outdoors, is neither finished (except for a floor) nor heated, and requires a ladder or uses pull-down stairs for access.

Automated Teller Machine (ATM): (Ord. 02-16, 12/10/02)

A mechanized consumer banking device operated by a financial institution for the convenience of its customers, whether outside or in a building. An ATM located within a building is considered accessory to the principal use unless the ATM is likely to be an independent traffic generator. An ATM outside of a building is considered an accessory use to a principal financial institution in the building.

Automobile: (Ord. 02-16, 12/10/02)

A term referring in this ordinance to passenger cars, trucks, and vans; motorcycles and all-terrain vehicles; and motorized recreational vehicles; and, unless otherwise stated, referring to trailers normally pulled by such vehicles, such as camper, horse, and boat trailers.

Automobile Gas Station: (Ord. 02-16, 12/10/02)

A facility used for the retail sale of automobile fuels, oil, and minor accessories.

Automobile Oil Change and Lubrication Shop: (Ord. 02-16, 12/10/02)

An operation that provides lubrication and/or checking, changing, or additions of those fluids and filters necessary to the maintenance of a vehicle.

Automobile Paint or Body Shop: (Ord. 02-16, 12/10/02)

An establishment primarily engaged in repairing or painting bodies of autos and associated trailers, not including manufactured (mobile) homes.

Automobile Rental: (Ord. 02-16, 12/10/02)

Rental of automobiles and light trucks and vans, including incidental parking and servicing of vehicles for rent or lease. Typical uses include auto rental agencies and taxicab dispatch areas.

Automobile Repair, General: (Ord. 02-16, 12/10/02)

An establishment primarily engaged in providing (1) any of a wide range of mechanical and electrical repair and maintenance services for autos and associated trailers or (2) engine repair and replacement; except for such services otherwise specifically listed herein.

Bank, Commercial: See "Commercial Bank." (Ord. 02-16, 12/10/02)

Bed and Breakfast: (added by Ord. 07-14, 9/11/07)

"Bed and Breakfast establishment," referred to in this part as the "establishment," means a private home, inn or other unique residential facility offering bed and breakfast accommodations and one (1) daily meal and having four (4) but not more than twelve (12), guest rooms furnished for pay, with guests staying not more than fourteen (14) days, and where the innkeeper resides on the premises or property immediately adjacent to it. Guest rooms shall be established and maintained distinct and separate from the innkeeper's quarters.

Board of Zoning Appeals:

A semi-judicial body that is given certain powers under this Ordinance.

Boarding House: (Ord. 02-16, 12/10/02)

An establishment with lodging for five or more persons where meals are regularly prepared and served for compensation and where food is placed upon the table family style, without service or ordering of individual portions from a menu. *See also* "Hotel," "Rooming House."

Buildable Area:

The portion of a lot remaining after required yards have been provided.

Business Credit Establishment: (Ord. 02-16, 12/10/02)

An establishment engaged in providing credit or capital to businesses and other organizations. See "Finance - Financial Lending Establishment, Miscellaneous."

Business Services: (Ord. 02-16, 12/10/02)

The provision of services primarily to businesses rather than to individuals. *See also* "Offices."

Cemetery: (Ord. 02- 16, 12/10/02)

A place used for interment of human or animal remains or cremated remains, including a burial park for earth interments, a mausoleum for vault or crypt interments, a columbarium for cinerary interments, or a combination thereof; including necessary sales and maintenance facilities; and including a funeral home when operated within the boundary of such cemetery.

Child or Children: (Ord. 02-16, 12/10/02)

A person or persons under eighteen (18) years of age.

Child Care: (Ord. 02-16, 12/10/02)

The provision of supervision and protection, and, at a minimum, meeting the basic needs, of a child or children for less than twenty-four (24) hours a day.

Child Care Center: (Ord. 02-16, 12/10/02)

Under the terms of Tennessee Code Annotated Title 71, Chapter 3, Part 5, any place or facility operated by any person or entity that provides child care

- for three (3) or more hours per day;

- for at least thirteen (13) children who are not related to the primary caregiver;

provided, that all children, related or unrelated shall be counted in the group sizes applicable to child care centers; with the exception, that if the child care center is operated in the occupied residence of the primary caregiver, children nine (9) years of age or older who are related to the primary caregiver will not be counted in determining the group sizes applicable to child care centers if such children are provided a separate space from that occupied by the child care center.

Child Care Home, Family: (Ord. 02-16, 12/10/02)

Under the terms of Tennessee Code Annotated Title 71, Chapter 3, Part 5, any place or facility which is operated by any person or entity that provides child care

- for three (3) or more hours per day;

- for at least five (5) children but not more than seven (7) children who are not related to the primary caregiver;

provided, that the maximum number of children present in the family child care home, including related children of the primary caregiver shall not exceed twelve (12), with the exception that, if the family child care home is operated in the occupied residence of the primary caregiver, children related to the primary caregiver nine (9) years of age or older will not be counted in determining the maximum number of children permitted to be present in a "family child care home" if those children are provided a separate space from that occupied by the family child care home.

Child Care Home, Group: (Ord. 02-16, 12/10/02)

Under the terms of Tennessee Code Annotated Title 71, Chapter 3, Part 5, any place or facility operated by any person or entity that provides child care

- for three (3) or more hours per day;

- for at least eight (8) children who are not related to the primary caregiver;

provided, however, that the maximum number of children present in a group child care home, including those related to the primary caregiver, shall not exceed twelve (12) children, with the exception that, if the group child care home is operated in the occupied residence of the primary caregiver, children related to the primary caregiver nine (9) years of age or older will not be counted in determining the maximum number of children permitted to be present in a group child care home, if those children are provided a separate space from that occupied by the group child care home; and, provided, further, that up to three (3) additional school age children, related or unrelated to the primary caregiver, may be received for child care before and after school, on school holidays, on school snow days and during summer vacation.

Child Drop-In Center: (Ord. 02-16, 12/10/02)

Under the terms of Tennessee Code Annotated Title 71, Chapter 3, Part 5, a place or facility operated by any person or entity providing child care, at the same time, for fifteen (1 5) or more children, who are not related to the primary caregiver, for short periods of time, not to exceed ten (10) hours per week and for not more than six (6) hours per day for any individual child, while the parents or other custodians of the children are engaged in short-term activities that do not include employment of the parent or other custodian of the child.

Drop-in centers operated by not-for-profit organizations that provide child care for no more than two (2) hours per day with a maximum of ten (10) hours per week without compensation, while the parent or other custodian is engaged in short-term activities on the premises of the organization, shall not be deemed to be a drop-in center or regulated as a drop-in center.

Church: (Ord. 02-16, 12/10/02)

A building wherein persons regularly assemble for religious worship and which is maintained and controlled by a religious body organized to sustain public worship, together with all accessory buildings and uses customarily associated with such primary purpose; including a synagogue, temple, mosque, or other such place for worship and religious activities.

City:

The City of Bartlett, Tennessee.

Club: (Ord. 02-16, 12/10/02)

A building or facility owned or operated by a corporation, association, person or persons, for a social, educational, or recreational purpose, to which membership is required for participation and not primarily operated for profit nor to render a service that is customarily carried on as a business.

Condominium:

Joint or common ownership of some portions of a building, land or improvements by individual owners in a development.

Convenience Store: (Ord. 02-16, 12/10/02)

A retail establishment typically of no more than 2,500 square feet that offers for sale convenience goods, such as prepackaged food items, beverages, motor oil and other automotive items, and other household goods.

Country Club: (Ord. 02-16, 12/10/02)

A club with recreation facilities for members, their families and invited guests.

Credit Union: (Ord. 02-16, 12/10/02)

An establishment engaged in accepting members' share deposits in a cooperative that is organized to offer consumer loans to its members. (NAICS 52213). See also "ATM," "Finance - Commercial Bank, Credit Union, or Savings Institution."

Day labor hiring: (Ord. 04-07, 06/08/04)

A location at which job-seekers congregate, seeking to be hired by the day or by the job for short periods of time, where persons must be present to receive a job offer and be transported to a job site.

Dwelling, Single Family:

A detached residential dwelling unit, other than a mobile home, designed for and occupied by one (1) family only.

Dwelling, Multiple Family:

A residential building designed for or occupied by three (3) or more families, with the number of families in the residence not exceeding the number of dwelling units provided.

Dwelling Unit: (Ord. #18-04, 7/24/18)

A cabin, house, or structure used or designed to be used as an abode or home of a person, family, or household, and includes a single-family dwelling, a portion of a single-family dwelling, or an individual residential dwelling in a multi-dwelling building, such as a duplex, an apartment building, condominium, cooperative, or timeshare.

Short-Term Rental ("STR") Unit:

A dwelling unit, a portion of a dwelling unit, or any other structure or space that is occupied or intended or designed or advertised for occupancy by Transient Guests for dwelling, lodging, or sleeping, and which is offered to Transient Guests for Consideration for a period of up to 30 consecutive calendar days. Short-Term Rental Unit shall not include dwelling units owned by the federal government, the state, or any of their agencies or political subdivisions; facilities licensed by the state as health care facilities, including temporary family healthcare structures; hotels; inns; motels; boarding houses; Bed and Breakfast establishments approved by the City of Bartlett pursuant to the Bartlett Zoning Ordinance; campgrounds; or dwelling units rented to the same occupant(s) for more than thirty continuous days.

Transient Guest(s):

Person(s) who occupies a dwelling unit or portion thereof, other than his or her usual place of residence, in exchange for consideration.

Family:

One or more persons occupying a single dwelling unit. Unless all members are related by blood or marriage, no such family shall contain over five (5) persons. Domestic servants employed on the premises may be housed on the premises without being counted as a family or families.

Finance - Commercial Bank: (Ord. 02-16, 12/10/02)

An establishment primarily engaged in accepting demand and other deposits and granting withdrawals; making commercial, institutional, and consumer loans; and providing other customer financial transactions. (NAICS 52211). See also "ATM," "Credit Union."

Finance - Consumer Lending Establishment:

An establishment primarily engaged in providing unsecured cash loans to individuals or consumers for nonspecified purposes. (NAICS 522291)

Finance - Financial Lending Establishment, Miscellaneous:
(Ord. 02-16, 12/10/02)

A nondepository credit intermediation establishment under NAICS code 5222 such as a business credit establishment, mortgage loan broker, real estate credit establishment, or other establishment providing similar financial services; excluding NAICS 5222 establishments separately listed herein.

Finance - Securities, Commodity Contracts, and Other Financial Investments and Related Activities: (Ord. 02-16, 12/10/02)

An establishment primarily engaged in one of the following: (1) underwriting securities issues and/or making markets for securities and commodities; (2) acting as agent (i.e., broker) between buyers and sellers of securities and commodities; (3) providing securities and commodity exchange services; and (4) providing other services, such as managing portfolios of assets; providing investment advice; and trust, fiduciary, and custody services. (NAICS 523)

Flag lots - A lot on which the buildable area is connected to the street by a strip of land, more narrow than the typical minimum lot width required in the zoning ordinance, provided that the width at the front building line at least equals the required lot width of the zoning ordinance.

Fortune telling (See also "Psychic"): (Ord. 04-07, 6/8/04)

A use involving the foretelling of the future in exchange for financial or other valuable consideration. Fortune telling shall be limited to uses where the fortune is told through astrology, augury, card or tea reading, cartomancy, clairvoyance, clairaudience, crystal gazing, divination, magic mediumship, necromancy, palmistry, psychometry, phrenology, prophecy, spiritual reading or any similar means. Fortune telling does not include forecasting based on historical trends or patterns, religious dogma, or any of the previously listed arts when presented in an assembly of people who purchase tickets or means in exchange for the presentation at a site licensed for such purpose.

Funeral Chapel: (Ord. 02-16, 12/10/02)

A building used primarily for human funeral services, provided that such building shall not contain the other facilities defined for a "funera1 home."

Funeral Home: (Ord. 02-16, 12/10/02)

A building or part thereof used for human funeral services. Such building may contain space and facilities for (a) embalming and the performance of other services used in the preparation of the dead for burial; (b) the performance of autopsies and other surgical procedures; (c) the storage of caskets, funeral urns, and other related funeral supplies; (d) the storage of funeral vehicles; and (e) facilities for cremation. A funeral home may include a funeral chapel.

Greenhouse, Commercial: (Ord. 02- 16, 12/10/02)

A building used for the growing of plants, all or part of which are sold at retail or wholesale.

Half-Story: (Ord. 02-17, 11/12/02, amended by Ord. 06-05, 4/25/06)

Interior space above ground-floor that is enclosed in part or wholly by the roof slope rather than solely vertical exterior walls; which space is closed for heating rather than vented to the outdoors, has a fixed stairway for access, and often has dormers for additional useable floor area and to accommodate windows.

Home for the Aged: (Ord. 02-16, 12/10/02)

Under the terms of Tennessee Code Annotated Title 68, Chapter 11, Part 2, a home represented and held out to the general public as a home which accepts primarily aged persons for relatively permanent, domiciliary care. A home for the aged provides room, board and personal services to one (1) or more nonrelated persons. A home for the aged resident is a person who is ambulatory and who requires permanent, domiciliary care but will be transferred to a licensed hospital, a licensed assisted living facility, or a licensed nursing home when health care services are needed which must be provided in such other facilities.

Hospital: (Ord. 02-16, 12/10/02)

Under the terms of Tennessee Code Annotated Title 68, Chapter 11, Part 2, any institution, place, building or agency represented and held out to the general public as ready, willing and able to furnish care, accommodations, facilities and equipment for the use, in connection with the services of a physician or dentist, of one (1) or more nonrelated persons who may be suffering from deformity, injury or disease or from any other condition for which nursing, medical or surgical services would be appropriate for care, diagnosis or treatment. "Hospital" does not include any hospital or institution, operated by the department of mental health and developmental disabilities, specially intended for use in the diagnosis, care and treatment of those suffering from mental illness, mental retardation, convulsive disorders, or other abnormal mental conditions.

Hotel: (Ord. 02-16, 12/10/02)

A building in which lodging is provided and offered to the public for compensation, and which is open to transient guests and is not a rooming or boarding house as herein defined. See also "Boarding House," "Motel," "Rooming House."

Laboratory: (Ord. 02-16, 12/10/02)

A building or group of buildings in which are located facilities for scientific research, investigation, testing, or experimentation, but not facilities for the manufacture or sale of products, except as incidental to the main purpose of the laboratory.

Loading Space, Off-Street:

Space logically and conveniently located for bulk pickups and deliveries, scaled to delivery vehicles expected to be used, and accessible to such vehicles when required off-street parking spaces are filled. Required off-street loading space is not to be included as off-street parking space in computation of required off-street parking. Required off-street loading spaces shall not be less than 10 feet in width and shall have an unobstructed vertical clearance of not less than 14 feet. The minimum length of loading spaces shall be 50 feet.

Lodge: (Ord. 02-16, 12/10/02)

A membership organization that holds regular meetings and that may, subject to other regulations controlling such uses, maintain dining facilities, serve alcohol, or engage professional entertainment for the enjoyment of dues-paying members and their guests. There are no sleeping facilities. This definition shall not include fraternities or sororities.

Lot:

A parcel of land of at least sufficient size to meet minimum zoning requirements for use, coverage, and area, and to provide such yards and other open spaces as are herein required. Such lot shall have frontage on an improved public street, or on an approved private street, and may consist of:

1. A single lot of record.

2. A portion of lot of record.

3. A combination of (a) complete lots of record, (b) of complete lots of record and portions of lots of records, or (c) portions of lots of record.

4. A parcel of land described by metes and bounds.

In the case of division or combination of a lot or parcel, no residual lot or parcel may be created which does not meet the minimum zoning requirements of the Ordinance.

Lot Frontage:

The front of a lot is the portion nearest the street. For the purpose of determining yard requirements on comer lots and through lots, all sides of a lot

adjacent to streets shall be considered frontage, and yards shall be provided as indicated under "Yards" in this section.

Lot Measurements:

1. Depth of a lot shall be considered to be the distance between the midpoints of straight lines connecting the foremost points of the side lot lines in front and the rearmost point of the side lot lines in the rear.

2. Width of a lot shall be considered to be the distance between straight lines connecting front and rear lot lines at each side of the lot, measured across the rear of the required minimum front yard. The width between side lot lines at their foremost points (where they intersect with street line)shall not be less than eighty (80) percent of the required lot width except in the case of lots where the eighty (80) percent requirement shall not apply. Lots on coves may be allowed to vary the minimum lot width by five (5) feet in the RS- 10, RS- 12, RS-15, and RS-18 zones, and twenty-five (25) feet in the R-E, Residential Estate zone.

Lot of Record:

A parcel of land in a subdivision recorded in the Shelby County Register's Office, or a parcel of land described by metes and bounds or platted which has been recorded prior to March 6, 1956, in accordance with Ord. #02-18.

Lot Types:

The diagram (Figure I-1) which follows, illustrates terminology used in this Ordinance with reference to CORNER lots, INTERIOR lots, and THROUGH lots.

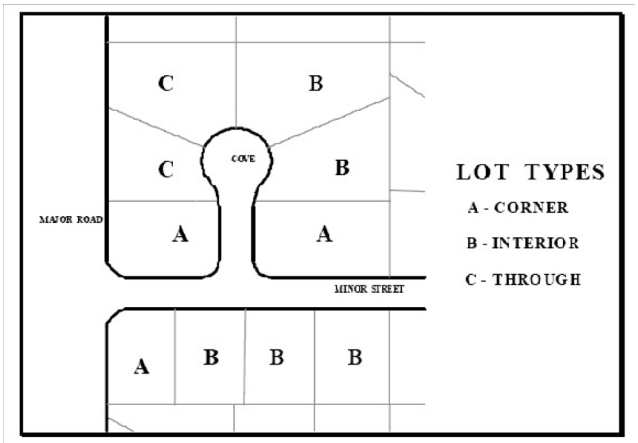


Figure I-1

In the diagram:

1. CORNER lot (A) is a lot located at the intersection of two (2) or more streets. A lot abutting on a curved street or streets shall be considered a corner lot if straight lines drawn from the foremost points of the side lot lines to the foremost point of the lot, meet at an interior angle of less than 135 degrees.

2. INTERIOR lot (B) is a lot other than a corner lot with only one (1) frontage on a street.

3. THROUGH lot (C) is a lot other than a corner lot with frontage on more than one street. Through lots abutting two (2) streets may be referred to as double frontage lots.

Lumber Yard: (Ord. 02-16, 12/10/02)

An establishment where lumber and other building materials such as brick, tile, cement, insulation, roofing materials, and the like are sold at retail. The sale of items, such as heating and plumbing supplies, electrical supplies, paint, glass, hardware, and wallpaper is permitted at retail and deemed to be customarily incidental to the sale of lumber and other building materials at retail.

Manufactured (Mobile) Home Dealer: (Ord. 02-16, 12/10/02)

An establishment primarily engaged in retailing new and/or used manufactured homes (i.e., mobile homes), parts, and equipment.

Minor Auto Repair:

This use is allowed as a special use and may include the following services: adjusting and repairing brakes; balancing and alignment of wheels; oil change; and auto lubrication. Minor auto repairs do not include removal of the head or crankcase, other major mechanical and body work, straightening of body parts, painting, welding and storage of automobiles not in operating condition. All of the permitted services and repairs shall be conducted inside a structure.

Mortgage Loan Broker: (Ord. 02-16, 12/10/02)

An establishment engaged in arranging loans by bringing borrowers and lenders together on a commission or fee basis. See "Finance - Financial Lending Establishment, Miscellaneous.

Motel: (Ord. 02-16, 12/10/02)

A building or group of buildings in which lodging is provided to transient guests, offered to the public for compensation, and in which access to and from each

room or unit is through an exterior door. See also "Boarding House," "Hotel," "Rooming House."

Motor Vehicle: (Ord. 02-16, 12/10/02)

Any self-propelled vehicle designed primarily for transportation of persons or goods along public streets or other public ways; including any motor vehicle legal for use on public streets.

NAICS: (Ord. 02-16, 12/10/02)

North American Industry Classification System, published by the U.S. Census Bureau, U.S. Department of Commerce.

Nursery: (Ord. 02-16, 12/10/02)

An establishment for the growth, display, and/or sale of plants, shrubs, trees, and materials used in indoor or outdoor planting, conducted within or without an enclosed building.

Nursing Home (Ord. 02-04, 4/9/02)

Any institution or facility defined as such pursuant to state law or the rules and regulations for nursing homes promulgated by the Board for Licensing Health Care Facilities. Excluded are hospitals, clinics, or similar institutions devoted primarily to the diagnosis and treatment of the sick or injured, facilities providing surgical services, or facilities providing care for alcoholism, drug addiction, mental disease, or communicable disease.

Offices: (Ord. 02-16, 12/10/02)

Administrative, executive, professional, research, or similar services, provided that no merchandise is sold on the premises, except such as is incidental or accessory to the principal permissible use. See also "Professional Services."

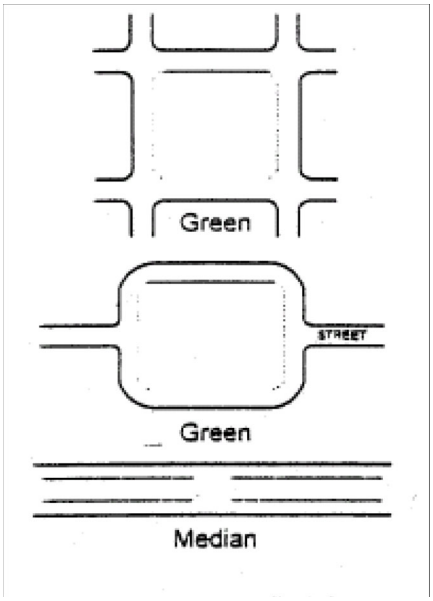
Open Space: (Ord. 05-07, 9/13/05)

"Open space," where the term is used without further elaboration, means land that is retained for use as active or passive recreation areas or for resource protection in an essentially undeveloped state, vegetated except for approved pedestrian or bicycle paths or approved pedestrian amenities such as benches or shelters.

Open space includes "connector open space," general open space," and "usable open space," terms applied in conservation subdivisions. Land that is owned in common by the homeowners in a conservation subdivision but that does not

meet the minimum dimensions of connector, general, or usable open space is not included in this definition.

Open space does not include any land in public street right-of-ways, private streets, or alleys. In a residential subdivision, open space does not include any land in individually-owned lots.



Open space may be further specified as one of the following types, the sizes and characteristics of which may be further elaborated for particular uses or districts:

- **Court**. A private exterior space partially surrounded by a building and also opening to a thoroughfare. It is often used as a vehicular entrance or drop-off, and the landscape may be paved.

- **Green**. A block of open space typically smaller than a neighborhood park, encircled and separated from surrounding dwelling units or other land uses by streets; distinguished from a "median" in that surrounding dwelling units or other land uses face onto a green on all (usually four) sides but face onto a median on only two sides; landscaped with grassy areas and trees, naturalistically disposed and requiring only limited maintenance; and optionally containing pavilions or memorials but no recreational facilities.

Where a minimum area is required, a circle one hundred (100) feet in diameter will fit everywhere within the boundaries of a green; except that the square corners (90-degree internal angle) of the tract beyond the circle also may be counted as part of a green.

- **Meadow**. An area available for unstructured recreation outside a neighborhood. A meadow is naturalistic, consisting of native plants, growing unchecked, and requiring minimal maintenance.

- **Natural corridor**. A natural public or common open space, typically linear in configuration, bordered on portions of its boundary by streets or other public ways that provide access. The preferred width is at least 200 feet.

- **Neighborhood park**. A natural or landscaped open space, typically two acres or less, bordered by streets or other public ways on at least two sides. Neighborhood parks may be used for active or passive recreation.

- **Playground or pocket park**. A natural or landscaped open space within a block, typically one-half (½) acre, used for active or passive recreation, mainly by small children; usually fenced and may include an open shelter; typically interspersed within residential areas, a short walking distance from dwellings.

- **Plaza**. An open space adjacent to streets and adjacent to commercial or civic buildings; with landscape consisting of durable pavement for interim surface parking and trees requiring little maintenance. Paving on plazas should not be marked or detailed as parking lots.

- **Sports park**. A landscaped open space for large-scale active recreation such as soccer and baseball, generally greater than two acres and bordered by at least one street or other public way; typically confined to the edges rather than interiors of neighborhoods, where the large size won't disrupt street and pedestrian networks.

- **Square**. A landscaped open space, seldom larger than a block, bordered by streets or other public ways on at least three sides; with streetscape consisting of paved walks, lawns, trees, and civic buildings, all formally disposed. Squares may contain a civic building, pavilion or memorial within the site. In the neighborhood, a square attached to a building site may be called an attached green.

- **Quadrangle**. A private open space entirely surrounded by multiple buildings with only minor openings to a thoroughfare, common in campuses.

- **Terrace**. A level, paved area accessible directly from a building as its extension. A terrace is smaller than a plaza and usually private.

Parking Space, Off-Street:

A space adequate for parking an automobile with room for opening doors on both sides, together with properly related access to a public street or alley and maneuvering room. Required off-street parking areas for three or more

automobiles shall have individual spaces marked, and shall be so designed, maintained, and regulated that no parking or maneuvering incidental to parking shall be on any public street, walk, or alley, and so that any automobile may be parked and unparked without moving another. Each space shall be not less than nine (9) feet wide and twenty (20) feet long. For purposes of rough computation, an off-street parking space and necessary access and maneuvering room may be estimated at three hundred (300) square feet, but off-street parking requirements will be considered to be met only when actual spaces meeting the requirements are provided and maintained, improved in a manner appropriate to the circumstances of the case, and in accordance with all ordinances and regulations of the City.

Pawn Shop: (Ord. 02-16, 12/10/02, as amended by Ord. 04-07, 06/08/04)

See Tennessee Code Annotated, Title 45, Chapter 6, Pawnbrokers. Included is a buy-sell agreement or loan of money with personal property such as an automobile as collateral.

Personal Services: (Ord. 02-16, 12/10/02)

The provision of services primarily to individuals rather than to businesses. See also "Offices," "Services."

Pharmacy:

A business with the primary purpose of the sale of drugs and medicines. This use is generally located as part of an office building or complex. This use may have limited retail sales as opposed to a drug store which consists of primarily retail sales and also has a pharmacy.

Principal Use:

The purpose for which land or structures thereon is designed, arranged, or intended to be occupied or used, or for which it is occupied, maintained, rented or leased.

Professional Services: (Ord. 02-16, 12/10/02)

Services provided by a member of a recognized profession. A profession is a vocation, calling, occupation, or employment requiring training in the liberal arts or sciences, or combination thereof, requiring advanced study in a specialized field (e.g., law, medicine, engineering, architecture); often requiring licensing by the state and maintenance of professional standards applicable to the field.

Psychic (See also "Fortune telling"): (Ord. 04-07, 06/08/04)

Pertaining to predictions of the future based on intuitive or mental powers or supernatural influences and not statistical or otherwise empirical evidence.

Real Estate Credit Establishment: (Ord. 02-16, 12/10/02)

An establishment engaged in lending funds with real estate as collateral. See "Finance - Financial Lending Establishment, Miscellaneous."

Repair, Equipment and Large Vehicle: (Ord. 02-16, 12/10/02)

An establishment providing mechanical or electrical repair, body repair, paint, or maintenance services for motor vehicles not encompassed by "Auto Repair, General" or "Auto Paint and Body Shop"; for construction and other equipment; not including manufactured (mobile) homes.

Residential Mixed Use Development: (Ord. 19-04, 10/22/19)

A development that includes primarily residential land uses along with commercial/retail and office uses within the same development.

Retail Secondhand Store: (Ord. 02-16, 12/10/02)

An establishment selling at retail previously used merchandise, such as clothing, household furnishings or appliances, or sports/ recreational equipment; not including secondhand motor vehicles, parts, or accessories. This does not include "Antique Store."

Rooming House: (Ord. 02-16, 12/10/02)

A residential building with three or more sleeping rooms for lodgers, and wherein no dining facilities are maintained for the lodger, as distinguished from a boarding house. See also "Boarding House," "Hotel."

Sales Financing: (Ord. 02-16, 12/10/02)

An establishment primarily engaged in lending money for the purpose of providing collateralized goods through a contractual installment sales agreement, either directly from or through arrangements with dealers.

Satellite Dish:

A Satellite Dish receiving antenna is a structure for the reception of satellite delivered communications service whether received only or transmitted and received.

Savings Institution: (Ord. 02-16, 12/10/02)

An establishment primarily engaged in accepting time deposits, making mortgage and real estate loans, and investing in highgrade securities. Savings and loan associations and savings banks are included. (NAICS 52212). See also "ATM," "Finance - Commercial Bank, Credit Union, or Savings Institution."

Services: (Ord. 02-16, 12/10/02)

The provision primarily of labor (physical or mental) benefitting the customer personally or the customer's business or property, rather than the provision primarily of tangible goods. [See "Business Services," "Personal Services," and "Professional Services."]

Sexually Oriented Business:

Certain businesses described and regulated under City of Bartlett Ordinance 90-21, including adult arcade, adult bookstore or adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, nude model studio, or sexual encounter center or, for the purposes noted in Section l(c) (6) of Ordinance 90-21, adult telecommunications business.

Sign:

Any identification, description, illustration, or device which directs attention to a product, location, service, place, activity, person, institution or business. Signs are regulated under Ordinance 79-10 and other ordinances of the City of Bartlett, and may have additional regulations in the Zoning Ordinance.

Single Family Attached:

A dwelling designed for and occupied by not more than one (1) family having a fire wall in common with one (1) other dwelling unit.

Special Use:

A use that is normally appropriate when permitted in certain districts specified in Article V, Chart 1, provided however, that standards and conditions may be required to eliminate or minimize any potentially harmful characteristic or impact of such special uses on the character of other uses permitted in the zoning district in which they will be located. Special uses may be permitted in accordance with the procedures established in Article VI, Section 20.

Stealth Design:

Any tower or WCF which is designed to enhance compatibility with adjacent land uses, including, but not limited to, architecturally screened roof-mounted antennas, antennas integrated into architectural elements, and tower structures designed to look other than like a WCF and with a visual appearance whereby

the structure suggests a purpose other than a WCF. This includes steeples, flagpoles and trees. Towers and other WCF utilizing Stealth Design may be approved by the Design Review Commission and do not require a Special Permit under this Ordinance.

Street Line:

The right-of-way line of a street.

Storage, Climate Controlled: (Ord. 10-05, 07/27/10)

Indoor units available for self-storage with mechanical systems (HVAC) which control temperature and humidity variations. No outdoor storage is permitted under this definition.

Structure:

Anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground. Structures include buildings, mobile homes, walls, fences, billboards, and poster panels.

Tattoo or Body-Piercing Establishment: (Ord. 02-16, 12/10/02)

An establishment engaged primarily in permanently marking or scarring the skin or piercing the body for non-medical purposes.

Townhouse: (Ord. 05-05, 9/13/05)

A one-family dwelling unit, with a private entrance, which is part of a structure in which three (3) or more dwelling units are attached horizontally only, and having at least two totally exposed walls (front and rear or front and one side) to be used for access, light, and ventilation.

Travel Trailer:

A vehicular, portable structure built on a chassis, designed to be used as a temporary dwelling for travel and recreational purposes, having a body width not exceeding eight (8) feet.

Truck: (Ord. 02-16, 12/10/02)

Except as otherwise specified, a heavy truck, that is, a truck or similar vehicle, including truck tractor, with two or more rear axles or dual rear wheels.

Truck, Light: (Ord. 02-16, 12/10/02)

A truck or similar vehicle with a single rear axle and single rear wheels.

Variance:

A relaxation of the terms of the Zoning Ordinance where such relaxation will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement

of the Ordinance would result in unnecessary and undue hardship. A variance is authorized only for height, area, and size of structure or size of yards and open spaces. The establishment or expansion of a use otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of non-conformities in the zoning district or uses in adjoining zoning district. The Board of Zoning Appeals hears and decides on all requests for variances.

Vehicle Wash: (Ord. 02-16, 12/10/02)

A facility for the washing, waxing, and cleaning of private automobiles, light trucks and vans, but not commercial fleets; including a detailing shop.

Vehicle Wash, Industrial: (Ord. 02-16, 12/10/02)

A facility for the washing, waxing, and cleaning of trucks and buses.

Veterinary Clinic: (Ord. 02-16, 12/10/02)

An establishment for the medical or surgical treatment of small animals, including household pets.

Wireless Communications:

Wireless communications shall mean any personal wireless services as defined in the Telecommunications Act of 1996, which includes Federal Communications Commission (FCC) licensed commercial telecommunications services including cellular, personal communications services (PCS), specialized mobile radio (SMR) enhanced specialized mobile radio (ESMR), paging, and similar services that currently exist or may be under development.

Wireless Communications Facility (WCF):

A WCF is any unstaffed facility for the transmission and/or reception of wireless telecommunication services, usually consisting of an antenna array, cabling and associated equipment and a support structure.

Wireless Communications Structure: (Amended by Ord. 02-16, 12/10/02)

A communications tower is a structure designed to support an antenna array. A monopole tower is permitted within the guidelines of this Ordinance. Guyed towers hereinafter referred to as Communications Towers, and requiring external wire supports are allowed only in the C-H, I-O and I-P Districts with a special use permit.

Yard:

A required open space other than a court unoccupied and unobstructed by any structure or portion of a structure from thirty (30) inches above the general

ground level of the graded lot upward. Exceptions are: Fences, walls, poles, posts and other customary yard accessories, ornaments, and furniture may be permitted in any yard, except front yards, subject to height limitations and requirements limiting obstructions of visibility. Chimneys, belt courses, sills, pilasters, ornamental features, cornices, gutters and eaves projecting not more than twenty-four (24) inches from an exterior wall. Bay windows, porches and balconies and steps projecting not more than thirty-six (36) inches from an exterior wall for a distance not more than one-third (⅓) of the length of such wall.

Yard, Front:

A yard extending between side lot lines across the front of a lot adjoining a public street. In the case of through lots unless the prevailing front yard pattern on adjoining lots indicates otherwise, front yards of full depth shall be provided on all frontages. Where one of the front yards that would normally be required on a through lot is not in keeping with the prevailing yard pattern, the Building Official may waive the requirement for the normal front yard and substitute a special yard requirement which shall not exceed the average of the yards provided on adjacent lots. In the case of corner lots and lots with more than two (2) frontages, the required front yard depths shall be required on all frontages. Depth of required front yards shall be measured at right angles to a straight line joining the foremost point of the side lot lines. The foremost point of the side lot line, in the case of rounded property corners at street intersections, shall be assumed to be the point at which the side and front lot lines would have met without such rounding. Front and rear yard lines shall be parallel to the property line.

Yard, Side:

A yard extending from the rear line of the required front yard to the rear lot line, or in the absence of any clearly defined rear lot line, to the point on the lot farthest from the intersection of the lot line involved with the public street. In the case of through lots, side yards shall extend from the rear lines of required front yards. In the case of corner lots, yards remaining after full depth front yards have been established shall be considered side yards. Width of a required side yard shall be measured in such a manner that the yard established is a strip of the minimum width required by district regulations with its inner edge parallel with the side lot line.

Yard, Rear:

A yard extending across the rear of the lot between inner side yard lines. In the case of through lots and corner lots, there will be no rear yards, but only front and side yards. Depth of a required rear yard shall be measured in such a

manner that the yard established is a strip of the minimum width required by the district regulations with its inner edge parallel with the rear lot line.

Yard Sale: (Ord. 02-03, 3/12/02)

The display and offering for sale to the public of used items normally accumulated by a household, where the property on which such display and offering occur is zoned and used as a residence. A single motor vehicle parked on a driveway and offered for sale is not included within this definition, provided the vehicle is the personal property of a person for whom the property is the principal residence.

Yard, Special:

A yard behind any required yard adjacent to a public street, required to perform the same functions as a side or rear yard, but adjacent to a lot line so placed or oriented that neither the term "side yard" nor the term "rear yard" clearly applies. In such cases, the Building Official shall require a yard with minimum dimensions as generally required for a side yard or a rear yard in the district, determining which shall apply by the relation of the portions of the lot on which the yard is to be located to the adjoining lot or lots, with due regard to the orientation and location of structures and buildable areas thereon.

Figure I-2 illustrates locations and methods of measuring yards on rectangular and non rectangular lots.

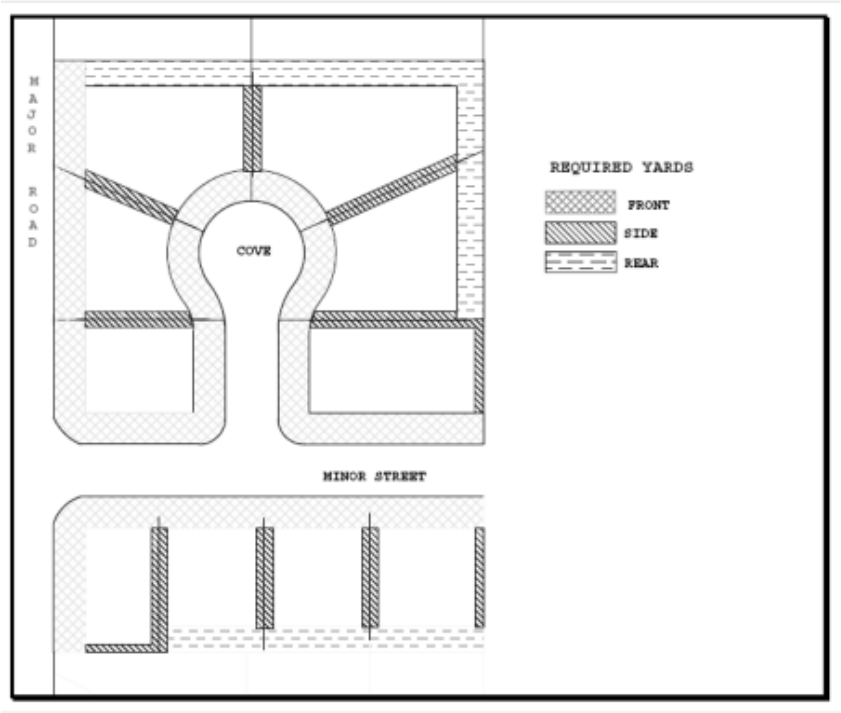


Figure I-2. Required Yards

ARTICLE II.

Establishment of Districts, Provision for Official Zoning Map

Section I - Establishment Of Districts

The City is hereby divided into zones, or districts, listed below and as shown on the Official Zoning Map which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this Ordinance.

The Zoning Districts shall be known as:

1. A-0 Agricultural and Open Land District
2. R-E Residential Estate District
3. RS-18 Single Family Residential District
4. RS-15 Single Family Residential District
5. RS-12 Single Family Residential District
6. RS-10 Single Family Residential District
7. R-TH Townhouse Residential District
8. R-D Two Family Residential District
9. R-M Multi-Family Residential District
10. 0-R-1 Neighborhood Office District
11. 0-R-2 Neighborhood Office District
12. 0-C Office Center District
13. C-L Neighborhood Business District
14. C-G General Business District
15. C-H Highway Business District
16. SC-1 Planned Unit Commercial Development District
17. I-O Wholesale and Warehouse District
18. I-P Planned Industrial Park

19. FW Floodway District

20. POS Public Open Space District

Section 2 - Official Zoning Map

The Official Zoning Map shall be identified by the signature of the Mayor and Chairman of the Planning Commission and attested by the City Clerk, and bear the seal of the City under the following words: "This is to certify that this is the Official Zoning Map referred to in Article II of Ordinance 80-18 of the City of Bartlett, Tennessee," together with the date of the adoption of this Ordinance.

If, in accordance with the provisions of this Ordinance and T.C.A. Section 13-701 et seq., changes are made in district boundaries or other matter portrayed on the Official Zoning Map, such changes shall be entered on the Official Zoning Map promptly after the amendment has been approved by the Board of Mayor and Aldermen with an entry on the Official Zoning Map indicating the date of change, a brief description of the change, and such entry shall be signed by the Mayor and Chairman of the Planning Commission, and attested by the City Clerk. No amendment to this Ordinance which involves matter portrayed on the Official Zoning Map shall become effective until after such change and entry have been made on the map.

No changes of any nature shall be made in the Official Zoning Map or matter shown thereon except in conformity with the procedures set forth in this Ordinance. Any unauthorized change of whatever kind by person or persons shall be considered a violation of this Ordinance and punishable as provided under Article XIII. Regardless of the existence of purported copies of the Official Zoning Map which may from time to time be made or published, the Official Zoning Map which shall be located in the office of the City Planner shall be the final authority as to the current zoning status of land and water areas, buildings, and other structures in the City.

Section 3 - Replacement Of Official Zoning Map

In the event that the Official Zoning Map becomes damaged, destroyed, lost, or difficult to interpret because of the nature or number of changes and additions, the Board of Mayor and Aldermen may by Resolution adopt a new Official Zoning Map which shall supersede the prior Official Zoning Map. The new Official Zoning Map may correct drafting or other errors or omissions in the prior Official Zoning Map, but no such correction shall have the effect of amending the original Official Zoning Map or any subsequent amendment thereof.

The new Official Zoning Map shall be identified by the signature of the Mayor and the Chairman of the Planning Commission and attested by the City Clerk and bearing the seal of the City under the following words: "This is to certify

that this Official Zoning Map supersedes and replaces the Official Zoning Map adopted July 8, 1980, as part of Ordinance 80-18 of the City of Bartlett, Tennessee." Unless the prior Official Zoning Map has been lost, or has been totally destroyed, the prior map or any significant parts thereof remaining, shall be preserved, together with all available records pertaining to its adoption or amendment.

ARTICLE III.

Rules for Interpretation of District Boundaries

Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning Map, the following rules shall apply:

A. Boundaries indicated as approximately following the center lines of streets, highways, alleys, or railroad lines shall be construed to follow such center lines.

B. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.

C. Boundaries indicated as approximately following city limits shall be construed as following such city limits.

D. Boundaries indicated as approximately following the center lines of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such center lines.

E. Boundaries indicated as parallel to or extensions of features indicated in Subsections A through D above shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale on the map.

F. Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, or in other circumstances not covered by Subsections A through E above, the Board of Zoning Appeals shall interpret the district boundaries.

G. Where a district boundary line divides a lot which was in single ownership at the time of passage of this Ordinance, the extension of the regulations for either portion of the lot beyond the district line into the remaining portion of the lot may be approved only as an amendment to the zoning map under the terms of Article XII.

(Amended by Ord. 02-16, 12/10/02)

ARTICLE IV.

Application of District Regulations

The regulations set by this Ordinance within each district shall be minimum regulations and shall apply uniformly to each class or kind of structure or land, and particularly, except as hereinafter provided:

A. No building, structure, or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved, or structurally altered except in conformity with all of the regulations herein specified for the district in which it is located.

B. No building or other structure shall hereafter be erected or altered:

1. to exceed the height or bulk;

2. to accommodate or house a greater number of families;

3. to occupy a greater percentage of lot areas;

4. to have narrower or smaller rear yards, front yards, side yards, or other open spaces, than herein required, or in other manner contrary to the provisions of this Ordinance.

C. No part of a yard, or other open space, or off-street parking or loading space required about or in connection with any building for the purpose of complying with this Ordinance, shall be included as part of a yard, open space, or off-street parking or loading space similarly required for any other building.

D. No yard or lot existing at the time of passage of this Ordinance shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this Ordinance shall meet at least the minimum requirements established by this Ordinance.

E. All territory which may hereafter be annexed into the City shall be considered to be in the A-0 district until otherwise classified.

ARTICLE V.

Schedule of District Regulations

District regulations shall be as set forth in the Schedule of District Regulations below, and in Article VI of this Ordinance, entitled "Supplemental District Regulations." The uses permitted in the districts, the special uses that may be allowed in the districts and the uses for which site plans review and approval are required are listed on Chart 1 unless otherwise regulated in this Ordinance. The minimum lot and yard requirements, maximum height, maximum gross dwelling unit density and the maximum lot coverage which govern any use in the districts are listed on Chart 2 unless otherwise regulated in this Ordinance. The requirements for off-street parking in the districts are as regulated in Article VI, Section 12. All signs, where allowed, must be approved by the Design and Review Commission.

Section 1 - A-O - Agricultural and Open Land District

A. GENERAL DESCRIPTION

The intent of this district is to permit lands best suited for agriculture to be used for agricultural purposes and to impose only minimum restrictions on the use of land for such purposes. As the need and demand for additional open land suitable for urban development is determined by the Planning Commission, selected portions of this district may be rezoned for more intensive forms of development.

Section 2 - R-E - Residential Estate District

A. GENERAL DESCRIPTION

This district is intended to provide single family residential homes on lots of one acre or larger. The intent of this Ordinance is to protect existing areas with large lots and new subdivisions from resubdivisions that would harm the low density open space character of these areas. Additional structures and uses required to serve governmental, educational, religious, and other immediate needs of such areas are permitted outright or are permissible as special uses within such districts, subject to restrictions and requirements intended to preserve and protect the character of the district.

(Amended by Ord. 02-16, 12/10/02)

Section 3 - RS-18 - Single Family Residential District

A. GENERAL DESCRIPTION

This district is intended primarily to be single family residential with a low population density. Additional structures and uses required to serve governmental, educational, religious, and other immediate needs of such areas are permitted outright or are permissible as special uses within such districts, subject to restrictions and requirements intended to preserve and protect the character of the district.

(Amended by Ord. 02-16, 12/10/02)

Section 4 - RS-15 - Single Family Residential District

A. GENERAL DESCRIPTION

This district is intended to be a single family residential district providing low population densities. Additional structures and uses required to serve governmental, educational, religious, recreational and other immediate needs of such areas are permitted outright or are permissible as special uses, subject to restrictions and requirements intended to preserve and protect the character of the district.

(Amended by Ord. 02-16, 12/10/02)

Section 5 - RS-12 - Single Family Residential District

A. GENERAL DESCRIPTION

This district is intended to be a single family residential district providing low population densities. Additional structures and uses required to serve governmental, educational, religious, recreational and other immediate needs of such areas are permitted outright or are permissible as special uses, subject to restrictions and requirements intended to preserve and protect the character of the district.

(Amended by Ord. 02-16, 12/10/02)

Section 6 - RS-10 - Single Family Residential District

A. GENERAL DESCRIPTION

This district is intended to be a single family residential district providing low population densities. Additional structures and uses required to serve governmental, educational, religious, recreational and other immediate needs of such areas are permitted outright or are permissible as special uses, subject to restrictions and requirements intended to preserve and protect the character of the district.

(Amended by Ord. 02-16, 12/10/02, and Ord. 05-05, 9/13/05)

Section 7 - R-THE - Townhouse Residential District

A. GENERAL DESCRIPTION

This district is intended to encourage low to medium density townhouse development in suitable areas. Densities will be regulated to insure adequate sunlight, air, and open space. The intensity of land use should not be so great as to cause congestion of building or traffic or to preclude the amenities of good housing. The district may require condominium forms of ownership of dwelling units, improvements and real estate.

Every development must be reviewed and approved by the Planning Commission. In its review and approval the Planning Commission may impose conditions regarding layout, circulation, and performance of the proposed development. The proposed development must be designed to produce an environment of stable and desirable character not out of harmony with the surrounding development, and must provide standards of open space and areas for parking adequate for the occupancy proposed.

Section 8 - R-D - Two Family Residential District

A. GENERAL DESCRIPTION

This district is intended to be a single-family and two-family residential district providing low to medium population densities. Additional structures and uses required to serve governmental, educational, religious, noncommercial recreational and other immediate needs of such areas are permitted outright or are permissible as special uses within such districts, subject to restrictions and requirements intended to preserve and protect the character of the district.

(Amended by Ord. 02-16, 12/10/02)

Section 9 - R-M - Multiple Family Residential District

A. GENERAL DESCRIPTION

This district is intended to promote and encourage areas suitable for medium-density multiple-family dwellings. Densities will be regulated to ensure adequate sunlight, air, and open space. The intensity of land use should not be so great as to cause congestion of building or traffic or to preclude the amenities of good housing. An R-M district must front on a major arterial street as depicted on the Major Road Plan.

Section 10 - O-R 1 - Neighborhood Office District

A. GENERAL DESCRIPTION

This district is intended primarily to provide locations for neighborhood and community serving offices and related services at locations within the city which are easily accessible. The district is normally small and may include older homes undergoing conversion. The district is often situated between business and residential districts, and the regulations are designed to protect and be compatible with nearby residential districts.

When petitioning rezoning the petitioner shall submit to the Planning Commission a preliminary site plan of the proposed development which shall be in adequate detail to determine compliance with the provisions of this section. An O-R district shall be of such size, shape, and location as to enable development of well-organized facilities with proper access streets, ingress and egress, offstreet parking, and other requirements and amenities. In addition, all required parking shall be provided in rear or side yards. Parking is not permitted in the front yard.

Approval may be granted to the entire development for construction purposes or approval may be granted by stages. Any unauthorized deviation from the final site plan as approved shall constitute a violation of the Building Permit. If site is to be subdivided, it must meet all requirements of the Subdivision Ordinance.

Section 11 - O-R-2 - Neighborhood Office District

A. GENERAL DESCRIPTION

This district is intended primarily to provide locations for neighborhood and community serving offices and related services at locations within the city which are easily accessible. The district is normally small and may include older homes undergoing conversion. The district is often situated between business and residential districts, and the regulations are designed to protect and be compatible with nearby residential districts.

When petitioning rezoning the petitioner shall submit to the Planning Commission a preliminary site plan of the proposed development which shall be in adequate detail to determine compliance with the provisions of this section. An O-R-2 district shall be of such size, shape, and location as to enable development of well- organized facilities with proper access streets, ingress and egress, offstreet parking, and other requirements and amenities. In addition, all required parking shall be provided in front or side yards. Parking is not permitted in the rear yard.

Approval may be granted to the entire development for construction purposes or approval may be granted by stages. Any unauthorized deviation from the final site plan as approved shall constitute a violation of the Building Permit. If site is to be subdivided, it must meet all requirements of the Subdivision Ordinance.

Section 12 - O-C - Office Center District

A. GENERAL DESCRIPTION

This district is intended primarily to provide centralized locations for office and related services at locations within the City which are accessible to major highways. This is a restricted business district and is designed for areas where large retail business operations are undesirable.

When petitioning rezoning the petitioner shall submit to the Planning Commission a preliminary site plan of the proposed development which shall be in adequate detail to determine compliance with the provisions of this section.

An O-C district shall be of such size, shape and location as to enable development of well-organized facilities with proper access streets, ingress and egress, off-street parking, and other requirements and amenities.

In those instances where an office center is designed as an integrated unit, to be developed based on a predetermined plan, a final site plan must be submitted to and approved by the Planning Commission prior to the issuance of a building permit. It is recognized that an office center may also develop as a subdivision with uses being on separate lots rather than an integrated unit. In those instances, it is also required that prior to the issuance of any Building Permit, a final site plan must be submitted to and approved by the Planning Commission.

Section 13 - C-L - Neighborhood Business District

A. GENERAL DESCRIPTION

This district is established to provide areas in which to meet the needs of the immediate neighborhood. This is a restricted business district, limited to a narrow range of retail service and convenience goods and services. This district is designed for areas where large business operations are undesirable. All uses and structures not specifically noted in Chart 1 are prohibited and shall not be permitted unless Chart 1 has been amended as provided in Article XII.

Section 14 - C-G - General Business District

A. GENERAL DESCRIPTION

This district is intended for a wide range of general retail business. It is not the intent of this district to encourage the extension of strip commercial areas, but rather to provide concentration of general commercial activities with adequate off-street parking.

Section 15 - C-H - Highway Business District

A. GENERAL DESCRIPTION

This highway commercial district is established to provide areas in which the principal use of land is devoted to commercial establishments which cater specifically to the needs of motor vehicle oriented trade. The intent of this district is to provide appropriate space and sufficient depth from the street to satisfy the needs of modern commercial development where access is entirely dependent on motor vehicle trade, and to encourage the development of these locations with such uses and in such a manner as to minimize traffic hazards and interference with other uses.

Open storage uses are allowed provided that all open storage and display of merchandise, material and equipment shall be screened by adequate fencing or plantings; that all of the lot used for parking of vehicles, for the storage and display of merchandise, and all driveways shall be constructed and maintained as dust-free; and that all servicing of vehicles carried on as an incidental part of the sales operation shall be conducted within a completely enclosed building.

Section 16 - SC-1 - Planned Unit Commercial Development

A. GENERAL DESCRIPTION

The purpose of this district is to permit the development of Planned Unit Commercial Development, i.e., shopping and commercial centers of integrated design of various sizes to service all areas of the community. This district shall be of such size, shape and location as to enable development of well organized facilities with proper access streets, ingress and egress, off-street parking and loading space, and other requirements and amenities.

B. OTHER REGULATIONS

It is intended that the grouping of buildings and parking areas be designed to protect, insofar as possible, residential areas, and that screening from noise and light be provided where necessary; provided, however, that in no case shall the design of the shopping center provide less than the following:

> Where the Planned Unit Commercial Development abuts a residential district, no building shall be constructed less than one hundred (100) feet from such district line. Planned Unit Commercial Development shall provide additional right-of-way, not to exceed fifteen (15) feet in width, for turning lanes if it is determined the estimated traffic volumes require such facilities.

An application for rezoning for a Planned Unit Commercial Development shall include the following in addition to the administrative requirements set forth in Article XII:

1. The developer, when petitioning rezoning, shall submit to the Planning Commission a preliminary site plan of the proposed development which shall be in adequate detail to determine compliance with the provisions of this section; and which shall show the arrangement of buildings, types of shops and stores, design and circulation pattern of the off-street parking areas, landscaped yards, screening, service courts, utility and drainage facilities and easements; and the relationship of the development to adjacent areas.

2. The Planning Commission shall make its review of the petition for rezoning as provided in Article XII.

3. If favorable action is taken by the Board of Mayor and Aldermen on the petition for rezoning, the developer shall have six (6) months in which to submit construction plans to the Planning Commission for final approval. If the development is not under construction within six (6) months after the final construction plan approval, the Planning Commission shall review the status of the development.

4. If favorable action is taken, and if it finds the developer cannot proceed immediately with the development, in conformity with the requirements of this section, this fact and the reason thereof, shall be reported to the Board of Mayor and Aldermen. The Board may, at its discretion, rezone the parcel under consideration to its previous classification.

5. A Building Permit shall not be issued by the Building Official until the construction plans have been approved by the Planning Commission and the Design and Review Commission. Approval may be granted to the entire development for construction purposes, or approval may be granted by stages. Following rezoning and prior to the submission of final plans, a permit may be granted for site preparation only with the approval of the Planning Commission.

6. Any deviation from the construction plans as approved shall constitute a violation of the Building Permit. Substantial changes in the plans shall be resubmitted to the Planning Commission to insure compliance with the requirements, purpose, and intent of this section.

7. If the site is to be subdivided, it must meet all requirements of the Subdivision Regulations.

C. SCREENING AND LANDSCAPING

The location, size, and type of development will determine the type and amount of screening and landscaping. In addition to the following, the Planning Commission may require other amenities.

1. Where a Planned Unit Commercial Development abuts a residential district, there shall be a landscape buffer at least thirty (30) feet wide, and a solid fence six (6) feet high, both to be provided and maintained by the owner. Landscaping shall not be located in utility easements. Such landscaping shall be subject to review by the Bartlett Design and Review Commission.

2. A landscape area not less than ten (10) feet wide shall be required along all street frontage with this area parallel to and inside the property line.

3. Once an area has been designated as a greenbelt, landscaped area, or some other permanent open space, it shall not be encroached upon by any

structure or building; nor shall this space be used as area in computing the required parking ratio.

Section 17 - I-O - Wholesale and warehouse district

A. GENERAL DESCRIPTION

This district is intended primarily to provide areas in which the principal use of land is for warehousing, storage, wholesaling and distribution. The nature of these uses are such that they will generally utilize high percentage of the lot area on which they are located.

Open storage uses are allowed provided that all open storage and display of merchandise, material and equipment shall be screened by adequate fencing or plantings; that all of the lot used for parking of vehicles, for the storage and display of merchandise, and all driveways shall be constructed and maintained as dust-free; and that all servicing of vehicles carried on as an incidental part of the sales operation shall be conducted within a completely enclosed building.

Section 18 - I-P - Planned Industrial Park

A. GENERAL DESCRIPTION

The purpose of this district is to provide for planned industrial development, consisting of several buildings or groups of buildings of harmonious design, in which the principal uses are manufacturing, assembling, fabrication, or warehousing. A planned district of this type, which is accessible to major transportation routes, is intended to group industrial activities on desirable parcels with carefully arranged traffic systems, parking and loading facilities, and landscaping. This careful design will minimize any possible adverse effects on surrounding districts.

B. SCREENING AND LANDSCAPING

The location, size, and type of development will determine the type and amount of screening and landscaping. The following are minimum requirements. The Planning Commission may require other amenities:

1. Where a Planned Industrial Park abuts a residential district there shall be a landscape buffer of at least thirty (30) feet, with a solid fence six (6) feet high, provided and maintained by the owner. Landscaping shall not be located in the utility easements.

2. A landscape area not less than thirty (30) feet wide shall be required along all street frontages. This area shall be parallel to and inside the property lines.

3. Once an area has been designated as a greenbelt, landscaped area, or some other permanent open space, it shall not be encroached upon by any structure or building; nor shall this space be used as area in computing the required parking ratio.

Section 19 - FW - Floodway District

A. GENERAL DESCRIPTION

It is the intent of this district to provide an area for the location of specified uses that will not be damaged if flooded or create flood-related hazards. The floodway district is considered extremely hazardous due to the velocity of floodwaters which can carry debris, potential projectiles and the potential for destructive erosion.

B. APPLICATIONS

Any land located in the designated floodway of the City of Bartlett (as shown on the Official Zoning Map) shall be classified in the FW, Floodway zoning district.

C. PROHIBITION ON DEVELOPMENT

No new construction, substantial improvements to existing structures or encroachments, including filling, shall be allowed in the floodway if such construction, improvement or encroachment would increase, in the opinion of the City Engineer, the flood level within the city during the occurrence of the base flood discharge.

Section 20 - POS - Public Open Space District

This district is intended to preserve and protect municipally owned, leased and maintained parkland including both active and passive recreation areas. Only those uses directly associated with public recreation, including, but not limited to, organized field sports, municipal festivals, public golf courses, hiking trails and the structures intended to support those uses, are allowed in this district.

Chart 1. Uses Permitted in Zoning Districts

(Amended by Ord. #02-04, 4/9/02; Ord. #02-10, 8/13/02; Ord. #02-16, 12/10/02, Ord. #06-12, 9/12/06, Ord. #07-14, 9/11/07, Ord. #10-02, 5/11/10, Ord. #10-04, 6/8/10, Ord. #10-05, 7/27/10, Ord. #12-01, March 2012, Ord. #18-04, 7/10/18, and Ord. #19-04, Oct. 2019 ***Ch 7_12-08-20***)

Legend:

X - Uses Permitted by Right

P - Requires Site Plan approval by the Planning Commission

P* - Requires Outline Plan approval by the Planning Commission and the Board of Mayor and Aldermen

S - Uses recommended for approval with Special Use Permit approval by the Planning Commission and Board of Mayor and Aldermen:

S*Special Use Permit with the addition of a Master Plan of Development concept and Outline Plan of Conditions.

T*Use recommended for approval with Short-Term Rental Permit, Type I, issued by the Bartlett Code Enforcement Office;" and "T** Use recommended for approval with Short-Term Rental Permit, Type 2, issued by the Bartlett Code Enforcement Office upon proof that the dwelling unit was used as a Short-Term Rental Unit and that all taxes, including room, occupancy and sales tax, due on renting the dwelling unit pursuant to Title 67, Chapter 6, Part 5 of the Tennessee Code Annotated were paid for filing periods that cover at least six (6) months within the twelve-month period immediately preceding July 10, 2018.

PERMITTED USES	**ZONING DISTRICTS**																		
	A-O	R-E	RS-18	RS-15	RS-12	RS-10	R-THE	R-D	R-M	O-R-1	O-R-2	0-C	C-L	C-G	C-H	SC-1	I-O	I-P	FW
DWELLINGS																			
Single Family Detached	X	X	X	X	X	X	P	X		P	P								
Single Family Attached							P	P											
Two Family								X											
Town House							P		P										
Multiple Family									P										
Guest unit (Specific criteria for approval in Article VI, Section 28.)	X	X	X	X	X	X													
Planned Unit Residential		S	S	S	S	S	S	S	S										
Planned Residential Development in Bartlett Station	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S
Bed and Breakfast	S	S	S	S	S	S	S	S	S										
Short-Term Rental ("STR") Type 1		T*	T*	T*	T*	T*	T*	T*	T*										
Short-Term Rental ("STR") Type 2	T**	T**	T**	T**	T**	T**	T**	T**	T**	T**	T**								
INSTITUTIONS																			
Airport/Heliport	S														S		S	S	
Assisted-Care Living Facility	S	S	S	S	S	S	S	S	S					S	S	S			
Cemetery	S														S				

PERMITTED USES	ZONING DISTRICTS																		
	A-O	R-E	RS-18	RS-15	RS-12	RS-10	R-THE	R-D	R-M	O-R-1	O-R-2	0-C	C-L	C-G	C-H	SC-1	I-O	I-P	FW
Child Care Home, Family (5-7 Children)		S	S	S	S	S	S	S	S					P	P		P	P	
Child Care Home, Group (8-12 Children)		S	S	S	S	S	S	S	S					P	P		P	P	
Children's Home	S	S	S	S	S	S	S	S	S										
Church	S	S	S	S	S	S		S						P	P	P	P	S	
Home for the Aged	S	S	S	S	S	S	S	S	S					S	S	S			
Hospital														P	P				
Lodge, Club, Country Club	S	S	S	S	S	S								P	P				
Museum		S	S	S	S			S		P	P	P		P	P		P	P	
Nursing Home	S	S	S	S	S	S	S	S	S					P	P				
Parks/Recreation	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
Public Building	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
Riding Academy	S																		
School	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
COMMERCIAL																			
Amusements, Commercial Indoor														P	P	P			
Amusements, Commercial Outdoor															S				
Animal Grooming Service												P		P	P	S	P		
Automobile Gas Station													S	S	P	P			
Automobile Oil Change and Lubrication Shop															P				
Automobile Paint or Body Shop															S		S		
Automobile Rental															S				
Automobile Rental Satellite														S	S				
Automobile Repair, General [See also "Repair, Equipment and Large Vehicle"]														S	S		S		
Automobile Upholstery, Interior, and Glass Repair; Van Conversion Service														S	S		S		
Bail Bonding															S				
Bakery, Retail													P	P	P	P	P		
Bank See "Finance"																			
Barber or Beauty Shop												P	P	P	P	P	P		
Boat Rental or Sale															S				
Boat Storage or Repair															S		S		

PERMITTED USES	ZONING DISTRICTS																	
	A-O	R-E	RS-18	RS-15	RS-12	RS-10	R-THE	R-D	R-M	O-R-1	O-R-2	0-C	C-L	C-G	C-H	SC-1	I-O	I-P	FW
Catering Establishment less than 3,800 sq. ft. in floor area														P	P	P	P		
Child Care Center (13+)												P	P	P	P	P	P	P	
Child Drop-In Center														S	S	S			
Coin-Operated Laundry														S	P				
Communications Tower															S		S	S	
Contractor's Business															P		P	P	
Convenience Store													S	S	P	P			
Crematorium																	S		
Department or Discount Store														P	P	P			
Drive-In Theater															P				
Drug Store													P	P	P	P			
Dry Cleaning & Laundry													P	P	P	P			
Finance - Commercial Bank, Credit Union, or Savings Institution												P	P	P	P	P	P		
Finance - Consumer Lending Establishment															S				
Finance - Financial Lending Establishment, Miscellaneous										P	P	P	P	P	P	P			
Finance - Securities, Commodity Contracts, and Other Financial Investments and Related Activities										P	P	P	P	P	P	P			
Flower or Plant Store (indoor)												P	P	P	P	P			
Food Market													P	P	P	P			
Funeral Home														S	S				
Garage for Auto Repair: See "Automobile Repair, General"																			
Greenhouse or Nursery--Commercial	S													S	P				
Hotel or Motel														P	P				
Laboratory															P		P	P	
Lumber Yard															S		P		
Manufactured (Mobile) Home Dealer															S				

PERMITTED USES	ZONING DISTRICTS																		
	A-O	R-E	RS-18	RS-15	RS-12	RS-10	R-THE	R-D	R-M	O-R-1	O-R-2	0-C	C-L	C-G	C-H	SC-1	I-O	I-P	FW
Motor Vehicle Sales, New															S				
Motor Vehicle Sales, Used															S				
Music or Dancing Academy														P	P	P			
Offices										P	P	P	P	P	P	P	P	P	
Pawn Shop															S				
Pharmacy												P	P	P	P	P			
Photo-Finishing Pick-up Station													P	P	P	P			
Planned Commercial or Industrial Development														P*	P*	P*	P*	P*	
Plumbing Shop																	P		
Processing and Manufacture Incidental to Retail Establishments														S	P				
Radio or TV Studio															P		P		
Repair, Equipment and Large Vehicles																	S		
Repair, General														P	P				
Restaurant (Sit Down Dining)												S	P	P	P	P			
Restaurant (Drive through Service)													P	P	P	P			
Retail Secondhand Store														S	S				
Retail Shop													P	P	P	P			
Retail Sales Incidental to Office Uses										P	P								
Services, Business										P	P	P	P	P	P	P	P		
Services, Personal										P	P	P	P	P	P	P	P		
Sexually Oriented Business															S				
Sheet Metal Shop																	P		
Storage, Climate Controlled															P	S			
Tattoo or Body-Piercing Establishment															S				
Tavern, Cocktail Lounge, Night Club, Bar														S	S				
Truck or Trailer Rental															S				
Vehicle Wash														S	P		P		
Vehicle Wash, Industrial																	S		
Veterinary Clinic												P		P	P	S	P		
Warehouse																	P	P	

PERMITTED USES	ZONING DISTRICTS																		
	A-O	R-E	RS-18	RS-15	RS-12	RS-10	R-THE	R-D	R-M	O-R-1	O-R-2	0-C	C-L	C-G	C-H	SC-1	I-O	I-P	FW
Warehouse, Mini Storage															S		P		
Warehouse, Display															P		P	P	
Wholesale & Distribution																	P	P	
INDUSTRIAL																			
Manufacture, Storage or Distribution of:																			
Chemical, Cosmetics, Drugs, Paint, & Related Products																		P	
Electrical or Electronic Equipment, Appliances & Instruments																	P	P	
Fabricated Metal Products & Machinery																	P	P	
Food & Beverage Products Except Live Animal Processing																	P	P	
Jewelry, Silverware, Musical Instruments, Toys, Sporting Goods, Art Supplies																	P	P	
Petroleum, Products and Distribution																	P		
Printing & Publishing																	P	P	
Stone, Clay, Glass and Concrete Products																	P		
Textile & Apparel Products																	P	P	
Truck or Motor Freight Facility																	S		
Utility Substation	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
Utility Production or Treatment Station	P														P		P	P	
OTHER USES																			
Agricultural Production: Grain, Fruit, Vegetables, Field Crops and Nursery	X																		
Landfill Operations	S																S		
Livestock, Horse, Dairy, Poultry, Egg Production	X																		
Post Office Facility														P	P	P	P	P	
Commercial Satellite TV Dish													X	X	X	X	X	X	
Telephone Service Center														P	P	P	P	P	
Wireless Communication Facility	S	S	S	S	S	S	S	S	S			S		S	S		S	S	S

Attachment A. Site Plan Approval

In those instances where site plan approval is required in Chart 1, the site plan must be submitted to the Planning Commission for review and approval and to the Design and Review Commission for review and approval.

The site plan shall be drawn at a scale of not less than 1"=100', but preferably at a larger scale, and shall show at a minimum:

a. The proposed development's name and location, the name(s) and address(es) of the owner(s) and the name of the designer of the site plan.

b. Date, north arrow and scale.

c. The location of existing and platted property lines and any existing streets, buildings, easements, etc.

d. The locations and dimensions of proposed streets, easements and lot lines.

e. The proposed types of uses and their locations, height of buildings, arrangement, lot coverages and yards and open spaces.

f. A drainage plan.

g. Proposed off-street parking with landscaped islands and parking tiers shown.

h. Landscaping and screening plan.

i. Other information as may be required by the Planning Commission and/or the Design and Review Commission.

Approval may be granted to the entire development for construction purposes or approval may be granted by stages. Any unauthorized deviation from the final site plan as approved shall constitute a violation of the building permit.

OTHER REGULATIONS

Signs must be approved by the Design and Review Commission.

Chart 2. Bulk Regulations and Permitted Residential Densities
(Amended by Ord. 01-05, 4/24/01, 03-12, 07/08/03, 05-06, 9/13/05, 05-07, 9/13/05)

District and Use	Minimum Lot Requirements ##		Minimum Yard Requirements ##			Maximum Requirements ##		
	Area	Width (Feet)	Front (Feet)	Side (Feet)	Rear (Feet)	Height (Feet)	Units Per Acre	(%) Lot Coverage
A-O DISTRICT								
1. Single Family Detached Dwelling	2 Acres	200	50	20	35	35	0.5	20
2. Agriculture	5 Acres	250	50	35	35	35	na	20
3. Other	5 Acres	250	50	35	35	35	na	20
R-E RESIDENTIAL								
1. Single Family Detached Dwelling	1 Acre	150	50#	20	35	35	1	20
2. Other	5 Acres	250	50#	35	35	35		20
RS-18 RESIDENTIAL								
1. Single Family Detached Dwelling	18,000 sq. ft.	100	50#	12	35	35	2.0	20
2. Other	5 Acres	250	50#	35	35	35		20
RS-15 RESIDENTIAL								
1. Single Family Detached Dwelling	15,000 sq. ft.	100	40#	10	30	35	2.5	25
2. Other	5 Acres	250	50#	35	35	35		20
RS-12 RESIDENTIAL								
1. Single Family Detached Dwelling	12,000 sq. ft.	90	35#	8[1]	30	35	3.0	30
2. Other	5 Acres	250	50#	35	35	35		20
RS-10 RESIDENTIAL								
1. Single Family Detached Dwelling	10,000 sq. ft.	80	30#	5[2]	25	35	3.5	30
2. Other	5 Acres	250	50	35	35	35		20
R-TH TOWNHOUSE								
1. Single Family Detached Dwelling	7, 000 sq. ft.	65	30#	5[2]	30	2.5 Stories	8	25
2. Single Family Attached	4,000 sq. ft.	40	30#	5/0	30	2.5 Stories	8	25
3. Townhouse Units	na	0	30#	40	30	2.5 Stories	8	25
R-D RESIDENTIAL								
1. Single Family Detached Dwelling	10,000 sq. ft.	80	30#	5[2]	25	35	4	30
2. Two Family Dwelling	12,500 sq. ft.	80	30#	5[2]	25	35	7	30
3. Other	5 Acres	250	50#	35	35	35		25
R-M RESIDENTIAL								
1. Multi-Family Dwellings	5 Acres	250	50#	25	25	35	12	30

District and Use	Minimum Lot Requirements ##		Minimum Yard Requirements ##			Maximum Requirements ##		
	Area	Width (Feet)	Front (Feet)	Side (Feet)	Rear (Feet)	Height (Feet)	Units Per Acre	(%) Lot Coverage
R-C RESIDENTIAL CONDOMINIUM OVERLAY								
Multi-Story dwelling structures	na	na	**	Note 3	Note 3	*	na	***
O-R OFFICE			30	15	15	2 Stories		30
O-R-2 OFFICE			30	15	15	2 Stories		30
O-C OFFICE			50	10	20	4 Stories		30
C-L COMMERCIAL	None	65	45		20	2 Stories		50
C-G COMMERCIAL	None	65	40		20	5 Stories		70
C-H COMMERCIAL	10,000 Sq. Ft.	80	40**		20	5 Stories*		40
SC-1 COMMERCIAL	10,000 Sq. Ft.		15			5 Stories		70
I-O WHOLESALE AND WAREHOUSE	None	100	30	10	20	2 Stories or 35 Ft.		none
I-P PLANNED INDUSTRIAL PARK	30 Acres	100	50	20	20	40		50

[1]Minimum 8', Total 18'

[2]Minimum 5', Total 15'

On street right-of-ways having a width of sixty feet (60') or more, the required front yard shall be increased by five feet (5'), and on street right-of-ways having a width of eighty feet (80') or more, by ten feet (10'). This shall not apply to the front yard at the rear of lots on double frontage or through lots.

*Building height shall not exceed one-third of the horizontal distance to the nearest single-family residential zoning district boundary, regardless of whether said district abuts the property of the subject building. For this purpose, height shall be measured relative to the ground elevation at said single-family residential zoning district boundary.

**Minimum front yard depth is 15 feet from the face of the curb of an abutting street, where (a) the yard is filled by a sidewalk or plaza conforming to City streetscape requirements and (b) commercial or office uses on the ground floor of the building open onto said yard. Otherwise, minimum front yard depth is that required to accommodate the frontage tree and landscaping requirements of Article VI, Section 23.

Note 2 - See**

Note 3 Minimum yards shall be as provided in the underlying zoning district.

***- Lot coverage shall be determined by minimum yard, parking, open space, and landscaping requirements.

ARTICLE VI.

Supplementary District Regulations

Section 1 -Temporary Uses

(Amended by Ord. 01-17, 11/13/01; Ord. 02-03, 3/12/02; Ord. 11-02, 4/12/11; Ord. #11-03, 4/12/11)

A. In any district, subject to the conditions stated below, the Building Official may issue a permit for a temporary use. Application for a Temporary Use Permit shall be made to the Building Official and shall contain the following information:

1. Sufficient information necessary to accurately portray the property to be used, rented, or leased for a temporary use;

2. A description of the proposed use; and

3. Sufficient information to determine the yard requirements, setbacks, sanitary facilities, and availability of parking space to serve the proposed use.

B. The following uses are deemed to be temporary uses and shall be subject to the regulations which follow:

1. Construction Office or Yard. A Temporary Use Permit may be issued for a building or yard for construction office, material or equipment, provided such use is adjacent to the construction site and is adequately equipped with sanitary facilities and removed when construction is completed. A permit shall be valid for the duration of building construction, but every temporary use shall be removed when construction is completed or discontinued for more than thirty (30) days.

2. Real Estate Sales Office. A Temporary Use Permit may be issued in any new approved subdivision. Such permit shall be valid for not more than one (1) year but may be renewed for a maximum of two (2) one (1) year extensions. Such office shall be removed upon completion of the development of the subdivision or upon expiration of the permit, whichever occurs first.

3. Special Events. A permit may be issued for a special event in accordance with the requirements of Article VI, Section 27.

4. Yard Sale. No permit is required, but the Permitting Official shall keep in City files for twelve (12) months a record of the date and

address of any such sale of which the Permitting Official is aware. The following conditions shall be met:

a. A yard sale shall be allowed only on property occupied by the principal residence of one of the sellers.

b. The duration of a yard sale shall not exceed three (3) consecutive days. No more than two (2) yard sales shall be allowed for the same location in any twelve-month period.

c. No items may be sold other than used items from the households of the sellers.

d. Any items for sale that are displayed outside of the residence, garage, or carport shall be confined to the minimum feasible area of the yard and as near the residence or garage as possible.

e. No yard sale shall be conducted where vehicles stopped on the street will constitute a traffic hazard, as determined by the Police Department.

5. Inventory reduction sales (retail) in the I-O and I-P districts.

a. One inventory reduction sale shall be permitted in each calendar quarter, for a period not to exceed four (4) consecutive days, with hours not to exceed 8 A.M. to 6 P.M. Monday through Saturday and noon to 6 P.M. Sunday.

b. Products sold shall be only those manufactured in or regularly distributed through the existing facility.

c. The sale shall be confined to indoors.

d. Off-street parking shall be adequate for the floor area to be used for the sale.

6. Construction Dumpster(s) shall be permitted to serve an existing or new use in residential zoning districts, subject to the following standards.

a. A construction dumpster(s) shall require a temporary use permit at not cost issued to the contractor, which shall be valid for the duration of building construction. The dumpster is to be removed within 30 days of the issuance of the use and occupancy or the final inspection.

b. Be located as far as possible from lots containing existing development

c. Not be located within a floodplain or otherwise obstruct drainage flow

d. Not be placed within five feet of a fire hydrant

e. Be located outside of tree protection fencing and the drip line of existing trees, to the maximum extent practicable

f. Not be placed on the public right of way

g. Compliant with any other site related requirement as determined by the Building Official as a condition of issuing the temporary permit

h. All on site debris must be contained in the construction dumpster.

For the purpose of this ordinance contractor is defined as follows:

"Contractor" means any person or entity that undertakes to, attempts to or submits a price or bid or offers to construct, supervise, superintend, oversee, schedule, direct or in any manner assume charge of the construction, alteration, repair, improvement, movement, demolition, putting up, tearing down or furnishing labor to install material or equipment for any building, highway, road, railroad, sewer, grading, excavation, pipeline, public utility structure, project development, housing, housing development, improvement or any other construction. Contractor may be the homeowner or building owner, unlicensed or licensed through Memphis/Shelby County Codes or the State of Tennessee as required by the State of Tennessee and the Local Jurisdiction.

7. Portable Storage Unit.

a. A transportable unit designed and used for the temporary storage of household goods, personal items , construction materials and supplies, or other materials which are placed on a site for the use of occupants of a dwelling or building on a limited basis. Portable storage units include, but are not limited to, certain trade named units called "PODS," "mobile attics" and like portable on-demand storage containers.

b. Portable storage units shall be permitted to serve an existing residential use in residential zoning districts and shall require a temporary use permit issued at no cost and shall not be located:

1. On a lot without prior approval from the Department of Code Enforcement.

2. In the front lawn

3. In a manner that impedes ingress, egress or emergency access.

4. On public right of way.

5. Contrary to with any other site related requirement as determined by the Building Official as a condition of issuing the temporary permit.

6. On an individual parcel or site for more than 90 total days over any consecutive twelve-month period per property owner. Exceptions may only be granted by the building official based on documented extenuating circumstances. Storage of flammable and combustible liquids or any hazardous materials shall not be permitted in these containers.

Section 2 - Home Occupation

Home occupation means an occupation conducted in a dwelling unit, provided that:

A. No person other than members of the Family residing on the premises shall be engaged in such occupation.

B. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than ten (10) percent of the floor area of the dwelling unit shall be used in the conduct of the home occupation.

C. There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation.

D. No home occupation shall be conducted in any accessory building.

E. There shall be no sales in connection with such home occupation.

F. No traffic shall be generated by such home occupation in greater volumes than would normally be expected in residential neighborhoods, and any need for parking generated by the conduct of such home occupation shall be met in rear and side yards.

G. No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot, if the occupation is conducted in a single family residence, or outside the dwelling unit, if conducted in other than a single family residence. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises.

H. Any occupation that requires a license shall be deemed a home occupation.

Section 3 -Planned Unit Residential Development (amended by Ord. 06-12, 9/12/06; Ord. #10-03, 5/11/10)

The purpose of this section is to encourage large-scale development as a means of creating a living environment through unified development and to provide for the application of design ingenuity while protecting existing and future development. Maximum variations of design may be allowed, provided that the overall density of the development shall be no greater than is permitted in the district where the development is proposed.

An authorized agency of the Municipal, County, State or Federal Government, or the owner or owners, or their authorized agents, of any tract of land in an appropriate district may submit to the Planning Commission an application for the use and development of all the tract of land as "Planned Unit Residential Development" within an RS-18, RS-15, RS-12, RS-10, R-THE, R-D, R-M, or R-E district.

Planned Unit Residential Development in the RS-18, RS-15, RS-12, RS-10 and R-THE districts shall consist of detached single family homes and their accessory uses. Planned Unit Residential Development in the R-D district shall consist of detached single family homes and/or duplex units and their accessory uses.

It is suggested that applicants request a preapplication conference with the Planning Commission before formal application is made to discuss the general intent and character of the development and become familiar with the Planning Commission's requirements.

Within the residential districts, a Planned Unit Residential Development may be permitted as a special use permit requiring approval of the Board of Mayor and Aldermen based on recommendations from the Planning Commission, provided the area of development is comprised of not less than five (5) acres.

Within the residential districts, multiple family development consisting of more than one (1) building on a lot regardless of size shall be considered as a Planned Unit Residential Development. No Planned Unit Residential Development shall

be approved by the Planning Commission for development in a residential district or recommended to the Board of Mayor and Aldermen for development in a residential district until the following requirements and standards have been met:

A. REQUIREMENTS

At least twenty-one (21) days prior to the Planning Commission meeting at which it is to be considered, the developer or his agent shall submit to the Planning Commission fifteen (15) copies of a plot plan of the proposed Planned Unit Residential Development drawn to a scale of not less than one inch equals one hundred feet (1" = 100'). The plot plan, which shall meet the minimum standards of design as set forth later in this section, shall give the following information:

a. The proposed Planned Unit Residential Development's name and location, the name(s) and address(es) of the owner or owners, and the name of the designer of the plot plan.

b. Date, north point, and scale.

c. The location of existing and platted property lines, existing streets, buildings, water courses, railroads, sewers, bridges, culverts, drain pipes, water mains, and any public utility easements or lines, the present zoning classification on the land to be developed and on the adjoining land.

d. The proposed street names, if other than drives, and the locations and dimensions of proposed streets, drives, alleys, easements, parks and other open spaces, reservations, lot lines, and building setback lines.

e. Contours at vertical intervals of not more than two (2) feet except when specifically not required by the Planning Commission.

f. Drainage maps showing drainage of development site and adjacent area.

g. All dimensions to the nearest tenth (10th) of a foot and angles to the nearest minute.

h. Location sketch map showing site in relation to area.

i. Total acreage to the nearest tenth (10th) of an acre, building locations and dimensions, number of dwelling units, total floor area of dwelling units, landscape plan showing walks, open areas, fences and number of parking spaces, access drive plan, location of accessory uses, and floor space allocation plan.

j. Other information as may be required by the Planning Commission.

2. The proposed development must be designed to produce an environment of stable and desirable character not out of harmony with the surrounding development, and must provide standards of open space and areas for parking adequate for the occupancy proposed.

3. The Planning Commission shall review the proposed development and shall recognize principles of civic design, land use planning and landscape architecture. The maximum height requirements of the district in which the development is located shall apply. The minimum yard requirements of the district in which the development is located shall apply, unless modified by the Planning Commission. The Planning Commission may impose conditions regarding layout, circulation, setbacks and performance of the proposed development. However, in no case shall single family detached lots be created that are less than sixty-five feet (65') in width or less than seven thousand (7,000) square feet in area. A maximum lot coverage of fifty percent (50%) may be permitted; lot coverage is considered that portion of a lot under roof.

4. The Planning Commission shall make recommendations on each application for a Planned Unit Residential Development, and shall transmit a copy of its recommendations to the Board of Mayor and Aldermen for its action. Public hearings shall be held in accordance with the general policy of both the Planning Commission and Board of Mayor and Aldermen.

5. If construction of the submitted plot plan has not begun within six (6) months from date of approval of the Board of Mayor and Aldermen, all prior approvals become null and void.

B. STANDARDS

1. Streets and drives shall provide at least twenty-six (26) feet of pavement including curbs and gutters.

2. Adequate storm water drainage shall be provided.

3. Provision of sanitary sewers and water supply facilities including fire hydrants shall be made to the satisfaction and requirements of the City of Bartlett.

4. All of the above improvements are to be installed and maintained by the developer unless other arrangements approved by the City of Bartlett are made.

5. The Planning Commission may require other special improvements as they are deemed reasonable and essential, and may require that appropriate deed restrictions be filed enforceable by the City of Bartlett for a period of twenty (20) years.

6. The total area may be approved for single family dwellings and/or multiple family dwellings and/or the usual accessory of supporting facilities such as private or parking garages and storage space, recreation facilities, and for community activities, including churches and schools.

7. Off-street parking facilities shall be provided in accordance with Article VI, Section 11.

8. Multi-family structures shall be no closer than fifteen (15) feet.

Section 3A - PRD-1 - Planned Residential Development in Bartlett Station

(Ord. 99-16, 1/11/00; Ord. 00-19, 9/26/00)

A. PURPOSE

Planned Residential Development in Bartlett Station shall consist of detached single-family homes, their accessory uses, and common open space meeting the requirements of this section.

These provisions require approval of Planned Residential Development in Bartlett Station as a special use permit. It is the intent of this section to facilitate infill or redevelopment of appropriate portions of the Bartlett Station area with single-family detached housing of high-quality design that meets a variety of needs.

These provisions require common open space so designed as to effectively offset the impression of crowding caused by smaller lots.

These provisions shall supercede any more restrictive provisions of the zoning districts in which this use is permitted.

B. APPLICABILITY (amended by Ord. 06-18, 10/10/06)

The area, to be identified as Bartlett Station, and which is described below, within which this special use may be applied is described below, within which this special use may be applied is described as follows based on Shelby County tax maps for Districts 56 and 57.

1. Beginning at a point on the north right-of-way of Stage Road and the northwardly extension of a property line lying approximately 210 feet,

more or less, west of the westerly right-of-way of Shelby Street, said point being described in Ordinance 99-16, thence

2. Southerly along the said property line extension a distance of 84 feet, more or less, to the south right-of-way of Stage Road, thence

3. West along the south right-of-way of Stage Road to a point on a property line approximately 170 feet, more or less, west of the westerly right-of-way of Alfaree Street, thence

4. North along a projection of said property line a distance of 42 feet, more or less, to a point on the Centerline of Stage Road, thence

5. West along the centerline of Stage Road to a point which is a southerly projection of the east right-of-way of Old Brownsville Road, thence

6. North along the east right-of-way of Old Brownsville Road to a point on a property line approximately 405 feet, more or less, north of the north right-of-way of Stage Road, thence

7. East along a property line a distance of 379 feet, more or less, to a property corner, thence

8. North along a property line a distance 40 feet, more or less, to a property corner, thence

9. East along a property line a distance of 272 feet, more or less, to a property corner, thence

10. South along a property line to a point located 200 feet, more or less, north of the north right-of-way of Stage Road, thence

11. Easterly following a line located 200 feet north, more or less, and parallel to the north right-of-way of Stage Road, a distance of 750 feet, more or less, to a property line, thence

12. South along a property line a distance of 200 feet to the north right-of-way of Stage Road, thence

13. East along the north right-of-way of Stage Road a distance of 220 feet, more or less, to a point which is the northerly extension of a property line lying 210 feet, more or less, west of the westerly right-of-way of Shelby Street, said point being the point of beginning.

C. REQUIREMENTS

1. Submittals to the Planning Commission and Board of Mayor and Aldermen. The proposed Planned Residential Development in Bartlett

Station shall be subject to approval by the Board of Mayor and Aldermen of the following:

a. An application for a special use permit for a Planned Residential Development under the terms of this section.

b. An application and attachments for a Master Plan conforming to requirements of the Subdivision Ordinance.

c. Site plans, in accordance with Article V, Attachment A, for typical lots, including an interior lot, a corner lot, and a non-rectangular cul-de-sac lot (if any); together with site plans for any lots that are unusual in shape or location within the development, as determined and requested by the Planning Commission or the Board of Mayor and Aldermen.

d. All four elevations and floor plans for each building design proposed, including proposed materials.

e. Site plans for any lots or common area to be used for other than placement of dwelling units or common open space, e.g., for guest parking or for recreational facilities.

f. Plans detailing proposed use and treatment of the common open space, such as clearing, planting, or construction of trails.

g. Proposed street and alley cross-sections.

2. Planning Commission recommendation. The Planning Commission shall make recommendations on each application for a Planned Residential Development in Bartlett Station and shall transmit a copy of its recommendations to the Board of Mayor and Aldermen for its action. Public hearings shall be held in accordance with the general policy of both the Planning Commission and Board of Mayor and Aldermen.

3. Submittals to the Design Review Commission. The proposed Planned Residential Development in Bartlett Station shall be subject to approval by the Design Review Commission, under the criteria of Ordinance 76-2 and any criteria herein, of the following:

a. An application for review of the proposed Planned Residential Development in Bartlett Station by the Design Review Commission.

b. Submittals 1d through 1f above.

c. For information only, submittal 1b above.

4. Design goals. The proposed development must be designed to produce an environment of stable and desirable character in harmony with the surrounding development and must provide standards of open space and areas for parking adequate for the occupancy proposed.

   The Planning Commission shall review the proposed development and shall recognize principles of civic design, land use planning and landscape architecture.

   Alleys, although not generally permitted in residential districts under the Subdivision Ordinance, may be permitted in this district. The Planning Commission may impose conditions regarding layout, circulation, and performance of the proposed development.

D. STANDARDS

1. Density. The overall density of the development shall be no greater than seven (7) dwelling units per gross acre, with at least twenty percent (20%) of the land area in common open space.

2. Infrastructure

   a. Streets. Street right-of-way and pavement widths shall be as provided by the Subdivision Ordinance. Variation from these standards may be granted upon determination by the Planning Commission and Board of Mayor and Aldermen that smaller widths will provide acceptable performance for the functions proposed within the development. For example, narrower streets may be considered where no on-street parking will be allowed and there are adequate provisions for emergency access.

      Alleys, where provided,

      - shall be private
      - shall have adequate maintenance by a homeowners association provided in covenants, and
      - shall connect to a public street at both ends.

   b. Storm drainage. Where on-site storm water detention (i.e., normally dry) is provided, generally the area of the detention basin should not be counted toward the common open space required herein; but see subsection E.5.a(5) herein.

c. Sidewalks. Alternative pedestrian routes through greenways and common open space may be substituted for the required sidewalks, subject to approval of the Planning Commission and Board of Mayor and Aldermen.

d. Other improvements. The Planning Commission may require other special improvements as they are deemed reasonable and essential and may require that appropriate deed restrictions be filed.

3. Lots. In no case shall single-family detached lots be created that are less that 34 feet in width or less than 3,500 square feet in area. No lot on the turnaround of a cul-de-sac shall have less than 34 feet of width along a building line touching but not crossing the setback line.

4. Street frontage. Where automobile access to a lot is from an alley to the rear, the lot may front on usable open space instead of a public street; provided that such tract of usable open space abuts a public street.

5. Setbacks. Minimum building setbacks shall be as follows, except that the Planning Commission may recommend and the Board of Mayor and Aldermen require that a yard abutting a boundary of the development extend from said boundary a distance not less than the minimum conventional setback for the abutting district:

- Front. Fifteen (15) feet on the front where right-of-way width is forty (40) feet or ten (10) feet where right-of-way width is fifty (50) feet; except as otherwise provided in subsection D.8, "Perimeter buffer."

- Side. Five (5) feet on each side.

- Rear. Five (5) feet on the rear.

Fences shall be set back at least five feet from an alley.

There is no restriction on lot coverage by buildings other than the setback lines.

(Amended by Ordinance 00-19, September 26, 2000)

6. Visitor Parking. Off-street parking facilities shall be provided in accordance with Article VI, Section 12. In addition, the complex shall

have one guest parking space for each two lots, with the spaces distributed in small, well-landscaped lots for minimal visual impact of the paved area and located for convenient pedestrian access from all dwelling units.

These parking spaces are for visitor parking only and shall not be used by the residents for parking their extra vehicles, boats, RVS, etc.

Such a facility shall be within 300 feet of every lot by pedestrian path.

Overnight on-street parking shall be prohibited.

7. Garages. Each dwelling shall have a two-car enclosed garage. Front-loaded garages are discouraged.

   Where a rear-loaded garage is not set back at least twenty (20) feet from the alley to provide for additional parking, a parking pad also shall be provided alongside each rear-loaded garage.

   Where access to a garage is from an alley and the garage is set back more than five (5) feet from the alley, screening of the driveway pavement from view from the ends of the alley by shrubs is encouraged.

8. Perimeter buffer

   a. Provide a Bartlett Standard Fence Section with trees and shrubs on the perimeter where the development abuts a public street, in accordance with the standards of Article VI, Section 19, part F of the Zoning Ordinance, Plate A, B, or C; and provide a landscape screen at least twenty-five (25) feet in depth on the development side of the fence.

   b. Where the development abuts residential or commercial property, provide a straight fence (no offsets) along the property line, of the materials shown in Plates A, B, or C; and provide a landscape screen at least twenty-five (25) feet in depth on the development side of the fence.

   c. In the case of paragraph "a" above, if the Planning Commission determines that it would be better for the surrounding neighborhood to eliminate all or a portion of the perimeter fence and landscape screen and face the new houses on the existing public streets, it may recommend same to the Board of Mayor and Aldermen, with the following provisions:

      (1) The Planning Commission may recommend and the Board of Mayor and Aldermen require that the front yard setback for houses facing on the existing public street be the

minimum requirement for the zoning district, rather than the reduced front setback allowed for a Planned Residential Development in Bartlett Station (in subsection D.5, Setbacks).

(2) Where an increased front yard set-back is required under the above provision, the minimum lot area for such houses shall be increased from that provided in subsection D.3, "Lots." The minimum lot area shall be determined as follows:

(a) Determine the amount of increase in front setback. This is equal to the minimum requirement for the zoning district minus the requirement in subsection D.5, "Setbacks."

(b) Multiply this increase in front setback by the proposed width of the lot. The result is the additional lot area required.

(c) Add the area calculated in part (b) to the minimum lot area required by subsection D.3, "Lots."

(3) The increase in minimum lot area required in part (2) above may be counted toward the common open space requirement for the development.

d. In the case of paragraph "b" above, if the Planning Commission determines that it would be better for the surrounding neighborhood to eliminate all or a portion of the perimeter fence and landscape screen, it may recommend same to the Board of Mayor and Aldermen. (The boundary setback provisions of subsection D.5 shall continue to apply.)

(Amended by Ordinance 00-19, September 26, 2000)

9. Buildings. There shall be diversity in the style of homes constructed, and identical rooflines and facades adjacent to each other are prohibited. Further,

a. the following percent of the exterior, excluding openings, shall be brick:

(1) One-story buildings, seventy (70) percent.

(2) One-and-a-half- and two-story buildings, sixty (60) percent.

b. exposed metal fireplace chimneys are prohibited,

c. each one-and-a-half or two-story home shall have at least two full baths and one half-bath,

d. each house shall include features providing a transition between the public front yard and the private interior, such as a porch, which features shall be consistent with the architecture of the house and contribute to variety of appearance of the buildings.

e. at least twenty percent (20%) but not more than fifty percent (50%) of the dwelling units shall be one-story and dispersed throughout the development, and

f. all dwelling units shall have a minimum heated living space which is equal to or greater than the average size of the existing dwellings in the adjoining or nearby neighborhood. All single-family homes located within one thousand (1,000) feet of the land proposed for development or a minimum of fifty (50) homes, whichever results in the greatest number of homes, shall be used in the calculation of the house sizes of the nearby neighborhood.

10. Open space. Common open space shall be provided in accordance with subsection E.

11. Trees. A small- or medium-density tree at least two (2) density units in size shall be planted and maintained in the front yard of each lot.

12. Other conditions. The Planning Commission, Design Review Commission, and Board of Mayor and Aldermen may impose such additional requirements as are necessary and reasonable to accomplish the purposes of this section.

E. COMMON OPEN SPACE

1. Purpose. Open space as described herein is intended to preserve the desirable scenic, environmental, and cultural qualities of rural and natural landscapes in developing areas. The following provisions are for the creation of such open space.

2. Maintenance. Open space shall be the property of and shall be maintained by a homeowners association.

3. Lot layout. Lot layout shall comply with the following:

a. Frontage on major streets prohibited. Open space shall be used to separate lots from arterial and collector streets, so that no lot abuts an arterial or collector street.

b. Open space frontage required. To relieve the crowded appearance of rows of dwellings on narrow lots, open space shall abut street frontage equal to at least five percent (5%) of the street frontage internal to the subdivision.

c. Open space at the periphery required. Lots at the periphery of the subdivision shall be separated from adjoining property by open space.

4. Access to open space

a. Proximity. All lots shall directly abut open space along at least twenty (20) feet of property line; except that a lot need not abut open space if

(1) the lot faces usable open space directly across an abutting residential street (typically not more than thirty (30) feet wide, back of curb to back of curb), as in the case of a "village green" arrangement (a block of open space encircled and separated from surrounding dwelling units by streets) or

(2) the lot is no farther than 300 feet, along a common area pedestrian path or a sidewalk, from a parcel of usable open space.

There shall be no restrictions on direct access to the open space from each lot abutting said open space.

b. Paths. A system of paths having characteristics described under subsection 5, "Requirements for the open space," may be constructed within the open space to facilitate access. Any paths shall be constructed so as to minimize soil erosion or damage to trees or other natural features. Where sidewalks would otherwise be required along the streets, no sidewalks shall be required for a subdivision that has an equivalent open space path system suitable for pedestrian use in all weather.

5. Requirements for the open space. Open space shall meet the following requirements:

a. Applicable land. Lands having the following characteristics shall not be counted toward meeting minimum open space requirements:

(1) Occupied by public utility easements.

(2) Occupied by "hard" utility structures such as paved ditches.

(3) Occupied by public right-of-way.

(4) Occupied by non-residential buildings or uses, including active recreation uses such as swimming pools, tennis courts, and golf courses.

(5) Occupied by on-site storm water detention (i.e., normally dry), unless the design is found to be compatible with the other requirements of this subpart E, "Common open space."

(6) Fails to preserve the desirable aesthetic, environmental, and cultural qualities of rural or natural landscapes because a tract has insignificant levels of such qualities (for example, because the tract is too small or has recently undergone removal of trees) or such qualities would be significantly diminished by development of the subdivision.

(7) Fails to compensate for the crowding inherent in small lots by providing open space aggregated into areas of significant size rather than scattered in strips of minimal width.

b. Usable open space. Usable open space is any portion of the open space that has large enough minimum dimensions to accommodate features and functions of open space beyond the minimal function of a pedestrian pathway, e.g., buffers from adjacent development or between development clusters, protection of natural features such as streams or wooded areas, wildlife habitat, passive recreation, scenic views.

c. Connection of tracts. All tracts of open space (except medians in collector or arterial streets) shall be connected by clearly identified street crossings, whether or not there is a path system. All crossings shall accommodate handicapped persons.

For a local street, a crossing shall consist of open space access points directly across the street from each other, located to ensure adequate vehicle sight distance along the street as determined by the City Engineer.

d. Names of areas. To identify parts of the open space for purposes of design, designation of neighborhoods, enforcement of covenants and other restrictions, and other needs, each separately identifiable portion of usable open space shall be named in the manner that streets are named, with identifiers indicative of open space such as "Common," "Park," "Green," "Woods," "Farm," or others.

e. Desired features. Open space shall include irreplaceable natural features of the site such as streams, significant stands of trees, or individual trees of significant size.

f. Undisturbed area. Open space terrain and vegetation shall be left undisturbed, except for paths; except that

(1) enhancements designed by a registered landscape architect and determined to be consistent with these provisions may be approved by the Design Review Commission;

(2) conditions hazardous to persons, such as dead trees or unstable slopes, may be corrected;

(3) additional trees or other vegetation may be planted; and

(4) destructive or harmful plants such as kudzu or poison ivy may be removed.

g. Landscape Plan. A landscape plan subject to approval of the Design Review Commission shall be submitted and shall show open space so arranged on the site as to retain the maximum number of existing trees consistent with the other requirements of this subsection E, "Common open space."

The open space shall have at least forty (40) density units per acre, including at least 20 trees of minimum two-inch caliper per acre, and new trees shall be planted as necessary to meet this requirement.

h. Natural limitations. Natural areas that are unsafe for or not easily accessible to pedestrians--including wetlands, steep slopes (35% or more for a distance of 100 feet or more), lakes, ponds, and streams--may be included as open space, but such areas shall not constitute more than half of the total open space.

i. Easements restricted. Open space may be entered or crossed by easements for electric power transmission lines, gas or other pipelines, water lines, sewer lines, or storm drainage structures, where such easements will involve access by persons or vehicles for periodic maintenance or repair only. No other easements for purposes of access by persons or vehicles shall be permitted to enter or cross the open space, except as specifically provided in these regulations.

j. Vehicles restricted. No vehicles powered by internal-combustion engines shall be operated within the open space except for maintenance purposes.

k. Path dimensions. Paths shall have a width of no more than eight (8) feet and shall meet minimum requirements for access by handicapped persons.

l. Environmentally sensitive areas. The placing of paths, culverts, bridges, dams, or similar structures in environmentally sensitive areas of open space such as flood plains, stream buffer areas, or wetlands is subject to review and approval (1) by the City Engineer to ensure protection of the natural function of such areas and (2) by the Design Review Commission as to aesthetic impact of such structures on nearby residential uses and adverse impact on trees and on use and enjoyment of the open space.

m. Lakes and ponds. Lakes and ponds may be created or retained within the open space, subject to review and approval by the City Engineer to ensure that provision is made to prevent unsanitary, malodorous, unsightly, or unsafe conditions.

n. Reservation of open space for specific users. Use of open space for community gardens or similar uses which reserve parts of the open space to only part of the population of the subdivision shall be subject to review and approval under the provisions of this section to ensure that adequate areas of open space are accessible to all residents of the subdivision.

o. Significant structures. Structures of historic, architectural, or cultural significance existing prior to development of the subdivision may be retained within the open space, subject to review and approval under the provisions of this section to ensure that the structure and the proposed use are compatible with these regulations and nearby residential uses. Easements to enter or cross open space for the purpose of vehicular access to such uses may be permitted, subject to the same review and approval.

p. Storm water management structures. The placing of storm water management structures in open space is subject to review and approval by the Design Review Commission as to aesthetic impact of such structures on nearby residential uses and adverse impact on trees and on use and enjoyment of the open space.

q. Views. Alteration of views by (1) removing trees or placing buildings or other structures on highly visible hill- tops and ridges or (2) blocking unique views by placing structures in inappropriate

locations is subject to review and approval by the Design Review Commission to ensure that adverse aesthetic and economic impacts on the rest of the subdivision and on the surrounding community are minimized. Particularly important views should be available from areas accessible to all residents of the subdivision.

r. Other requirements. The open space shall be subject to such additional requirements as the Planning Commission and Board of Mayor and Aldermen determine are necessary, given the particular characteristics of the tract of land and its relationship to surrounding uses.

6. Legal provisions for the open space. Covenants, easements (including conservation easements), or other provisions shall be required that are legally sufficient

a. to permanently protect the open space from development other than as provided in these regulations;

b. to ensure any necessary maintenance of the open space;

c. to ensure the availability of the open space for common use by all residents of the subdivision; and

d. to ensure that no damage to or use of the open space to the exclusion or detriment of other residents of the subdivision is permitted.

Section 3.B - Planned Residential Development 55+ Senior Housing (added by Ord. 08-12, 1/13/09)

A. PURPOSE

Planned Residential Development (55+ Senior Housing) shall consist of detached or attached single-family homes or townhouses, their accessory uses, and common open space meeting the requirements of this section. At least 80% of the occupied units house at least one person who is 55 years old or older and the development adheres to a policy that demonstrates intent to house people who are aged 55 or older.

These provisions require approval of Planned Residential Development (55+ Senior Housing) as a special use permit. It is the intent of this section to facilitate development or redevelopment of appropriate sites with housing of high-quality design that meets the needs of older residents.

These provisions require common open space and amenities so arranged as to create a well designed community.

These provisions shall supercede any more restrictive provisions of the zoning districts in which this use is permitted.

B. REQUIREMENTS

1. The proposed Planned Residential Development (55+ Senior Housing) shall be subject to approval by the Board of Mayor and Aldermen. Submittals to the Planning Commission and Board of Mayor and Aldermen shall provide the following:

    a. An application for a special use permit for a Planned Residential Development under the terms of this section.

    b. An application and attachments for a Master Plan conforming to requirements of the Subdivision Ordinance.

    c. Site plans, in accordance with Article V, Attachment A, for typical lots, including an interior lot, a corner lot, and a non-rectangular cul-de-sac lot (if any); together with site plans for any lots that are unusual in shape or location within the development, as determined and requested by the Planning Commission or the Board of Mayor and Aldermen.

    d. All four elevations and floor plans for each building design proposed, including proposed materials.

    e. Site plans for any lots or common area to be used for other than placement of dwelling units or common open space, e.g. for guest parking or for recreational facilities.

    f. Plans detailing proposed use and treatment of the common open space, such as clearing, planting, or construction of trails.

    g. Proposed street and alley cross-sections.

    h. A final plat shall be recorded within five years of the date of approval of a Special Use Permit (Planned Development) by the Board of Mayor and Aldermen. The Board of Mayor and Aldermen, in consideration of a request may grant time extensions with notice to abutting property owners and appropriate neighborhood or property owners association. If a final plat is not recorded within the allotted time, the underlying zoning applies to any development of the property.

2. Planning Commission recommendation. The Planning Commission shall make recommendations on each application for

a Planned Residential Development (55+ Senior Housing) and shall transmit a copy of its recommendations to the Board of Mayor and Aldermen for its action. Public hearings shall be held in accordance with the general policy of both the Planning Commission and Board of Mayor and Aldermen.

3. Submittals to the Design Review Commission. The proposed Planned Residential Development (55+ Senior Housing) shall be subject to approval by the Design Review Commission, under the criteria of Ordinance 76-2 and any criteria herein, of the following:

   a. An application for review of the proposed Planned Residential Development (55+ Senior Housing) by the Design Review Commission.

   b. Submittals 1d, 1e, and 1f above.

   c. For information only, submittal 1b above.

4. Design goals. The proposed development must be designed to produce an environment of stable and desirable character in harmony with surrounding development and must provide standards of open space and areas for parking adequate for the occupancy proposed.

   The Planning Commission shall review the proposed development and shall recognize principles of civic design, land use planning and landscape architecture.

   Alleys, although not generally permitted in residential districts under the Subdivision Ordinance, may be permitted as part of the site plan design. The Planning Commission may impose conditions regarding layout, circulation, and performance of the proposed development.

C. STANDARDS

1. Density. The overall density of single family detached development shall be no greater than six (6) dwelling units per gross acre. Density is subject to available sewer capacity.

   Single family attached and townhouse developments shall have a density no greater than eight (8) dwelling units per gross acre, with at least twenty percent (20%) of the land area in common open space.

2. Infrastructure

a. Streets. Street right-of-way and pavement widths shall be as provided by the Subdivision Ordinance. Variation from these standards may be granted upon determination by the Planning Commission and Board of Mayor and Aldermen that smaller widths will provide acceptable performance for the functions proposed within the development. For example, narrower streets may be considered where no on-street parking will be allowed and there are adequate provisions for emergency access. Streets and any alleys may be private, and if private shall have adequate maintenance by a homeowners association provided in covenants.

b. Storm drainage. Where on-site storm water detention (i.e. normally dry) is provided, generally the area of the detention basin should not be counted toward the common open space required herein; but it may be counted if a permanent and well designed water feature is provided as an amenity.

c. Sidewalks. Alternative pedestrian routes through greenways and common open space may be substituted for the required sidewalks, subject to approval of the Planning Commission and Board of Mayor and Aldermen.

d. Other improvements. The Planning Commission may require other special improvements as they are deemed reasonable and essential and may require that appropriate deed restrictions be filed.

3. Lots. In no case shall single-family detached lots be created that are less than 50 feet in width or less than 6,000 square feet in area. No lot on the turnaround of a cul-de-sac shall have less than 50 feet of width along a building line touching but not crossing the setback line.

4. Setbacks. Minimum building setbacks shall be as follows, except that the Planning Commission may recommend and the Board of Mayor and Aldermen require that a yard abutting a boundary of the development extend from said boundary a distance not less than the minimum conventional setback for the abutting district:

- Front. Twenty (20) feet on the front. Fifteen (15) feet may be permitted where no vehicular access is provided to the street and parking and garage access is to the rear using private drives (alleys).

- Side. Five (5) feet on each side.
- Rear. Twenty (20) feet on the rear.

Fences shall be set back at least five feet from an alley.

There is no restriction on lot coverage by buildings other than the setback lines.

5. Visitor Parking. Off-street parking facilities shall be provided in accordance with Article VI, Section 12.

   Overnight on-street parking shall be prohibited.

6. Garages. Each dwelling shall have a two-car enclosed garage.

   Where a rear-loaded garage is not set back at least twenty (20) feet from the alley to provide for additional parking, a parking pad also shall be provided alongside each rear-loaded garage.

   Where access to a garage is from an alley and the garage is set back more than five (5) feet from the alley, screening of the driveway pavement from view from the ends of the alley by landscaping is encouraged.

7. Perimeter buffer

   a. Provide a fence section approved by the Design Review Commission, with trees and shrubs where the development abuts a public street.

   b. Along the perimeter of the development abutting other property, provide a fence section and landscape screen approved by the Design Review Commission.

8. Single Family Detached Developments. There shall be diversity in the style of homes constructed, and identical rooflines and facades adjacent to each other are discouraged.

   Further,

   a. The following percent of the exterior walls, excluding openings, shall be brick:

      (1) One-story buildings, seventy (70) percent.
      (2) One- and-a-half- and two-story buildings, sixty (60) percent.

   b. Exposed metal fireplace chimneys are prohibited,

c. Each house shall include features providing a transition between the front yard and the private interior, such as a porch, which features shall be consistent with the architecture of the house and contribute to variety of appearance of the buildings.

d. At least fifty percent (50%) of the dwelling units in a single family detached development shall be one-story and dispersed throughout the development, and all units shall have at least one bedroom and one full bath on the ground floor.

e. All dwelling units shall have a minimum heated living space of 1,600 square feet.

9. Open space. Common open space shall be provided as an amenity in the development.

10. Trees. A small- or medium-density tree at least two (2) density units in size shall be planted and maintained in the front yard of each lot in a single family detached development.

11. Other conditions. The Planning Commission, Design Review Commission, and Board of Mayor and Aldermen may impose such additional requirements as are necessary and reasonable to accomplish the purposes of this section.

Section 4 - Planned Commercial or Industrial Development Regulations

A. PURPOSE

The primary thrust of development in the Bartlett area has taken place under requirements of uniform regulations within each zoning district that may on occasion prevent or discourage innovative site design and development that will respond to new market demands. The use of improved techniques for land development is often difficult under traditional zoning regulations designed to control single buildings on individual lots. Proper private development of larger areas of substantially vacant land require a flexible approach to be available both to the City and to the landowner. Deviations from the rigid uniformity characteristic of such earlier zoning regulations and the use of new and innovative techniques are henceforth to be encouraged as a matter of policy.

Additionally, many times an individual use or uses allowed under certain zoning districts may be compatible with surrounding properties, while other uses allowed in the same district may be incompatible with surrounding properties. Traditional zoning is district oriented rather than use oriented, and zoning requests for specific uses must be rejected when the full range of uses allowed

under that district are considered. Regulations that would deviate from the normal rules by deleting incompatible uses or by limiting uses allowed to an individual use or uses that would be compatible with surrounding development should be encouraged.

The City may, upon proper application, grant a Special Permit for a Planned Commercial or Industrial Development for a site of at least three (3) acres to facilitate the use of flexible techniques of land development and site design. This Special Permit may provide relief from zone requirements designed for conventional developments, and may establish standards and procedures, including restricting uses to only those compatible with surrounding development. For the issuance of a Special Permit the Planned Commercial or Industrial Development shall meet one or more of the following objectives:

1. Environmental design in the development of land that is of a higher quality than is possible under the regulations otherwise applicable to the property.

2. Variation in the relationship of structures, open space, setback, and height of structures in developments intended as cohesive, unified projects.

3. Preservation of natural features of a development site.

4. Rational and economic development in relation to public services.

5. Efficient and effective traffic circulation, both within and adjacent to the development site.

6. Revitalization of established commercial centers of integrated design in order to encourage the rehabilitation of such centers in order to meet current market preferences.

7. Provision in attractive and appropriate locations for business and manufacturing uses in well-designed buildings and provision of opportunities for employment closer to residence with a reduction in travel time from home to work.

B. RELATION BETWEEN PLANNED COMMERCIAL OR INDUSTRIAL DEVELOPMENT AND ZONING DISTRICTS

1. Planned Commercial or Industrial Development Permitted in Zoning Districts

   Planned Commercial or Industrial Developments shall be permitted in the C-G, C-H, SC-1, I-O, and I-P Districts.

2. Modification of District Regulations

Planned Commercial or Industrial Developments may be constructed in the above listed zoning district subject to the standards and procedures set forth below:

a. Except as modified by and approved in the Ordinance approving an outline plan, a Planned Commercial or Industrial Development shall be governed by the regulations of the district or districts in which the said Planned Commercial or Industrial Development is located.

b. The Ordinance approving the outline plan for the Planned Commercial or Industrial Development may provide for such exceptions from the district regulations governing use, area, setback, width and other bulk regulations, parking, and such subdivision regulations as may be necessary or desirable to achieve the objectives of the proposed Planned Commercial or Industrial Development, provided such exceptions are consistent with the standards and criteria contained in this section and have been specifically requested in the application for a Planned Commercial or Industrial Development; and further provided that no modification of the district requirements or subdivision regulations may be allowed when such proposed modification would result in:

(1) Inadequate or unsafe access to the Planned Commercial or Industrial Development;

(2) Traffic volume exceeding the anticipated capacity of the proposed major street network in the vicinity.

(3) An undue burden on fire and police protection, and other public facilities which serve or are proposed to serve the Planned Commercial or Industrial Development;

(4) A development which will be incompatible with the purpose of this ordinance.

Such exceptions shall supersede the regulations of the zoning district in which the Planned Commercial or Industrial Development is located. Provided however, in no case shall the setbacks along the boundary of Planned Commercial or Industrial Development be less than the minimum setbacks allowed in the underlying zoning.

C. GENERAL STANDARDS AND CRITERIA

The Board of Mayor and Aldermen may grant a permit which modifies the applicable district zoning regulations and subdivision regulations upon written

findings and recommendations by the Planning Commission which shall be forwarded pursuant to the provisions contained in this section.

1. The proposed development will not unduly injure or damage the use, value, and enjoyment of surrounding property nor unduly hinder or prevent the development of surrounding property in accordance with the current development policies and Bartlett Master Plan.

2. An approved water supply, community waste water treatment and disposal, and storm water drainage facilities that are adequate to serve the proposed development have been or shall be provided.

3. The location and arrangement of the structures, parking areas, walks, lighting, and other service facilities shall be compatible with the surrounding land uses, and any part of the proposed development not used for structures, parking and loading areas or access ways shall be landscaped or otherwise improved except where natural features are such as to justify preservation.

4. Any modification of the zoning or other regulations that would otherwise be applicable to the site are warranted by the design of the outline plan and the amenities incorporated therein, and are not inconsistent with the public interest.

5. Owners' associations or some other responsible party shall be required to maintain any and all common open space and/or common elements, unless conveyed to a public body, which agrees to maintain it.

D. SPECIFIC STANDARDS AND CRITERIA FOR PLANNED COMMERCIAL OR INDUSTRIAL DEVELOPMENTS

A permit for a Planned Commercial or Industrial Development may be issued by the Board of Mayor and Aldermen for buildings or premises to be used for the retail sale of merchandise and services, parking areas, office buildings, hotels and motels, and similar facilities ordinarily accepted as commercial center uses and those industrial uses which can reasonably be expected to function in a compatible manner with the other permitted uses in the area. In addition to the applicable standards and criteria set forth in sub-section "C" hereof, Planned Commercial or Industrial Developments shall comply with the following standards:

1. Residential Use

   Except for hotels and motels no buildings shall be designed, constructed, structurally altered or used for dwelling purposes, except to provide, within permitted buildings, facilities for a custodian, caretaker, or watchman employed on the premises.

Residential uses may be approved in conjunction with retail and office units within the boundaries of the Bartlett Station Central Business Improvement District.

2. Screening

When structures or uses in a Planned Commercial or Industrial Development abut a residential district or permitted residential buildings in the same Development, the required screening shall be provided.

3. Display of Merchandise

All business, manufacturing and processing shall be conducted, and all merchandise and materials shall be displayed and stored, within a completely enclosed building or within an open area which is completely screened from the view of adjacent properties and public rights-of-way provided, however, that when an automobile service station or gasoline sales are permitted in a Planned Commercial Development, gasoline may be sold from pumps outside of a structure.

4. Accessibility

The site shall be accessible from the proposed street network in the vicinity, which will be adequate to carry the anticipated traffic of the proposed development. The streets and driveways on the site of the proposed development shall be adequate to serve the enterprises located in the proposed development and may be designed to discourage outside through traffic from traversing the development.

5. Landscaping

Landscaping shall be required to provide screening of objectionable views of uses and the reduction of noise. Buildings shall be located within the development in such a way as to minimize any adverse impact on adjoining buildings.

E. PROCEDURES FOR PLANNED COMMERCIAL OR INDUSTRIAL DEVELOPMENT APPROVAL

1. Procedures

a. Pre-Application Procedure

At least two weeks prior to filing any application for a Planned Commercial or Industrial Development, the prospective applicant shall request a pre-application conference with the Bartlett Planning Office. Upon receipt of such request, the Planning Office shall promptly schedule such a conference.

b. Application and Post Application Procedure

The procedure for initiation and processing of an application for a Planned Commercial or Industrial Development is set forth in Section 14, "G" through "O" in this article.

2. Outline Plan

An outline plan shall be submitted to the Planning Commission with the application for a Planned Commercial or Industrial Development within six (6) months of the pre-application conference. A final plan, including all the requirements of an outline plan, may be submitted as a single application when the Development will be constructed in one phase. The outline plan shall contain all items required in this Ordinance and shall also include those items which the Planning Commission shall specify in rules published from time to time, as well as the following:

1. A map showing available utilities, and easements, roadways, rail lines and public right-of-way crossing and adjacent to the subject property.

2. A graphic rendering of the existing conditions and/or aerial photographs showing the existing conditions and depicting all significant natural, topographical and physical features of the subject property; general location and extent of tree cover; location and extent of water courses, marshes and flood plains on or within 100 feet of the subject property; existing drainage patterns; and soil conditions.

3. A drawing defining the general location and maximum amount of area to be developed for buildings and parking; standards for pedestrian and vehicular circulation and the points of ingress and egress, including access streets where required, and the provision of spaces for loading; the standards for the location, adjustments to be made in relation to abutting land uses and zoning districts; and the extent of landscaping, planting and other treatment for adjustment to surrounding property.

4. A circulation diagram indicating the proposed principal movement of vehicles, goods, and pedestrians within the development to and from existing thoroughfares.

5. A development schedule indicating the stages in which the project will be built and when construction of the project can be expected to begin.

6. A written statement generally describing the relationship of the Planned Commercial or Industrial Development to the Bartlett Master Plan and how the proposed Planned Commercial or Industrial Development is to be designed, arranged and operated in order to permit the Development and use of neighboring property in accordance with the applicable regulations of this section. The statement shall include a description of the applicant's planning objectives, the approaches to be followed in achieving those objectives and the rationale governing the applicant's choices of objectives and approaches.

7. A statement setting forth in detail the manner in which the proposed Planned Commercial or Industrial Development deviates from the zoning and subdivision regulations, which would otherwise be applicable to the subject property.

8. A tabulation setting forth:

   a. Maximum total square feet of building floor area proposed for commercial uses and for industrial uses, by general type of use;

   b. Maximum total land, area, expressed in acres and as a percent of the total Development area, proposed to be devoted to commercial uses; minimum public and private open space; streets; and off-street parking and loading areas.

F. OUTLINE PLAN APPROVAL PROCESS AND EFFECT OF APPROVAL

1. At least twenty-one (21) days prior to the Planning Commission meeting at which it is to be considered, the owner of the property or his agent shall submit to the Planning Commission the Outline Plan, a completed application form, and all other information required under this Section. The Planning Commission shall hold a public hearing and written notice shall be mailed in accordance with Section 19 of this Article. The Planning Commission shall review the application at the public hearing and shall recommend to the Board of Mayor and Aldermen to approve; disapprove; or approve the Planned Commercial or Industrial Development subject to conditions. The Planning Commission may also defer a decision or take the matter under advisement until the next regular meeting.

2. Any owner or his agent may appeal to the Board of Mayor and Aldermen any recommendation or condition the Planning Commission imposes in its recommendations by filing written notice of appeal at least seven (7)

days prior to review by the Board of Mayor and Aldermen. However, the applicant shall submit an outline plan incorporating any and all conditions imposed by the Planning Commission, or if the applicant files an appeal, an outline plan incorporating any and all conditions not appealed, to the Planning office within ninety (90) days after the date of the public hearing on the requested Planned Commercial or Industrial Development or the application shall be deemed withdrawn.

3. The Bartlett Planning Department shall forward the recommendation of the Planning Commission and any notices of appeal to the Board of Mayor and Aldermen within ten (10) days of the date the applicant submits an outline plan incorporating the required conditions.

4. The Board of Mayor and Aldermen shall hold a public hearing on the application for the Planned Commercial or Industrial Development and the outline plan after receipt of recommendations from the Planning Department and any notice of appeal. The Board of Mayor and Aldermen shall establish a date for a public hearing and shall provide written notice and publication in accordance with Section 19 of this Article. The Board of Mayor and Aldermen shall render a decision on any appeal and shall approve; disapprove; or approve the proposed Planned Commercial or Industrial Development and outline plan subject to conditions, and if approved, shall authorize the Planned Commercial or Industrial Development, which approval shall set forth the conditions imposed.

5. The approved outline plan shall bind the applicant, owner, and mortgagee, if any, and the City of Bartlett body with respect to the contents of such plan.

6. The Outline Plan shall be used in lieu of a Master Subdivision Plan to comply with the provisions of the Subdivision Regulations pertaining to Master Plans.

7. The Bartlett Planning Commission may amend or waive a Development schedule upon submission of written justification by the applicant.

8. Approval of the Planned Commercial or Industrial Development shall lapse unless a Construction Plan is submitted within eighteen (18) months from the date of the approval of the development by the Board of Mayor and Aldermen, or unless an extension is approved by the Board of Mayor and Aldermen. Approval of the Planned Commercial or Industrial Development shall lapse unless a development contract is approved and executed within thirty (30) months of the approval by the Board. Failure of the applicant to act within the specified time or denial of a time extension shall require reapplication for a Planned Commercial or Industrial Development or the property shall revert to the original zoning prior to approval of the development.

G. CONSTRUCTION PLAN

The Construction Plans for either the entire Development or a phase of the Development shall be reviewed by the Planning Commission in accordance with the Subdivision Regulations.

H. FINAL PLAN APPROVAL PROCESS

1. An application for approval of a final plan of the entire Planned Commercial or Industrial Development if it is to be completed in one phase, or of a portion of the Planned Commercial or Industrial Development if it consists of more than one phase, shall be submitted by the applicant at least twenty-one (21) days prior to the Planning Commission meeting and in sufficient time so that the applicant may develop the Planned Commercial or Industrial Development in accordance with the phasing schedule, if any, of the approved outline plan.

2. The application for final plan approval shall be filed with the Planning Commission and shall include, but not be limited to, the following:

    a. A plan suitable for recording with the Shelby County Register's Office.

    b. Proof referred to on the plan and satisfactory to the City attorney as to the provision and maintenance of common open space.

    c. All certificates, seals and signatures required for the dedication of land and recordation of documents.

    d. Tabulations of each separate use area, including land area, bulk regulations, and number of dwelling units per gross acre and the gross floor area for Commercial or Industrial uses.

    e. Location and type of landscaping.

    f. Location and dimensions of utility and drainage facilities.

3. The Bartlett Planning Commission shall review the plan and determine whether the final plan substantially conforms or substantially deviates from an approved outline plan in accordance with the following:

    a. A final plan shall be found to conform substantially to an approved outline plan if:

        1. it provides for less density than the approved outline plan; or

2. it provides greater open space by the elimination of or reduction in the size of residential, commercial or industrial buildings.

b. A final plan with other minor changes from the approved outline plan may be found to be in substantial conformity and approved for further processing and final action provided, however, that any increase in density or intensity of use, any decrease in open and recreational space, any deviation from the approved conditions, and/or any modification of the development staging shall be deemed to be a substantial deviation and require such final plan to be disapproved by the Planning Commission.

3. A decision shall be rendered on a final plan by the Planning Commission. If a final plan is disapproved by the Planning Commission the applicant may file a final plan which substantially conforms to the approved outline plan, or the applicant may file for an amendment to the approved outline plan.

4. After a final plan is approved by the Planning Commission, the Planning Department shall record such plan in the Shelby County Register's Office after receipt of any necessary bonds, fees, and contracts to provide improvements required in the City of Bartlett Subdivision Regulations and the required signatures for recordation have been secured.

I. SITE PLAN REVIEW

All site plan reviews required under Article V, Chart 1, of the Zoning Ordinance shall be completed prior to application for any building permits under any Planned Commercial or Industrial Development.

J. ZONING ADMINISTRATION - PERMITS

The Building Official may issue building permits for the area of the Planned Commercial or Industrial Development covered by the approved final plan for work in conformity with the approved final plan and with all other applicable ordinances and regulations. However, the Building Official shall not issue an occupancy permit for any building or structure shown on the development plan of any stage of the Planned Commercial or Industrial Development unless the open space and public facilities allocated to that stage of the development schedule have been conveyed to the designated public agency or Homeowners' association or a responsible party. The Building Official shall issue a certificate of occupancy for any completed building or structure located in an area covered by the approved final plan if the completed building or structure conforms to the requirements of the approved final plan and all other applicable regulations and ordinances.

K. REAPPLICATION IF DENIED

If an application for a Planned Commercial or Industrial Development is denied by the legislative body, a reapplication pertaining to the same property and requesting the same Planned Commercial or Industrial Development may not be filed within eighteen (18) months of the date final action was taken on the previous application unless such reapplication is initiated by the Planning Commission or authorized by the Board of Mayor and Aldermen. Additionally, when an application is rejected, no application for rezoning can be made on the same property for at least twelve (12) months after the date of rejection, unless such application is authorized by the Board of Mayor and Aldermen.

L. PROCEDURE FOR AMENDMENT

A Planned Commercial or Industrial Development and the approved outline plan may be amended in accordance with the procedure which governed its approval as set forth in this Section.

M. POST-COMPLETION CERTIFICATE

Upon completion of a Planned Commercial or Industrial Development in accordance with the approved outline plan, the Building Official shall issue a certificate certifying its completion.

Section 5 - Day Nurseries and Kindergartens

Subject to the conditions stated below, the Planning Commission may permit private day nurseries, and kindergartens, provided:

A. Total lot area shall not be less than fifteen thousand (15,000) square feet.

B. A fenced play area of not less than four thousand (4,000) square feet shall be provided for the first twenty (20) or less children with two hundred (200) square feet for each additional child.

C. No portion of the fenced play area shall be closer than twenty (20) feet to any residential lot line, nor closer than fifty (50) feet to any public street.

D. Screening, either vegetative or masonry, shall be provided between fenced play areas and residential lot lines in such locations as the Bartlett Design and Review Commission directs.

E. All outdoor play activities shall be conducted within the fenced play area.

F. In addition to the requirements above, the facilities, operation and maintenance shall meet the requirements of the Tennessee Department of Human Services.

Section 6 - Accessory Buildings

(Amended by Ord. 02-17, 11/12/02, and Ord. 06-05, 4/25/06)

A. Number of buildings. A maximum of two (2) accessory buildings may be constructed. No accessory building may be constructed except on a lot with a principal building.

B. Setbacks. No accessory building shall be erected

- within the setback from a side or rear property line stated in **Table VI-6** or

- in any required front yard or between a principal building and a street, except that this restriction shall not apply to the rear of a residential double-frontage lot, i.e., to that portion of the lot abutting street frontage that is opposite the frontage on which the principal building normally is assigned a street address.

No accessory building may be placed on a utility easement.

No separate accessory building shall be erected within five (5) feet of the principal structure.

C. Number of Stories. No accessory building shall exceed the number of stories in **Tables VI-6**.

D. Height Restrictions.

1. No accessory building shall have a height in excess of that in **Table VI-6**, as measured at its highest point above grade, in any district.

2. No point on an accessory building shall have a height in excess of eight (8) feet at the minimum setback distance from a property line stated in **Table VI-6**. For each one (1) foot that any point on the accessory building is located farther horizontally from the setback line, the height at that point may be increased one (1) foot.

E. Lot coverage. The total maximum lot coverage of all accessory buildings shall not exceed twenty (20%) percent of the maximum lot coverage permitted within that zoning district, provided, however that all residential lots shall be allowed to have at least six hundred (600) square feet of accessory building lot coverage.

F. Roof pitch. The roof pitch of accessory buildings shall not be greater than the roof pitch of the principal structure.

G. Housing livestock. When an accessory building houses livestock, it shall require a minimum of two (2) acres and shall be located no closer to the property line than thirty (30') feet at any point. The additional height restriction of part D.2 shall apply.

H. No accessory building shall be provided with separate utility metering from the main residence where a one- or two family dwelling is provided as the principal use or occupancy.

Utility metering must be provided through the main residence.

Exception
1. Agricultural building where the need for the separate meter is clear and justified, as determined by the Director of Code Enforcement or his designee.

Table VI-6. Accessory Building Setbacks and Height

Zoning District	Min. Setback from Side and Rear Property Line (ft.)[1]	Max No. of Stories	Max Height (ft.)[2]
RS-10, -12, -15, -18	5	1	20
R-E, A-O	10	1 ½	25
Office, commercial, industrial[4]	5[3]	1	20

Notes:
1. See part G for an exception.
2. See part D for exceptions and qualifiers.
3. A reduced setback shall not apply in a yard adjacent to a residential zoning district, that is, the setback for a principal building shall apply.
4. Accessory buildings in these districts are subject to approval in the site plan and any applicable special use permit.

Section 7 - Automobile Service Stations

A. Gasoline pump islands, compressed air connections and similar equipment shall be set back a minimum of fifteen (15) feet from any right-of-way line.

B. Canopies for the gasoline pump islands may be permitted, provided; no canopy shall be located closer than fifteen (15) feet to any street right-of-way line; a minimum of ten (10) foot clearance shall be provided between the ground elevation and the canopy.

C. The length of each curb opening shall not exceed fifty (50) feet.

D. No driveway or curb cut for a driveway shall be located within ten (10) feet of an adjoining property line, as extended to the curb or pavement, or within twenty (20) feet of an exterior (corner) lot line as extended.

E. Any two (2) driveways providing access to a single street shall be separated by an island with a minimum dimension of twenty (20) feet at both the right-of-way line and the curb or edge of the pavement.

F. A raised curb of at least six (6) inches in height shall be erected along all of the street property lines, except for driveway openings.

G. The entire service area shall be paved with a permanent surface of concrete or asphalt. Any unpaved areas of the site shall be landscaped and separated from the paved areas by a curb or another barrier.

H. Off-street parking of one (1) parking space for each two (2) employees (with a minimum of two (2) employee spaces) plus one (1) space for each service bay shall be provided. Exterior lighting shall be arranged so that it is deflected away from adjacent residential properties.

Section 8 - Garages for Sales, Storage and Services; Sales Lots for New or Used Motor Vehicles: Parking Lots; Service Stations and Similar Structures and Uses

The following limitations shall apply to structures and uses involving the servicing, storage, repair, or sales of motor vehicles:

A. No public street, parking area, sidewalk or way shall be used for the storage or parking of motor vehicles in connection with the activities of such establishments except for normal parking by individual private owners or operators of such vehicles.

B. No operation in connection with such establishments shall be carried on in a way which impedes free flow of vehicular or pedestrian traffic in normal courses on public ways.

C. All motor vehicles being handled, stored or repaired by such establishment shall be maintained in such condition that they may be moved under their own power at any time except such vehicles as may be under repair in garages or other buildings as provided in item D below.

D. No repair of motor vehicles or parts thereof shall be made except within garages, service stations, body shops or other buildings used for such purposes.

Section 9 - Parking, Storage, or Use of Major Recreational Equipment

Replaced by Ord. #21-03, Oct. 2021 ***Ch8_08-09-22***

For purposes of these regulations, major recreational equipment is defined as including boats and boat trailers, travel trailers, pick-up camper or coaches (designed to be mounted on automotive vehicles), motorized dwellings, tent trailers, and the like, and cases or boxes used for transporting recreational equipment, whether occupied by such equipment or not. No major recreational equipment shall be parked or stored on any lot in a residential district except in a carport or enclosed building or behind the building line. However, such equipment may be parked anywhere on residential premises for a period not to exceed twenty-four (24) hours during loading or unloading. No such equipment shall be used for living, sleeping, or housekeeping purposes when parked or stored on a residential lot, or in any location not approved for such use.

Exceptions for short-term living or sleeping in recreational vehicle on a residential lot:

1. Short-term accommodation for emergency circumstances in the case of uninhabitable residential dwelling damage due to flood, wind, or fire.
2. Such short-term residential recreational vehicles and their occupants must submit a written request to include the specific reasons for the need for short-term living and the time frame for the request. Requests must be approved by the Director of Code Enforcement and shall be valid for up to six months, but may be renewed for not more than one additional six-month period.
3. All short-term residential recreational vehicles must be legally registered and tagged.
4. Short-term residential recreational vehicles may only be parked in a carport or enclosed building or behind the building line and have the ability to discharge sanitary waste to the sanitary sewer.
5. Such recreational vehicles must be structurally sound and protect its occupants against the elements. The recreational vehicle must be maintained in good aesthetic appearance and function and be kept road-worthy. No structures such as porches, storage space,

additional rooms, permanent stairs or the like, may be attached to recreational vehicles.

6. Construction repairs to the residential dwelling must start within (60) days of the short-term residential recreational vehicle approval. Only one short-term recreational vehicle shall be permitted on any parcel of land during the repair of the permanent dwelling.

Section 10 - Parking and Storage of Certain Vehicles

Amended by Ord. #15-05, 11/24/15

Automotive vehicles of any kind or type without current license plates shall not be parked or stored on any residentially zoned property other than in completely enclosed buildings. Trailers not stored in an enclosed building must be stored behind the front elevation of the house.

Section 11 - Off-Street Parking Lots in Residential Districts

Where a commercial or industrial district adjoins a residential district without an intervening street, but with or without an intervening alley, off-street parking lots in connection with nearby commercial or industrial uses, may be developed in the residential districts, provided:

A. Such parking lots may be permitted only between the commercial or industrial district and the nearest street in the residential district.

B. Such lots may be used only for patrons or employees of the adjacent commercial or industrial uses. Commercial parking lots are prohibited.

C. Screening shall be provided along lot lines adjoining residential property. The height, type and amount of screening shall be determined by the Design and Review Commission.

D. No source of illumination for such lots shall be directly visible from any window in an adjacent residence.

E. There shall be no movement of vehicles on such lots between the hours of 12:00 midnight and 6:00 A.M. and the Planning Commission may impose stricter limitations.

F. Egress, ingress, design, and other factors affecting development of such lots must be approved by the Planning Commission.

G. A permit for constructing and/or using such lots will be issued following approval of the Planning Commission. Enforcement shall be governed by Article XIII of this Ordinance.

Section 12 -Minimum Off-Street Parking Requirements

Hereafter no building shall be erected or altered and no land used unless there is provided adequate off-street parking space or spaces for the needs of tenants, personnel and patrons together with means of ingress and egress.

A. GENERAL PROVISIONS

1. Off-Street parking for other than residential uses shall be either on the same lot or within three hundred (300) feet of the building it is intended to serve measured from the nearest point of the building to the nearest point of the off-street parking lot.

2. Residential off-street parking spaces shall consist of a parking strip, driveway, garage, or combination thereof and shall be located on the premises they are intended to serve. In all zoning districts, no vehicle that may be parked in a front yard shall be frequently parked or stored on any part of the front yard other than a paved driveway or any other hard surface area that is normally considered the driveway area of the lot. To pave any area of a front yard, other than the driveway, for additional parking will require a building permit from the City of Bartlett Building Department and approval of the proposed paving by the City of Bartlett Planning Department.

3. Any area once designated as required off-street parking shall not be changed to any other use unless and until equal facilities are provided elsewhere.

4. In the instance of dual function of off-street parking where operating hours do not overlap, the Board of Zoning Appeals may grant an exception.

5. Two (2) or more buildings or uses may collectively provide the required off-street parking in which case the required number of parking spaces shall not be less than the sum of the requirements for the several individual uses computed separately.

6. For uses not specifically mentioned in this section the requirements for off-street parking for a similar use specifically mentioned in this section shall apply.

7. Landscape area equal to ten (10) percent of the gross parking area shall be provided and shall include not less than one (1) tree for each twenty (20) parking spaces or fraction thereof. Such landscaping shall be approved by the Design and Review Commission.

B. OFF-STREET PARKING AND LOADING SPACE REQUIREMENTS

Amended by Ord. 02-12, 10/8/02, and Ord. #15-06, 11/24/15

There shall be provided, at the time of the erections of any building or structure, off-street parking spaces, and loading spaces where required, paved with asphalt or other material, and with adequate and safe ingress and egress by an automobile in accordance with the minimum standards in the schedule below, and designed in accordance with figure [VI-12a], Parking Design Requirements. When a building or structure is enlarged or increased in capacity by adding dwelling rooms, guest rooms, floor area or seats, minimum off-street parking shall be provided for such additional rooms, floor area or seats. The Planning Commission, at site plan approval, may establish a minimum number of required parking spaces different from those listed in Figure VI-12a Parking Design Requirements upon presentation of information by the applicant that a different number is sufficient and appropriate for that site.

Accessible parking spaces shall be at least eight (8) feet in width and of a depth in accordance with figure [VI- 12a], Parking Design Requirements, and shall be provided in accordance with the following:

(a) Number of accessible spaces. If parking spaces are provided for self-parking by employees or visitors, or both, then accessible spaces shall be provided in each such parking area in conformance with Table [VI-12b].

Spaces required by the table need not be provided in the particular lot. They may be provided in a different location if equivalent or greater accessibility, in terms of distance from an accessible entrance, cost and convenience is ensured.

(b) Access aisles. Except as provided for "van accessible" spaces, access aisles adjacent to accessible spaces shall be at least five (5) feet in width. Two accessible spaces may share a single access aisle.

One in every eight accessible spaces, but not less than one, shall be designated "van accessible" and shall be served by an access aisle at least eight (8) feet in width.

All such spaces may be grouped on one level of a parking structure.

Figure [VI-12a]. Parking Design Requirements

Table VI-12a. Off-Street Parking Space Requirements	
USE	**PARKING SPACES (Per 1,000 square feet of gross floor area except as noted)**
Banks	Four (4) spaces per 1,000 sq. ft.
Barber Shop or Beauty Shop	Two (2) spaces per barber or beautician based on the design capacity of the structure.
Bowling Alleys	Four (4) spaces per alley.
Churches and Other Places of Worship	One (1) space per each four (4) seats in the main auditorium.
Commercial Recreation Use/Sports Club/Health Spa (not including bowling alleys)	Less than 80,000 sq. ft., 2.6 per 1,000 sq. ft., plus 44 spaces; 80,000 sq. ft. or more, 1.9 per 1,000 sq. ft., plus 100 spaces
Dormitories, Fraternity and Sorority Houses	One (1) space per each three (3) residents
Dwellings, Single-Family (including attached) and Two-Family	Two (2) spaces per dwelling units.
Dwellings, Multi-Family, Low-/Mid-Rise	Fewer than 165 dwelling units, 1.0 space per dwelling unit; 165 or more dwelling units, 1.32 spaces per dwelling unit, less 53 spaces
Hospitals	Fewer than 600 beds, 1.6 spaces per bed, plus 19 spaces; 600 beds or more, 1.5 spaces per bed, plus 89 spaces
Hotels, Motels, Rooming and Boarding Houses and Tourist Courts	One (1) space per guest unit and one (1) space per two hundred (200) square feet of space devoted to public meeting rooms and restaurants.
Manufacturing and Commercial Establishments not Catering to the Retail Trade	1.02 spaces per 1,000 sq. ft., plus 51 spaces
Nursing Homes	13 spaces per 100 beds, plus 9 spaces

USE	PARKING SPACES (Per 1,000 square feet of gross floor area except as noted)
Offices: General	Less than 80,000 sq. ft., 2.55 spaces per 1,000 sq. ft., plus 3 spaces; 80,000 sq. ft. or more, 2.3 spaces per 1,000 sq. ft., plus 23 spaces
Offices/Clinics: Medical, dental, veterinary	Less than 40,000 sq. ft., 3.0 spaces per 1,000 sq. ft., plus 8 spaces; 40,000-120,000 sq. ft., 2.3 spaces per 1,000 sq. ft., plus 36 spaces; 120,000-220,000 sq. ft., 2.0 spaces per 1,000 sq. ft., plus 72 spaces; 220,000 sq. ft. or more, 1.7 spaces per 1,000 sq. ft., plus 138 spaces
Residential condominium	Fewer than 13 dwelling units, 2.0 spaces per unit; 13 to 40 units, 1.1 per unit plus 12 spaces; 41 or more units, 1.0 per unit plus 16 spaces. (Ord. 05-07, 9/13/05)
Restaurants and Similar Establishments Serving Food and Beverages	Quality restaurant (table service, one hour or more turnover), less than 3,800 sq. ft., 15.35 spaces per 1,000 sq. ft., less 23 spaces; 3,800 sq. ft. or more, 25.27 spaces per 1,000 sq. ft., less 61 spaces Family restaurant (table service, less than one hour turnover), 9.2 spaces per 1,000 sq. ft. Fast food restaurant (counter service), 13.6 spaces per 1,000 sq. ft.; or 36 spaces per 100 seats, plus 7 spaces; whichever is greater
Retail Store, Supermarkets, Department Stores or Personal Service Establishment Catering to Retail Trade	One (1) space for each two hundred (200) square feet of non-storage first floor area, plus one (1) space for each three hundred (300) square feet of non-storage area above ground level.
Retail Stores: Discount Store	3.6 spaces per 1,000 sq. ft.
Retail Stores: Hardware/paint/Home Improvement Store	Less than 70,000 sq. ft., 2.3 spaces per 1,000 sq. ft., less 8 spaces; 70,000 sq. ft. or more, 3.2 spaces per 1,000 sq. ft., less 71 spaces
Retirement communities (senior citizen multi-family residential) that include special services for retirees such as dining facilities and medical services	Fewer than 120 dwelling units, 32 spaces per 100 units, less 10 spaces; 120 or more dwelling units, 55 spaces per 100 units, less 38 spaces
Schools: Elementary and Junior High	One (1) space for each classroom plus one (1) space for each two (2) employees or staff other than faculty.

USE	PARKING SPACES (Per 1,000 square feet of gross floor area except as noted)
Schools: High Schools	Ten (10) spaces per class room or one space per five (5) seats in auditorium or gym, whichever is larger.
Shopping Centers (or retail uses sharing common parking)	Unit of measure is gross leasable area: 25,000 to 100,000 sq. ft. - 4.0 spaces per 1,000 sq. ft., plus 3 spaces per 100 seats in a movie theater. 100,000 to 200,000 sq. ft. - 4.0 spaces per 1,000 sq. ft., plus 3 spaces per 100 seats above the initial 450 in a movie theater, plus 6.0 spaces per 1,000 sq. ft. of food service area. 200,000 to 400,000 sq. ft. - 4.0 spaces per 1,000 sq. ft., plus 3 spaces per 100 seats above the initial 750 in a movie theater. 400,000 to 600,000 sq. ft. - 4.0 to 5.0 spaces per 1,000 sq. ft., increasing linearly, plus 3 spaces per 100 seats above the initial 750 in a movie theater. More than 600,000 sq. ft. - 5.0 spaces per 1,000 sq. ft., plus 3 spaces per 100 seats above the initial 750 in a movie theater.
Stadiums and Sports Arenas	One (1) space for each four (4) seats.
Theaters, Auditoriums and Places of Assembly with Fixed Seating Arrangements	One (1) space per three (3) seats.
Wholesale Establishments and Light Industrial facilities that emphasize activities other than manufacturing. The designation between light industrial and manufacturing shall be determined by the Planning Commission.	Less than 160,000 sq. ft., 1.25 spaces per 1,000 sq. ft., plus 4 spaces; 160,000 sq. ft. or more, 1.15 spaces per 1,000 sq. ft., plus 20 spaces

The following parking design requirements shall apply to all required parking. These requirements shall be minimum requirements and all parking areas shall meet or exceed these requirements.

A	B	C	D	E	F	G
0°	9.0'	9.0'	12.0'	25.0'	30.0'	30.0'
20°	9.0'	16.0'	12.0'	26.3'	44.0'	35.5'
30°	9.0'	18.0'	12.0'	18.0'	48.0'	40.0'
45°	9.0'	20.5'	13.0'	12.7'	54.0'	48.0'
60°	9.0'	21.5'	18.0'	10.4'	61.0'	56.5'
70°	9.0'	21.5'	19.0'	9.6'	62.0'	58.5'
80°	9.0'	20.5'	22.0'	9.1'	63.0'	61.5'
90°	9.0'	20.0'	22.0'	9.0'	62.0'	62.0'

A Parking Angle

B Stall Width

C Stall To Curb

D Aisle Width

E Curb Length Per Car

F Curb To Curb Width Of Double Row With Aisle

G Center To Center Width Of Double Row With Aisle

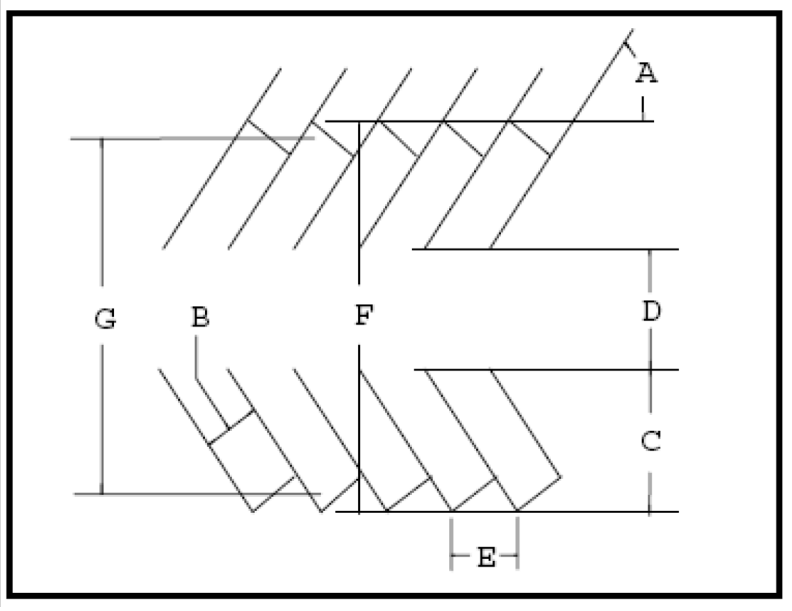


Table [VI-12b]. Accessible Parking Spaces Required	
Total Parking in Lot	**Required Minimum Number of Accessible Spaces**
1 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1000	2 percent of total
1001 and over	20, plus 1 for each 100 over 1000

Section 13 - Structures to Have Access

Every building hereafter erected or moved shall be on a lot adjacent to a public street, or with access to an approved private street, and all structures shall be so located on lots as to provide safe and convenient access for servicing, fire protection, and required off-street parking.

Section 14 - Erection of More Than One Principal Structure

In any district other than single family and two family residential, more than one structure housing a permitted or permissible principal use may be erected on a single lot, provided that yard and other requirements of this Ordinance shall be met for each structure as though it were on an individual lot.

Section 15 -Visibility at Intersections in Residential Districts

On a corner lot in any residential district, nothing shall be erected, placed, planted, or allowed to grow in such a manner as materially to impede vision between a height of two and one half (2-1/2) and ten (10) feet above the centerline grades of the intersecting streets in the area bounded by the street lines of such corner lots and a line joining points along said street lines fifty (50) feet from the point of intersection.

Section 16 - Exceptions to Height Regulations

The height limitations in the Schedule of District Regulations do not apply to spires, belfries, cupolas, antennas, wireless communication facilities, water

tanks, ventilators, chimneys or other appurtenances usually required to be placed above roof level and not intended for human occupancy; however, in residential districts, no ground-mounted antenna may exceed 45 feet in height, and no wireless communication structure shall exceed 200 feet in height.

Section 17 -Required Landscaping

Landscaping and landscape buffers required in this Ordinance shall be subject to approval and additional requirements by the Bartlett Design and Review Commission.

All planting screens shall meet the minimum requirements of the planting screens as shown on Planting Screens Number 1 through 7 included in Appendix A to Article VI. Where site conditions and other considerations indicate that a higher level of screening or a wider screen should be provided, either the Planning Commission or the Design and Review Commission may require screening greater than the minimum requirements.

Internal parking lot landscape area equal to ten (10%) percent of the gross parking area shall be provided on all developments that require parking areas. Required screens shall not be a part of the landscape area. The design of such landscape areas shall be reviewed and approved by the Design and Review Commission.

The screens and landscape areas required by the City of Bartlett Planning Commission and Design and Review Commission shall be provided and maintained permanently by the property owner or their designee. If the landscape areas are not properly maintained, at any time the City of Bartlett will notify the owner in writing allowing ten (10) days to perform the required maintenance for minor projects such as weeding and general maintenance. For major maintenance and replanting projects, the owner shall submit a time schedule for these improvements within ten (10) days. This schedule shall be approved by the City. If after said ten (10) day period, the required maintenance is not performed or if the maintenance and replanting is not completed on schedule, the City of Bartlett will perform the maintenance or have the maintenance performed by a private contractor and the costs of maintenance will be added to the owner's City of Bartlett tax bill.

No final approval of any development permits shall be issued until all landscape screens and areas have been constructed consistent with the Planning Commission and Design and Review Commission approvals. Should the property owner fail to maintain these landscape screens and landscape areas in accordance with approvals of the Planning Commission and the Design and Review Commission, it will be deemed a violation of this Ordinance.

Section 18 -Satellite Dish

A. DEFINITION - A Satellite Dish receiving antenna is a structure for the reception of satellite delivered communications service whether received only or transmitted and received.

B. LOCATION -Permitted residential satellite dish antennas that are more than three (3) feet in diameter shall be located on the lot behind the rear line of the principal building or in the rear yard, provided that a five (5) foot setback is maintained from all property lines and that all installations are to be limited to a maximum height of twelve (12) feet above grade. All residential installations over three (3) feet in diameter shall be ground mounted. A commercial satellite dish installation may be roof mounted, provided that adequate sight-proof screening is installed. Commercial satellite dish installations require site plan approval by the Design and Review Commission.

Residential Satellite Dishes with a diameter of three (3) feet or less may be roof mounted provided the dish is located behind and lower than the ridge of the roof and is not visible from the street in front of the house. On corner lots, the dish shall be located out of sight from both frontages if possible and on the portion of the roof that is most removed from the streets.

B. SCREENING OF GROUND MOUNTED SATELLITE DISHES - On double frontage lots, a landscape screen, subject to the approval of the Building Official, is required.

C. PERMIT REQUIRED - A building permit shall not be required for a residential satellite dish three (3) feet or less in diameter.

D. NUMBER ALLOWED - Unless otherwise specifically authorized by the Board of Zoning Appeals, one (1) detached freestanding satellite dish receiving antenna shall be permitted per lot, parcel, tract or project.

Section 19 -Fences

A. Fences of not more than forty-eight (48") inches in height may be allowed in a front yard. Periodic posts, decorative columns, and lighting fixture or decorative details may exceed the forty-eight (48") inches height limitation.

B. Materials for fences to be constructed in the front yard may be split rail and wrought iron including those that have brick or stone columns. All others are subject to the approval of the Design and Review Commission. Specifically prohibited are the following materials:

Exposed plain cinder block or concrete block or other metal mesh fencing, and barbed wire or other single wire fencing. The permitted fencing on corner lots may be limited by the requirements of Article VI, Section 14, visibility at intersections in residential districts, except on corner lots where open type decorative fences are installed and do not substantially impede the visibility.

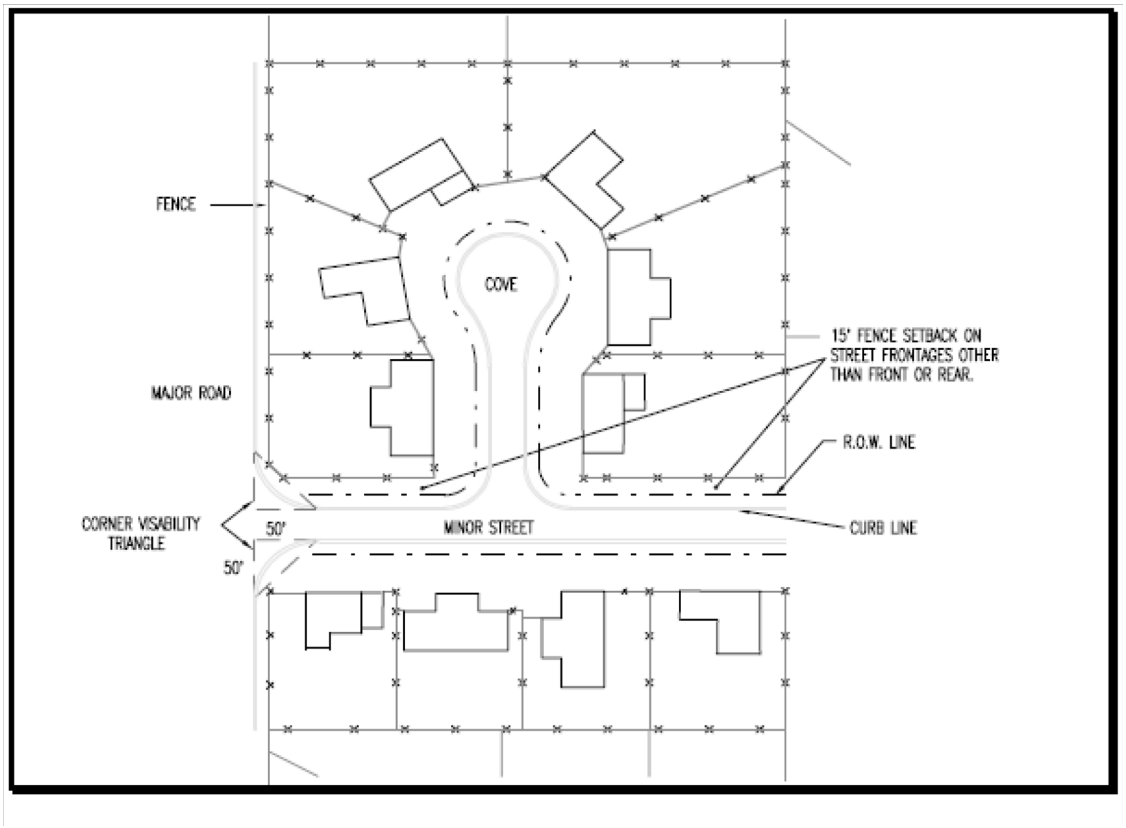
C. Fences in side and rear yards must consist of customary fence construction and may not exceed a height of eight (8') feet. In side and rear yards, fences may be constructed on the lot line except as limited by the Planning Commission approval of fence location given with the Subdivision approval.

D. On corner lots, fences exceeding the forty-eight (48") inch height but not exceeding the eight (8') foot height may be constructed in the yard abutting the street on the frontage other than where the principle entrance to the residence is located, provided that a fifteen (15') foot setback is maintained from the street R.O.W. and the fence does not project beyond the front of the house. (See Figure VI-2 for permissible locations for fences). On corner lots or reverse frontage lots, all wooden fences shall have the finished side toward the street. A permit shall be required for replacing these fences and they shall be reconstructed with the finished side toward the street.

E. Any person installing an eight (8') foot fence that joins a six (6') foot fence would be required to slope the fence a distance of eight (8') feet to where it joins the six (6') foot fence.

F. A Bartlett Standard Fence Section is required along the rear of all "through" or double frontage lots. There are two options for this type of lots, which are delineated on Plates 19A, 19B, 19C and 19D.

Figure [VI-19].Residential Fence Setbacks



(Ord. 05-08, 10/25/05

1. Fence Plate 19A

   Fence Plate 19A provides for a six-foot-high (6') brick or stone fence with six-foot-high (6') brick or stone columns of horizontal dimensions and at locations described herein.

   a. Offsets

      The center line of the columns and fence shall be two feet (2') from the back of the sidewalk and at intervals shall be offset an additional five feet (5'), so that an offset begins at least once on every lot, extends for at least two (2) column intervals, and ends on the same or the next lot.

   b. Landscaping

      Landscaping required is shown on Plate 19A. Where the fence is near the sidewalk, the space between the sidewalk and the fence shall be planted with groundcovers. Where

the fence is offset, a 2" - 2 ½" caliper small or medium density tree shall be planted in the offset area midway between each successive pair of columns.

c. Maintenance

A permanent homeowners association shall be responsible for maintenance of the fence and the landscaped area between the fence and the street. If there is no homeowners association, the lot owner shall be responsible, and gates shall be provided in the side of each offset area to give access to the offset areas for maintenance by the property owner.

d. Easement

An easement shall be platted from the street right-of-way to include the required landscaped area and the fence and columns, to restrict use within the easement to that required by this Section 19, and to require that the landscaping and fence be maintained so as to continue to satisfy this Section 19. Where a homeowners association will be responsible, the easement shall instead be platted as common open space.

Where a utility or other easement that does not allow planting of trees underlies the required fence and landscaped area, the required fence and fence offset shall be located farther from the right-of-way to avoid the easement.

2. Fence Plate 19B

Fence Plate 19B provides for a six-foot-high (6') brick or stone fence with six-foot-high (6') brick or stone columns of horizontal dimensions and at locations described herein.

a. Offsets

The center line of the columns and fence shall be twenty-five feet (25') from the face of the street curb or fifteen feet (15') from the street right-of-way, whichever is the greater distance.

b. Sidewalk

Plate 19B provides for the sidewalk to be curved, with the street-side edge meandering from five feet (5') to fifteen feet (15') behind the curb.

c. Landscaping

Landscaping required is shown on Plate 19B. Medium density trees, 2" - 2 ½" caliper, shall be planted on 20' centers, distance from the street varying to accommodate the meandering sidewalk. Any medium-density evergreen shrubs from the City's approved list shall be planted along the fence, with spacing to accommodate the mature spread of the shrub chosen.

d. Maintenance

A permanent homeowners association shall be responsible for maintenance of the fence and the landscaped area between the fence and the street. If there is no homeowners association, the lot owner shall be responsible, and a three-to-four-foot (3' - 4') wide ornamental metal gate, with brick columns on each side, shall be provided for each lot for access to the landscape easement.

e. Easement

Common open space or, if there is no permanent homeowners association, a landscape easement shall be platted from the street right-of-way to include the required landscaped area and the fence and columns, to restrict use within the common open space or easement to that required by this Section 19, and to require that the landscaping and fence be maintained so as to continue to satisfy this Section 19.

Where a utility or other easement that does not allow planting of trees underlies the required fence or landscaped area, the required fence shall be located and the landscaped area extended farther from the right-of-way so as to avoid the easement.

3. Fence Plate 19C

Fence Plate 19C provides for a six-foot-high (6') wood fence with six-foot-high (6') brick or stone columns of horizontal dimensions and at locations described herein. The wood fence shall be of "shadowbox" construction and have four (4) horizontal stringers. Gaps between the boards on each side shall be no more than two-thirds (⅔) the width of the boards. (See the detail drawing for Plate 19C).

This plate may be used only where the screen is on common open space in a Planned Development with a homeowners association to ensure maintenance.

a. Offsets

No offsets are required. The center line of the columns and fence shall be thirty feet (30') from the face of the street curb or twenty feet (20') from the street right-of-way, whichever is the greater distance.

b. Landscaping

Landscaping required is shown on Plate 19C. Large-density shade trees, 2 ½" caliper, shall be planted on 50' centers. Five (5) medium-density evergreen trees, at 6' on centers in the staggered arrangement shown, 6' to 8' high when planted, shall be planted between the shade trees. Large-density evergreen shrubs shall be planted along the fence at 6' on centers.

c. Maintenance

A permanent homeowners association shall be responsible for maintenance of the fence and the landscaped area between the fence and the street.

d. Landscape easement

Common open space shall be platted from the street right-of-way to include the required landscaped area and the fence and columns, to restrict use within the common open space to that required by this Section 19 and to require that the landscaping and fence be maintained so as to continue to satisfy this Section 19.

Where a utility or other easement that does not allow planting of trees underlies the required fence or landscaped area, the required fence shall be located and the landscaped area extended farther from the right-of-way so as to avoid the easement.

4. Fence Plate 19D

Fence Plate 19D provides for a four-foot-high (4') brick or stone fence with four-foot-high (4') brick or stone columns of horizontal dimensions and at locations described herein.

a. Offsets

The center line of the columns and fence shall be two feet (2') from the back of the sidewalk.

b. Landscaping

Landscaping required is shown on Plate 19D (A "shade tree" is a large-density deciduous tree with a dense and typically wide-spreading canopy; although a medium- or small-density species may be used in the case of conflict with overhead wires.) The space between the sidewalk and the fence shall be planted with groundcovers.

c. Maintenance

A permanent homeowners association shall be responsible for maintenance of the fence and the landscaped area between the fence and the sidewalk. If there is no homeowners association, the lot owner shall be responsible.

d. Easement

An easement shall be platted from the street right-of-way to include the required landscaped area and the fence and columns, to restrict use within the easement to that required by this Section 19, and to require that the landscaping and fence be maintained so as to continue to satisfy this Section 19.

Where a utility or other easement that does not allow planting of trees underlies the required fence and landscaped area, the required fence and fence offset shall be located, farther from the right-of-way to avoid the easement.

5. Alternatives to brick or stone

a. Panels of concrete that are molded and colored to mimic the appearance of brick or stone may be considered in lieu of brick or stone in Fence Plates 19A and 19B. A specific product may be submitted to the Planning Commission for approval as to

- the degree to which the installed product matches the appearance true brick or stone walls and
- the degree to which the material and installation methods will result in durability of the structure and

resistance to weathering and wind loads comparable to true brick or stone walls.

6. Brick or stone columns

Brick or stone columns, measuring 24" x 24" in horizontal dimensions, shall be placed on the side lot lines, set back from the street right-of-way line as indicated herein. Additional columns shall be evenly spaced at intervals of no more than twenty feet (20') along the fence line, as follows:

Lot width/20 = Cl (rounded UP) is the minimum number of intervals between columns to have no more than 20' spacing

Where reducing the calculated number of column intervals by one (1) will result in an average column spacing greater than twenty feet but closer to exactly twenty feet, such a change shall be made. This will ensure that column spacing is as constant as possible along the street frontage of the subdivision, regardless of individual lot widths.

7. Brick or stone

Brick or stone fences and columns shall be left in the natural finish of the material, not painted. The required color and quality of the brick or stone to ensure an aesthetically acceptable, uniform finish shall be subject to approval by the City.

8. Drainage

Provision for yard drainage under brick fences, where required, shall be coordinated with the Engineering Department.

9. Drawings

Dimensioned drawings of the fence shall be submitted as part of the subdivision Construction Plans and shall include

- construction details including footings and reinforcement for the columns and fence, designed by a licensed structural engineer, and
- the location of the proposed fence and the locations of columns and gates (if any) relative to property lines.

The latter also shall be indicated on the Final Plan.

10. Other materials.

Other fence materials such as

- PVC products or fiber-cement products that mimic wood but are more durable and require less maintenance and
- ornamental iron used in combination with other materials

may be used upon review and approval by the Planning Commission and the Board of Mayor and Aldermen.

Plate 19A Fence for Double-Frontage Lot

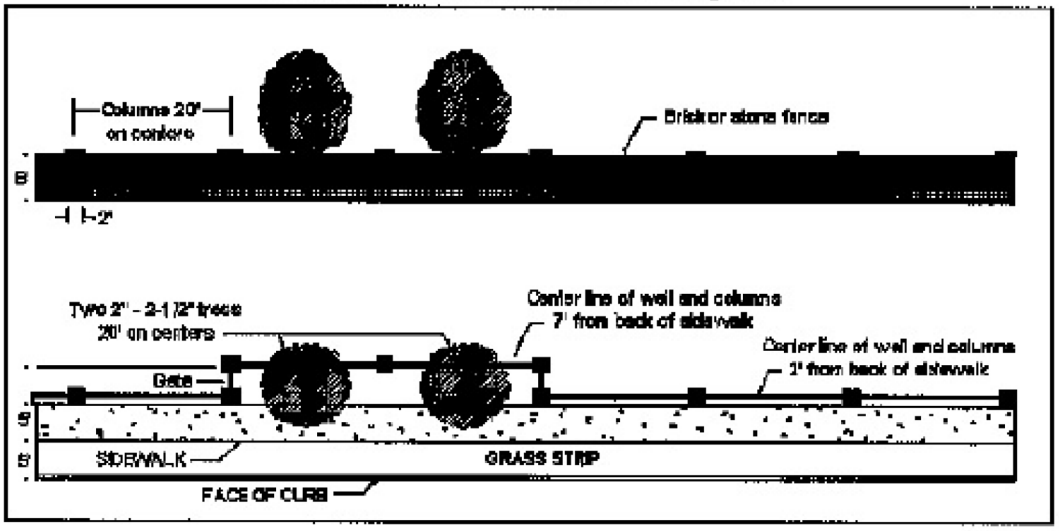
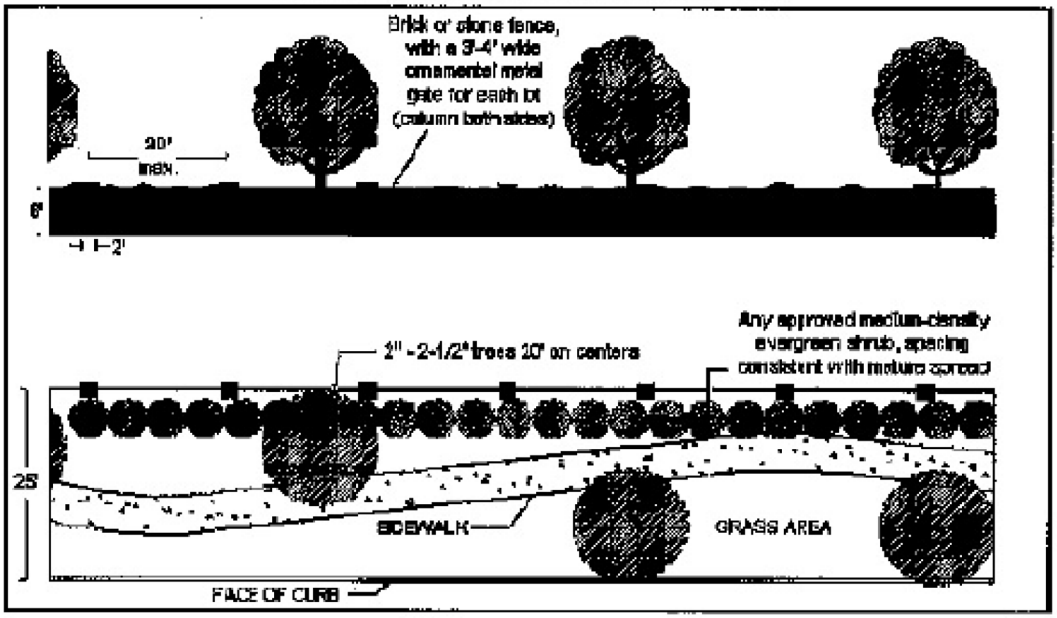


Plate 19B Fence for Double-Frontage Lot



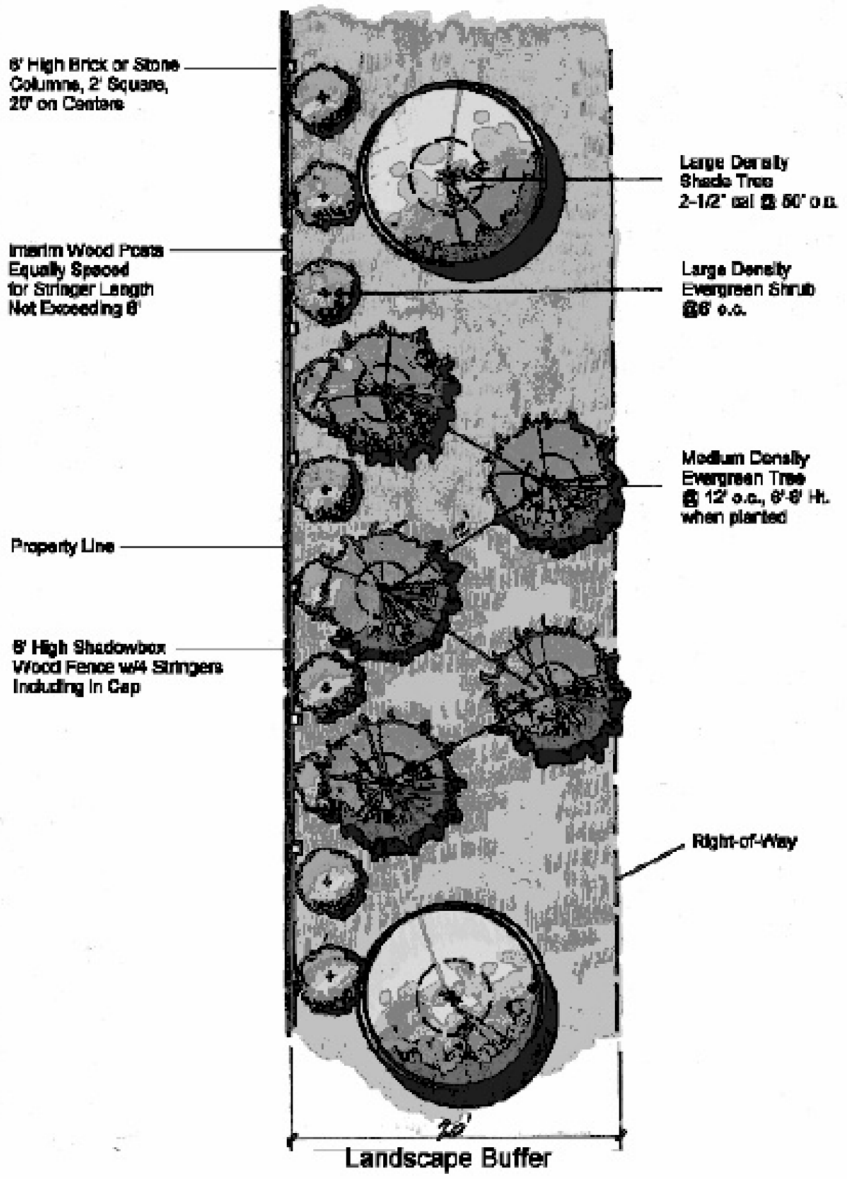
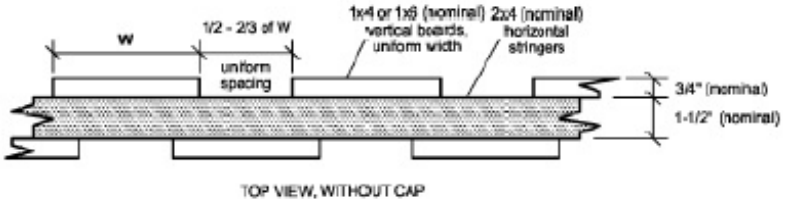
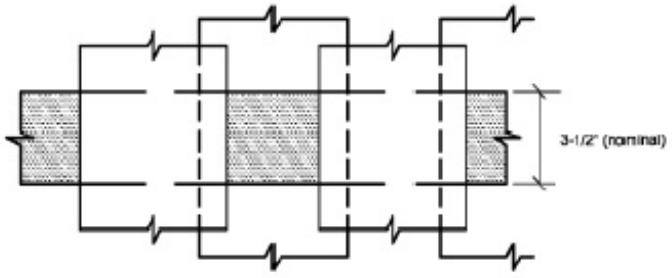


Plate 19C Fence for Double-Frontage Lot with Maintenance by Homeowners Association

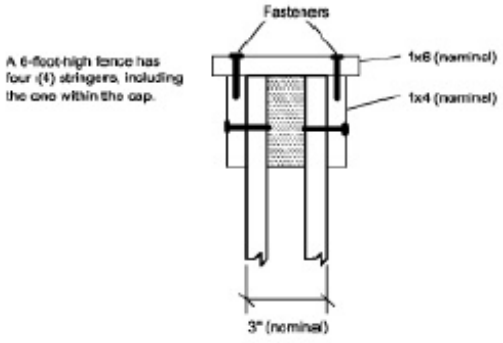
Shadowbox Fence Detail
for Plate 19C



TOP VIEW, WITHOUT CAP

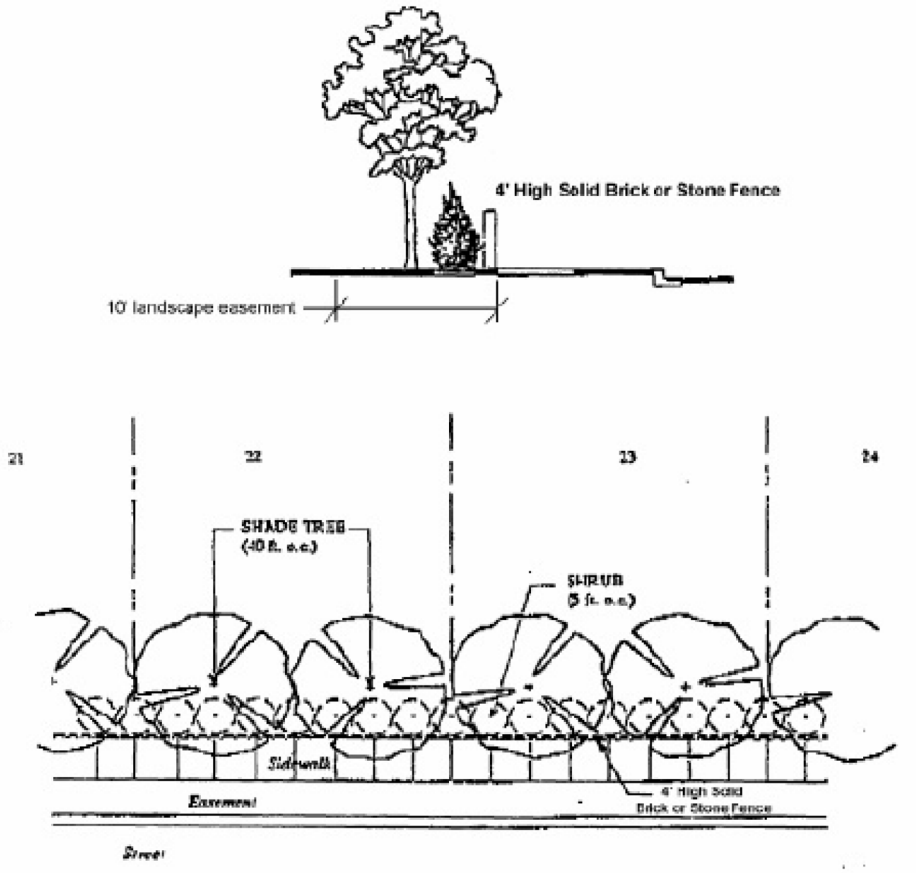


SIDE VIEW AT STRINGER



CROSS SECTION WITH CAP

Ord. 05-08



NOTE: *Shade Trees* may be deleted where *Existing Trees* have been saved.

Plate 19D Fence for Double-Frontage Lot

Section 20 -Special Use Permits

A. PROCEDURES FOR SPECIAL USE PERMIT

1. AUTHORITY

The Board of Mayor and Aldermen shall have the authority to grant special use permits for specific uses set forth on Chart 1 of Article V of this Ordinance in accordance with the provisions of this Section.

2. PURPOSE

Special use permits are required for specified uses which must satisfy standards in addition to those generally applicable in a zoning district to eliminate or minimize the potentially harmful characteristics or impact of such special uses on the character of the zoning district in which they will be located.

3. INITIATION

The owner or other person who has contractual interest in the property which is the site of the proposed special use, the legislative body or the Planning Commission may initiate a request for a special use permit.

4. PROCEDURE

(a) The owner or other person having a contractual interest in the property which is the site of the proposed special use shall file an application for a special use permit with the Planning Commission which application shall be accompanied by a non refundable fee established from time to time by the legislative body and shall contain the following information:

(1) Name, address, and telephone number of the applicant.

(2) Nature and extent of the applicant's ownership interest in the property which is the site of the proposed special use.

(3) A plot plan with dimensions indicated and a legal description of the site of the proposed special use.

(4) Address of the site of the proposed use.

(5) Unless modified less restrictively by the Planning Commission, a vicinity map showing the property which is the site of the proposed special use and all parcels of property within a 1000 foot radius or a minimum of 50 property owners, whichever results in the greater number

of notices, and any other owner that the Planning Department deems proper. Such vicinity maps shall show any and all streets, roads, or alleys and shall indicate the owner's name and dimensions of each parcel of property shown.

(6) A list of the names and addresses of the owners of property shown on the vicinity map.

(7) Zoning classification of the property which is the site of the proposed special use.

(8) The proposed special use to be located on such property.

(9) A site plan in accordance with the site plan requirements of Article V.

(b) The applicant shall submit an application for a special use permit along with all other required information, including the names and addresses of all owners within 1000 feet of the proposed special use site at least twenty-one (21) days prior to the Planning Commission meeting. Written notice of a public hearing shall be mailed to the owners within 1000 foot radius or a minimum of fifty (50) property owners, whichever results in the greater number of notices, and any other owner that the Planning Department deems proper, of the site of the proposed use. The Planning Commission shall hold a public hearing to review applications and shall recommend to the Board of Mayor and Aldermen to approve, disapprove, or approve the special use subject to conditions. The Planning Commission may also defer a decision or take the matter under advisement until the next regular meeting.

(c) Any applicant or owner of property may appeal to the Board of Mayor and Aldermen from any recommendation of the Planning Commission or from any conditions the Planning Commission imposes in its recommendations, by filing a written notice of appeal to the Planning Commission within thirty (30) days after the hearing on the requested special use permit.

(d) An applicant shall submit a site plan incorporating any and all conditions imposed by the Planning Commission, or if the applicant files a notice of appeal, a site plan incorporating any and all conditions not appealed. This site plan shall be submitted within sixty (60) days of the Planning Commission hearing on the requested use permit, or the application shall be deemed withdrawn.

(e) The Planning Commission shall forward the recommendation of the Planning Commission, any notice of appeal, and the site plan to the Board of Mayor and Aldermen upon submission of required information to the Commission.

(f) The Board of Mayor and Aldermen shall hold a public hearing on the application for the proposed special use permit after receipt of recommendations and other information from the Planning Commission. Written notice of such hearing shall be published in one daily newspaper of general circulation stating the date, time and place of the hearing, and shall be mailed to owners within 1000 foot radius or a minimum of fifty (50) property owners, whichever results in the greater number of notices, and any other owner that the Planning Department deems proper, of the site of the proposed special use. The Board of Mayor and Aldermen shall render a decision of such appeal and shall approve, disapprove, or approve the proposed special use permit subject to conditions.

5. EFFECT OF ISSUANCE OF SPECIAL USE PERMIT

The issuance of a special permit shall not allow the redevelopment of the site for the special use, but shall merely authorize the filing of applications for required permits and approvals, including, but not limited to, building permits and certificates of occupancy.

6. ASSURANCE OF COMPLIANCE WITH CONDITIONS

The Director of Code Enforcement shall not issue a certificate of occupancy for a special use if any of the conditions, imposed by the legislative body in approving the special use permit, have not been met.

7. AMENDMENTS TO SPECIAL PERMITS

A special use permit may be amended pursuant to the same procedure and in accordance with the same standards that governed its grant.

8. REAPPLICATION IF DENIED

If an application for a special use permit is denied by the Board of Mayor and Aldermen, a reapplication pertaining to the same property and requesting the same use may not be filed within eighteen (18) months of the date final action was taken on the previous application, unless such reapplication is initiated by the Planning Commission or the Board of Mayor and Aldermen.

B. STANDARD FOR SPECIAL USE PERMIT

1. AUTHORITY

The Board of Mayor and Aldermen is authorized to grant special use permits for the uses specified on Chart 1 in Article V in accordance with the procedure for the issuance of such permits set forth above.

2. CONDITIONS ON SPECIAL USES

The Planning Commission may recommend and the Board of Mayor and Aldermen may impose such conditions upon the issuance of a special use permit as may be necessary to prevent or minimize any adverse effects of such special use upon and to insure the compatibility of the special use with other property in the vicinity of such special use. Such conditions shall be set forth in the resolution authorizing such special use permit and in the special permit. A violation of such conditions shall be a violation of this Section. The Board of Mayor and Aldermen is authorized to revoke special use permits when the conditions imposed upon the special use permits have not been met or have been violated.

3. STANDARDS OF GENERAL APPLICABILITY

An applicant for a special permit shall present evidence at the hearing on such special permit, which evidence must establish that satisfactory provision and arrangement has been made concerning the following items, where applicable:

(a) Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe.

(b) Off-street parking and loading areas where required, with particular attention to the items in (a) above and the economic, noise, glare, or odor effects of the special permit on adjoining properties and properties in the district.

(c) Refuse and service areas, with particular reference to the items in (a) and (b) above.

(d) Utilities, with reference to locations, availability and compatibility.

(e) Screening and buffering with reference to type, dimensions and character.

(f) Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect, and compatibility and harmony with properties in the district.

(g) Required yards and other open space.

(h) General compatibility with adjacent properties and other property in the district.

(i) Other items considered relevant to the proposed special uses.

C. CRITERIA FOR SPECIFIC USES

(Added by Ord. 02-04, 4/9/02, as amended by Ord. #03-18, 9/9/03, Ord. 04-07, 06/08/04, and Ord. #07-14, Sept. 2007)

1. Nursing home

a. *Intent*. It is the intent of these criteria to ensure compatibility between a nursing home and the single-family residential zoning district.

b. *Arterial street*. The site shall abut an arterial street, to ensure adequate employee, visitor, and delivery access without drawing traffic through local streets (in contrast to collector or arterial streets).

c. *Adjoining single-family*. The site shall be so located that other property with single-family residential zoning does not

(1) back up to it, except across a street, or

(2) have side yards adjoining it, except across a street, or

(3) face it across a street.

However, a buffer meeting criteria herein may serve to provide the separation required by items (1), (2), and (3) between the nursing home site and other property zoned for single-family residential use.

d. *Service areas*. No service areas served by trucks, occupied by trash containers, or otherwise having an appearance incompatible with single-family residences shall be on the side of the building toward single-family residential zoning unless a buffer meeting criteria herein provides separation.

e. *Architecture*. Buildings shall be residential in appearance, in terms of materials, proportions, and architectural details, so as to effectively conceal the institutional nature of the use.

f. *Buffer*. A buffer, where required in association with a nursing home, shall meet the following criteria:

(1) Visual barrier. A buffer consisting of plants or a berm as described herein shall provide a visual barrier in all seasons of the year--plants to a height of at least eight feet and a berm to a height of at least six feet above elevation at the property line.

(2) Plants. Plants may be required as part or all of a buffer. Any plants used as a buffer shall be in two or more rows, each row of plants off-set from plants in the adjoining rows so as to maximize the visual density of the planted area. Plants shall be of such size and typical growth rate as to provide the required visual barrier within two years.

(3) *Berm*. A landscaped earth berm may be required as part or all of a buffer. The berm shall have side slopes no steeper than 1:3 (rise:run) or such lesser slope as will ensure that the landscaping chosen can be readily maintained. A retaining wall may be utilized on the nursing home side of a berm to reduce horizontal extent.

(4) *Fence*. A six-foot fence designed for aesthetic appeal and minimal maintenance may be required for additional privacy or security, but a fence alone shall not be sufficient for a buffer.

(5) *Land use*. A land use that is permitted in the zoning district, other than a nursing home or a single-family residence, may serve as part or all of a buffer.

(6) *Landscaped area*. An area landscaped and free of parking between the building and an adjoining street may serve as part or all of a buffer, provided that street face of the building conforms to the architectural characteristics prescribed herein.

2. Automobile rental, satellite (Ord. 03-18, Sept. 2003, amended by Ord. 06-19, 1/23/07)

a. The use is permitted in single-tenant or multi-tenant commercial buildings.

b. No more than four (4) rental cars for pick-up or drop-off in the short term may be parked between the building and a street or in spaces required for off-street parking for the building.

No additional parking spaces shall be required to accommodate these four rental cars beyond the number normally required for the entire building or shopping center.

c. No more than fifteen (15) rental cars may be parked elsewhere on the site, and these may be parked in the area normally designed for service to the building or loading.

Parking for these rental cars may be further limited so as not to interfere with the function or safety of service or loading areas. No off-site parking for these rental cars shall be permitted within the City except as part of an automobile rental use (not satellite) permitted elsewhere or in an I-O district location approved as part of this special use permit.

d. No servicing or indoor storage or rental cars shall be allowed on the site.

3. Psychic and fortune telling businesses (Ord. 04-07, June 2004)

These services are inappropriate in locations where they do not contribute to commercial synergy, whereby complementary businesses within an area

- help draw traffic that is likely to patronize other businesses or
- have an appearance or character that is not detrimental to surrounding businesses.

These services therefore generally would not be appropriate in commercial strip centers or shopping centers. Where they are acceptable, they shall be subject to Design Review Commission review and approval to ensure a dignified and restrained appearance consistent with that of surrounding businesses.

4. Bed and Breakfast accommodations may be approved, provided that: (Ord. #07-15, Sept. 2007)

a. Sufficient off-street parking is provided in addition to that required for residential purposes, at the rate of one space per double occupied room. Guest parking areas will be screened as approved by the Design Review Commission.

b. Such use is intended to be approved with reasonable flexibility in the application of this ordinance, but such use shall not be granted if the essential character of a lot or structure within a residential district, in terms of activity, traffic generation or appearance will be adversely changed by the occurrence of such use or activities.

c. No retail or other sales shall be permitted unless they are clearly incidental and directly related to the conduct of the Bed and Breakfast Establishment.

d. Signs shall be as specified by the Design Review Commission. Signs may be either wall mounted or ground mounted, with a maximum area of four (4) square feet. A ground mounted sign must be located within six (6) feet of the front of the building.

e. The only meal to be provided to paying guests shall be breakfast, and it shall only be served to guests taking lodging in the facility.

f. Bedrooms used by guests shall be part of the primary residential structure and shall not have been specifically constructed for rental purposes.

g. No exterior alterations of the structure shall be made other than those approved by the Design Review Commission, in character with the surrounding neighborhood, and those required by law to ensure the safety of the structure.

h. Guests may stay for a period not to exceed fourteen (14) days.

Section 21 - F-P - Floodplain Overlay Zone

ARTICLE 1 - STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND OBJECTIVES

A. Statutory Authorization

The Legislature of the State of Tennessee has in Sections 13-7-201 through 13-7-211, Tennessee Code Annotated delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the City of Bartlett Board of Mayor and Aldermen, do ordain as follows:

B. Findings of Fact

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

2. Areas of the City of Bartlett 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.

3. These flood losses are caused by the cumulative effect of obstructions in flood- plains, causing increases in flood heights and velocities; and 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.

C. Statement of Purpose

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

1. Restrict or prohibit uses which are vulnerable to water or erosion hazards, or which cause in damaging increases in erosion, flood heights, or velocities;

2. Require that uses vulnerable to floods, including community facilities, be protected against flood damage;

3. Control the alteration of natural floodplains, stream channels, and natural protective barriers which accommodate flood waters;

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

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

D. Objectives (amended by Ord. 07-14, 9/11/07)

The objectives of this Ordinance are:

1. To protect human life and health;

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

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

4. To minimize prolonged business interruptions;

5. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, street and bridges located in floodable areas;

6. To help maintain a stable tax base by providing for the sound use and development of flood prone areas;

7. To ensure that potential buyers are notified that property is in a floodable area; and

8. To maintain eligibility for participation in the National Flood Insurance Program.

ARTICLE 2 - DEFINITIONS (amended by Ord. 07-14, 9/11/07)

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.

Accessory Structure:

Represents a subordinate structure to the principal structure and, for the purpose of this section, shall conform to the following:

1. Accessory structures shall not be used for human habitation.

2. Accessory structures shall be designed to have low flood damage potential.

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

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

5. Service facilities such as electrical and heating equipment shall be elevated or flood proofed.

Act:

The statutes authorizing the National Flood Insurance Program that are incorporated in 42 U.S.C. 4001-4128.

Addition: (to an existing building)

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 independent perimeter load-bearing walls is new construction.

Appeal: (amended by Ord. 07-14, 9/11/07)

A request for a review of the local enforcement officers' interpretation of any provision of this Ordinance or a request for a variance to the Board of Zoning Appeals.

Area of Shallow Flooding:

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

Area of Special Flood-Related Erosion Hazard:

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

Area of Special Flood Hazard:

The land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. The area may be designated as Zone A on the FHBM. After detailed rate making 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.

Base Flood:

The flood having a one percent chance of being equaled or exceeded in any given year.

Basement:

That portion of a building having its floor subgrade (below ground level) on all sides.

Breakaway Wall:

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.

Building:

For purposes of this section, means any structure built for support, shelter, or enclosure for any occupancy or storage. (See "structure").

Development:

Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

Elevated Building: (amended by Ord. 07-14, 9/11/07)

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.

Emergency Flood Insurance Program or Emergency Program:

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.

Erosion:

The process of the gradual wearing away of land masses. This peril is not per se covered under the Program.

Exception:

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.

Existing Construction: (amended by Ord. 07-14, 9/11/07)

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).

Existing Manufactured Home Park Or Subdivision: (amended by Ord. 07-14, 9/11/07)

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).

Existing Structures: See Existing Construction.

Expansion to an Existing Manufactured Home Park or Subdivision:

The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

Flood or Flooding:

A general and temporary condition of partial or complete inundation of normally dry land areas from:

1. the overflow of inland or tidal waters;

2. the unusual and rapid accumulation or runoff of surface waters from any source.

Flood Elevation Determination:

A determination by the Administrator of the water surface elevations of the base flood, that is, the flood level that has a one percent or greater chance of occurrence in any given year.

Flood Elevation Study:

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) and/or flood-related erosion hazards.

Flood Hazard Boundary Map (FHBM): (amended by Ord. 07-14, 9/11/07)

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.

Flood Insurance Rate Map (FIRM):

An official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

Flood Insurance Study: (amended by Ord. 07-14, 9/11/07)

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.

Floodplain or Flood-Prone Area:

Any land area susceptible to being inundated by water from any source (see definition of "flooding").

Floodplain Management:

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.

Flood Protection System:

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.

Floodproofing:

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.

Flood-Related Erosion:

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 an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding.

Flood-Related Erosion Area or Flood-Related Erosion Prone Area:

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.

Flood-Related Erosion Area Management:

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.

Floodway: (amended by Ord. 07-14, 9/11/07)

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.

Floor:

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.

Freeboard:

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.

Functionally Dependent Use:

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.

Highest Adjacent Grade:

The highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a structure.

Historic Structure:

Any structure that is:

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

2. 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;

3. 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

4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

    a. By an approved state program as determined by the Secretary of the Interior; or

    b. Directly by the Secretary of the Interior in states without approved programs.

Levee:

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.

Levee System:

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.

Lowest Floor:

The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable 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.

Manufactured Home: (amended by Ord. 07-14, 9/11/07)

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

Manufactured Home Park or Subdivision:

A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Map:

The Flood Hazard Boundary Map (FHBM) or the Flood Insurance Rate Map (FIRM) for a community issued by the Agency.

Mean Sea Level:

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 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.

National Geodetic Vertical Datum (NGVD):

As corrected in 1929 is a vertical control used as a reference for establishing varying elevations within the floodplain.

New Construction: (amended by Ord. 07-14, 9/11/07)

Any structure for which the "start of construction" commenced on or 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.

New Manufactured Home Park or Subdivision: (amended by Ord. 07-14, 9/11/07)

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

North American Vertical Datum (NAVD): (added by Ord. 07-14, 9/11/07)

As corrected in 1988 is a vertical control used as a reference for establishing varying elevations within the floodplain.

100-Year Flood: See Base Flood.

Person:

Includes any individual or group of individuals, corporation, partnership, association, or any other entity, including State and local governments and agencies.

Recreational Vehicle:

A vehicle which is:

1. built on a single chassis;

2. 400 square feet or less when measured at the largest horizontal projections;

3. designed to be self-propelled or permanently towable by a light duty truck; and

4. designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Regulatory Floodway:

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.

Riverine:

Relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

Special Hazard Area:

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.

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 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; or the placement of a manufactured home on a foundation. Permanent construction does not include 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.

State Coordinating Agency (amended by Ord. 07-14, 9/11/07)

The Tennessee Department of Economic and Community Development's, Local Planning Assistance Office as designated by the Governor of the State of Tennessee at the request of the Administrator to assist in the implementation of the National Flood Insurance Program for the state.

Structure: (amended by Ord. 07-14, 9/11/07)

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.

Substantial Damage:

Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial Improvement: (amended by Ord. 07-14, 9/11/07)

Any repairs, reconstructions, rehabilitations, additions, alterations or other improvements to a structure, taking place during a 5-year period, in which the cumulative cost equals or exceeds fifty percent of the market value of the structure before the "start of construction" of the improvement. The market value of the structure should be (1) the appraised value of the structure prior to the start of the initial repair or improvement; or (2) in the case of damage, the value of the structure prior to the damage," regardless of the actual repair work performed.

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

Substantially Improved Existing Manufactured Home Parks or Subdivisions:

This is where the repair, reconstruction, rehabilitation or improvement of the streets, utilities and pads equals or exceeds 50 percent of the value of the streets, utilities and pads before the repair, reconstruction or improvement commenced.

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.

Violation:

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.

Water Surface Elevation: (amended by Ord. 07-14, 9/11/07)

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 flood plains of coastal or riverine areas.

ARTICLE 3 -GENERAL PROVISIONS

A. Application

This Chapter shall apply to all areas within the incorporated area of City of Bartlett, Tennessee.

B. Basis for Establishing the Areas of Special Flood Hazard (amended by Ord. 07-14, 9/11/07, and Ord. #12-14, Dec. 2012)

The Areas of Special Flood Hazard identified on the Shelby County, Tennessee and Incorporated Areas, Federal Emergency Management Agency, Flood Insurance Study (FIS) and Flood Insurance Rate Map (FIRM), Community Panel Number 47157C0170F, 47157C0285F, (existing) effective September 28, 2007; and 47157C0190G, 47157C0195G, 47157C0301G, 47157C0302G, 47157C0303G, 47157C0304G, 47157C0310G, 47157C0330G (revised) effective February 6, 2013 along with all supporting technical data, are adopted by reference and declared to be a part of this Ordinance. These areas shall be incorporated into the City of Bartlett, Tennessee Official Zoning Map.

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.

C. Requirement For Development Permit

A development permit shall be required in conformity with this Chapter prior to the commencement of any development activity.

D. Compliance

No 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.

E. Abrogation and Greater Restrictions (amended by Ord. 07-14, 9/11/07)

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, whichever imposes the more stringent restrictions shall prevail.

F. Interpretation

In the interpretation and application of this Ordinance, all provisions shall be: (1) considered as minimum requirements; (2) liberally construed in favor of the governing body, and; (3) deemed neither to limit nor repeal any other powers granted under state statutes.

G. 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 flood hazard areas 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 Bartlett, 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.

H. Penalties for Violation (Amended by Ord. 02-16, 12/10/02 and Ord. 07-14, 9/11/07)

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 Bartlett from taking such other lawful actions to prevent or remedy any violation.

ARTICLE 4 -ADMINISTRATION

A. Designation of City Engineer

The City Engineer is hereby appointed to administer and implement the provisions of this Ordinance.

B. Permit Procedures (amended by Ord. 07-14, 9/11/07)

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

1. Application stage

a. Elevation in relation to mean sea level of the proposed lowest floor including basement, of all buildings where BFE's are available, or to the highest adjacent grade when applicable under this Ordinance.

b. Elevation in relation to mean sea level to which any non-residential building will be flood-proofed, where BFE's are available, or to the highest adjacent grade when applicable under this Ordinance.

c. Design certificate from a registered professional engineer or architect that the proposed non-residential flood-proofed building will meet the flood-proofing criteria in Article 4. B. where base flood elevation data is available.

2. Construction Stage

Within unnumbered A zones, where flood elevation data are not available, the City Engineer or City Building Official shall have the design engineer 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 City Engineer 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 City Building Official 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.

C. Duties and Responsibilities of the City Engineer and City Building Official (amended by Ord. 07-14, 9/11/07)

Duties of the Administrator shall include, but not be limited to:

1. Review of all development applications to assure that the requirements of this Ordinance have been satisfied, and that proposed building sites will be reasonably safe from flooding. The developers engineer will submit all necessary hydraulic analyses to the City Engineer. A HEC run will be required.

2. Advice to applicant 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.

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

4. 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.

5. When base flood elevation data or floodway data have not been provided by the Federal Emergency Management Agency, then the City Engineer shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a Federal, State, or other source, 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 FHBM or FIRM meet the requirements of this Chapter.

   (Optional additional requirement)

   Within unnumbered A zones, where base flood elevations have not been established and where alternative data is not available, the City Engineer shall require the lowest floor of a residential building to be elevated or floodproofed to a level of at least 12 (twelve) inches (or as approved at the discretion of the Board), above the highest adjacent grade (lowest floor and highest adjacent grade being defined in Article 2 of this Ordinance).

6. All records pertaining to the provisions of this Ordinance shall be maintained in the office of the City Engineer and/or Building Official 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 in construction code enforcement office.

7. 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 in construction code enforcement.

Duties of the Building Official shall include, but not be limited to:

1. Record the actual elevation (in relation to mean sea level or highest adjacent grade, whichever is applicable) of the lowest floor (including basement) of all new or substantially improved buildings, in accordance with Article 4, Section B-2. Survey data to be provided to construction code enforcement prior to issuance of final use and occupancy.

2. Record the actual elevation (in relation to mean sea level or highest adjacent grade, whichever is applicable) to which the new or substantially improved buildings have been flood-proofed, in accordance with Article 4, Section B-2. This information will be kept by construction code enforcement.

3. When flood-proofing is utilized, the City Building Official shall obtain certification from a registered professional engineer or architect, in accordance with Article 4, Section B-2.

ARTICLE 5 -PROVISIONS FOR FLOOD HAZARD REDUCTION

A. General Standards

In all flood prone areas the following provisions are required:

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

2. 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;

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

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

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

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

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

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

9. Any alteration, repair, reconstruction or improvements to a building which is in compliance with the provisions of this Ordinance, shall meet the requirements of "new construction" as contained in this Chapter; and

10. Any alteration, repair, reconstruction or improvements to a building which is not in compliance with the provision of this Ordinance, shall be undertaken only if said non-conformity is not extended.

B. Specific Standards (amended by Ord. 07-14, 9/11/07)

These provisions shall apply to all areas of special flood hazard as provided herein:

In all areas of special flood hazard where base flood elevation data have been provided, including A zones, A1-30 zones, AE zones, AO zones, AH zones and A99 zones, and has provided a regulatory floodway, as set forth in Article 3, Section B, the following provisions are required:

1. 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 (30) inches 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 Article 5.B.

   Within unnumbered A zones, where base flood elevations have not been established and where alternative data is not available, the Administrator shall require the design Engineer to set the lowest floor of

a building to be elevated or floodproofed to a level of at least three (3) feet above the highest adjacent grade (lowest floor and highest adjacent grade being defined in Article 2 of this Ordinance). All applicable data including elevations or flood proofing certifications shall be recorded as set forth in Article 4.B.

2. 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 18 inches 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 Design Engineer to set the lowest floor of a building to be elevated or floodproofed to a level of at least three (3) feet above the highest adjacent grade (lowest floor and highest adjacent grade being defined in Article 2 of this Ordinance). All applicable data including elevations or flood proofing certifications shall be recorded as set forth in Article 4.B.

3. 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 designated 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.

4. Standards for Manufactured Homes and Recreational Vehicles

   a. All manufactured homes placed, or substantially improved, on individual lots or parcels, in expansions of existing manufactured home parks or subdivisions, or in substantially improved manufactured home parks or subdivisions, must meet all the requirements of new construction, including elevations and anchoring.

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

   c. Any manufactured home, which has incurred "substantial damage" as the result of a flood or that has substantially improved, must meet the standards of Article 5.B 4 of this Ordinance.

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

e. All recreational vehicles placed on identified flood hazard sites must either:

1) Be on the site for fewer than 180 consecutive days;

2) 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.

3) The recreational vehicles 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 180 consecutive days.

C. Standards for Areas of Special Flood Hazard with Established Base Flood Elevations and with Floodways Designated (amended by Ord. 07-14, 9/11/07)

Located within the areas of special flood hazard established in Article 3, Section B, where there 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:

1. New construction or substantial improvements of buildings shall comply with all applicable flood hazard reduction provisions of Article 5.

D. Standards for Areas of Special Flood Hazard Zones AE with Established Base Flood Elevations but without Floodways Designated (amended by Ord. 07-14, 9/11/07)

Located within the areas of special flood hazard established in Article 3, B, where streams exist with base flood data provided but where no floodways have been designated Zone AE the following provisions apply:

E. Standards for Streams without Established Base Flood Elevations or Floodways (A Zones) (added by Ord. 07-14, 9/11/07)

Located within the Areas of Special Flood Hazard established in Article 3, 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:

1. When base flood elevation data or floodway data have not been provided in accordance with Article 3, 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 Article 5. ONLY if data is not available from these sources, then the following provisions (2 & 3) shall apply:

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

3. In special flood hazard areas without base flood elevation data, new construction or substantial improvements of existing shall have the lowest floor of the lowest enclosed area (including basement) elevated no less than three (3) feet above the highest adjacent grade at the building site. Openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with the standards of Article 5, B, and Elevated Buildings.

F. Standards for Areas of Shallow Flooding (AO and AH Zones) (added by Ord. 07-14, 9/11/07)

1. All new construction and substantial improvements of residential buildings shall have the lowest floor, including basement, elevated to at least 2.5 feet above the flood depth number specified on the Flood Insurance Rate Map (FIRM). If no flood depth number is specified, the lowest floor, including basement, shall be elevated, at least three (3) feet above the highest adjacent grade.

   Openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with standards of Article 5.B. and Elevated Buildings or if no depth number is specified, the applicant will

provide the city with an engineers study establishing the finish floor elevation 30 inches above the 100 year storm elevation.

2. 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 (1.5) feet 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 applicant will provide the city with a study establishing the finish floor elevation 18 inches above the 100-year storm elevation for the lowest floor, including basement, or it shall be flood proofed to at least three (3) feet above the highest adjacent grade whichever is greater. 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 set forth above and as required in Article 4.B.

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

4. The Administrator shall require the applicants Engineer to certify the elevation of the highest adjacent grade, where applicable, and the record shall become a permanent part of the permit file.

G. Standards for Areas of Special Flood Hazard With Established Base Flood Elevation and With Floodways Designated (amended by Ord. 07-14, 9/11/07)

Located within the areas of special flood hazard established in Article 3, Section B, where streams exist with base flood data and floodways provided, the following provisions apply:

1. No encroachments, including fill material, new construction, substantial improvements or other developments shall be located within designated floodways, unless certification by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed encroachments or new development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood during the occurrence of the base flood discharge at any point within the community. The engineering certification should be supported by technical data that conforms to standard hydraulic engineering principles.

2. If Article 5, Section F, 1 above is satisfied, new construction or substantial improvements of buildings shall be elevated or flood-proofed to elevations established in accordance with Article 5, Section B.

H. Standards for Unmapped Streams (amended by Ord. 07-14, 9/11/07)

1. 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, or the buffer setback as outlined in the Stormwater Ordinance whichever is deemed greater. The city Engineer may review certification by a registered professional engineer which demonstrates that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any point within the City of Bartlett. The City Engineer may require a no rise if deemed necessary.

I. Standards for Subdivision Proposals (Renumbered by Ord. 07-14, 9/11/07)

Subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, 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:

1. All subdivision proposals shall be consistent with the need to minimize flood damage.

2. 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.

3. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards.

4. Base flood elevation data shall be provided for subdivision proposals and other proposed development (including manufactured home parks and subdivisions) which is greater than fifty lots and/or five acres.

5. The lowest point of all subdivision streets shall be no less than 12 inches above base flood elevations.

6. Subdivision designs will include a routing of the 100 year storm through the development. Minimum finish floor elevations will be set by the

developers engineer on critical lots to ensure 30 inches above the 100 year storm is maintained.

ARTICLE 6 -VARIANCE PROCEDURES

The provisions of this section shall apply exclusively to areas of special flood hazard.

A. Board of Zoning Appeals

1. The City of Bartlett Board of Zoning Appeals shall hear and decide appeals and requests for variances from the requirements of this Chapter.

2. 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.

3. In passing upon such applications, the Board of Zoning Appeals shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this Ordinance, and:

    a. The danger that materials may be swept onto other property to the injury of others;

    b. The danger to life and property due to flooding or erosion;

    c. The susceptibility of the proposed facility and its contents to flood damage;

    d. The importance of the services provided by the proposed facility to the community;

    e. The necessity of the facility to a waterfront location, in the case of a functionally dependent facility;

    f. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;

    g. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

    h. The safety of access to the property in times of flood for ordinary and emergency vehicles;

i. 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

j. 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.

4. Upon consideration of the factors listed above, and the purposes of this Ordinance, the Board of Zoning Appeals may attach such conditions to the granting of variances as it deems necessary to effectuate the purposes of this Ordinance.

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

B. Conditions for Variances

1. 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.

2. Variances shall only be issued upon (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship; and (iii) 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.

3. 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.

4. The City Engineer shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency upon request.

Section 22 -Wireless Communication Supporting Structures

1. Within residential zoning districts, support structures and associated appurtenances shall be restricted to municipally owned and/or leased

properties, public/private utility owned properties, or Institutional Uses, as detailed in Article V, Chart 1 of the Bartlett Zoning Ordinance.

No support structure may be located within 300 feet of any residential property line, unless stealth design is incorporated into the site, and approval is granted by the Design Review Commission.

2. The location, size and design of such facilities shall be such that minimal negative impact results from the facility. Any application for a new wireless communication support structure shall not be approved, nor building permit issued, unless the applicant obtains a letter from a licensed engineer certifying that the wireless communication facility equipment planned for the proposed support structure cannot be accommodated on an existing or approved support structure, or other structure due to one or more of the following reasons:

   a. The planned equipment would exceed the structural capacity of existing and approved support structures, and those structures cannot be reinforced to accommodate planned or equivalent equipment at a reasonable cost.

   b. The planned equipment would result in technical or physical interference with, or from other existing or planned equipment and the interference cannot be prevented at a reasonable cost;

   c. There are no appropriate existing or pending support structures to accommodate the planned equipment;

   d. The existing or proposed support structures would not accommodate the applicant's geographic service requirements.

3. Any proposed support structure (excepting those utilizing stealth design) shall be structurally designed so as to accommodate a minimum of three (3) sets of fully sectored antenna arrays. A letter from a licensed engineer certifying compliance with this condition shall accompany the conditional use application. In addition, any application for a new support structure must include an affidavit stating that space on the proposed support structure will be made available to future users when technically possible.

   The applicant shall not charge any unreasonable application fee or rental rate, and may not require any unreasonable construction or maintenance conditions that inhibit the ability of other users to co-locate on the support structure.

4. Support structures shall be the minimum height needed to comply with these regulations; however, in no instance shall support structures extend beyond 200 feet in height.

5. Associated appurtenances, including cabinets, cabling and equipment shall be permitted, but shall not include offices, long-term vehicle storage, other outdoor storage or broadcast studios, or any use not needed to send or receive transmissions.

6. The minimum setback requirements for support structures including associated appurtenances shall correspond to the zoning district in which they are located, except that a minimum buffer of 300 feet shall be maintained between any support structure (excepting sites incorporating stealth design) and any residential property line.

7. All wireless transmission facilities including building, cabinets support towers and facilities shall be designed and constructed of materials so as to be architecturally compatible with the architectural character of the surrounding area, and shall be approved by the Design Review Commission.

8. Existing on-site vegetation shall be preserved to the maximum extent practicable, and shall be supplemented as required by the Design and Review Commission.

9. Security fencing and/or equipment screening shall be required for any ground mounted equipment associated with a support structure, and approved by the Design and Review Commission.

10. Towers shall not be lighted unless required by the Federal Aviation Administration or other Federal or State authority.

11. Within residential zoning districts, attached antenna arrays may be permitted on previously approved or proposed institutional structures, municipally owned structures; public/private utility owned towers, and existing support structures.

12. Wireless communication facilities (i.e. attached antenna arrays and related equipment) may be permitted on previously approved buildings and support structures, subject to administrative site plan review. Such facilities shall not exceed the height required to accomplish their intended function; however, in no instance shall they extend more than 20 feet above the height of the supporting structure upon which they are proposed to be attached. Additionally, such facilities shall utilize stealth design and be finished in a color compatible with the colors of the supporting structure and designed so as to be as visually unobtrusive as possible.

13. For the purposes of this Ordinance, attached antenna arrays shall be permitted accessory uses in all zoning districts, subject to administrative site plan approval.

Section 23 -Tree and Landscaping Ordinance

(Ord. 05-08, 10/25/08)

PART I. General Provisions

A. Purpose

The purpose of this Section 23 is

- to regulate and control planting of trees and woody vegetation in the City of Bartlett;
- to vigorously encourage the protection of existing trees and root systems;
- to regulate the preservation, replacement and indiscriminate removal of trees; and
- to establish procedures and practices and minimum design standards for fulfilling these purposes.

B. Applicability

This Section 23 shall be applicable to all grading, earth moving, changing of elevation, new construction, additions, or remodeling for all land development and construction, including residential, office, commercial, and industrial; with the following exception: Construction of additions, accessory buildings (including swimming pools), or private drives on a lot with an existing single-family home. That is, this Section 23 is applicable to construction of new single-family homes.

Where the following have been approved by the Planning Commission or the Code Enforcement Department no later than October 25, 2005 and are still in effect following that date, such plans may be continued in the manner approved:

- Subdivision Master Plans (that have not lapsed per Subdivision Ordinance Article II, Section 3.E), Construction Plans, or Final Plans.
- Plot plans for construction of single-family houses.
- Site plans for non-single-family-residential development.

C. Definitions

1. Caliper Inches (CI) - Quantity in inches of the diameter of supplemental and replacement trees measured at the height of twelve inches (12") above the ground. (Caliper Inches shall be used in measuring newly planted material).

2. Certified Arborist - A professional who is certified as possessing the technical competence through experience and related training to provide for or supervise the maintenance of trees and other woody plants in the residential, commercial, and public landscape; which certification is by an organization recognized by the City as qualified to do so.

3. Champion Tree - A tree, among the 263 species that are native or common to Tennessee, that earns the most points for its species under a statewide program, based on its circumference, height, and crown spread.

4. Conifer Tree - Any tree with needle leaves and a woody cone fruit.

5. Cultivar - A cultivated variety designated by single quotes (e.g., 'October Glory'). (A variety or subspecies, in contrast, is found in nature and is a subdivision of a species.)

6. Deciduous - Those trees that shed their leaves in the fall or winter.

7. Density Units (DU) - The actual measured inches of tree trunk diameter (DBH or CI).

8. Diameter at Breast Height (DBH) - The diameter in inches of a tree measured at four and one-half (4 ½) feet above the existing grade. (DBH shall be used to measure existing trees to remain.)

9. Drip Line - A vertical line extending from the outermost portion of the tree canopy to the ground.

10. Endangered Species - Those trees that are under the protection of State and/or Federal law.

11. Evergreen - Those trees, including broad-leaf and conifer evergreens, that maintain their leaves year-round.

12. Green/Open Space - That space on a lot that is landscaped.

13. Historic Tree - A tree or grove of trees so designated by the Tennessee Urban Forestry Council.

14. Landmark Tree - A tree or grove of trees so designated by the Tennessee Urban Forestry Council.

15. Ornamental tree - A tree distinguished by one or more unique characteristics, such as flowers, foliage, bark or the form of the tree.

16. Overstory - Those trees that compose the top layer or canopy of vegetation.

17. Pruning - Selective removal of certain limbs based on the structure and growth pattern of the tree. See also "topping."

18. Replacement Planting - The planting of trees on a site that before development had more than the minimum standard of trees per acre, but would be less than the minimum after development.

19. Street Tree - A tree that tolerates stresses common near roads such as soil compaction, confined root zones, drought, air pollution, high salt levels, and high heat levels.

20. Supplemental Planting - The planting of trees on a site that prior to development had less than the minimum standard of trees per acre.

21. Topping - Excessive and arbitrary removal of all parts of the tree above and beyond a certain height with no regard for the structure or growth pattern of the tree. See also "pruning."

22. Tree - Any living, self-supporting woody or fibrous plant which is a conifer, evergreen, deciduous or ornamental, as defined herein.

23. Tree, Private - A tree located on private property, including property owned in common by more than one private (non-governmental) owner.

24. Tree, Public - A tree located on public property, such as a park.

25. Tree, Street - A tree placed in a row of trees lining a street, which row may be on public property or in a landscape easement on private property.

26. Tree Protection Zone - The area around a tree corresponding to the drip line and a minimum of ten (10) feet in all directions from the trunk, wherein no disturbance to or compaction of the soil is permitted.

27. Understory - Those trees that grow beneath the overstory.

D. Administration

The City tree ordinance shall be administered by the Code Enforcement Department

The Forester shall have the same enforcement power as a Code Enforcement officer with regard to this Section 23.

Specific areas of responsibility are assigned as follows:

1. Engineering Department

    a. Provide, by the Forester, determinations as to whether proposed measures regarding existing and new trees are in compliance with the requirements of this Section 23.

    b. Review development plans in accordance with the provisions of this Section 23 as a part of the review process of site development plans.

    c. Coordinate donations of trees or money to purchase trees.

    d. Provide inspection of development sites to ensure compliance with grading and tree protection requirements.

    e. Upon release of residential lots to Code Enforcement for issuance of building permits, transfer to Code Enforcement the locations of trees to be saved on lots.

2. Code Enforcement Department

    Provide overall enforcement of this Section 23 through the Director of Code Enforcement, upon determinations by the Forester as to compliance.

3. Planning Development

    Review development plans in accordance with the provisions of this Section 23 as a part of the review process of site development plans.

4. Planning Commission and Design Review Commission

    Review development plans for conformance with this ordinance.

5. City Beautiful Commission

    a. Recognize groups and individuals completing tree projects.

    b. Perform other tree related duties and opportunities as requested by the Mayor.

PART II. Tree Protection

A. Protection of Existing Tree Cover

Commercial and residential developments within the City shall reflect the City's commitment to trees. This includes the preservation of existing trees where practical and the judicious planting of new tree materials.

1. Any construction work covered by this Section 23 that will remove or damage existing trees shall be subject to the requirements of parts

   - III.D.2, Development Other than Single-Family Residential;
   - III.F, Residential Subdivision Development; and
   - III.G, Grading Plan Review.

2. Adequate protection shall be given to trees scheduled to be preserved on a construction site as follows:

   a. Grading or filling and drainage design shall be adjusted to avoid disturbance to drainage or roots and to avoid soil compaction in the Tree Protection Zone.

   b. All trees on public property or on private construction sites that are scheduled for preservation shall be guarded by a four-foot high (4') (minimum) fence at a distance from the trunk corresponding to the Tree Protection Zone. The area within the fence shall be identified as a Tree Protection Zone, and no building material, dirt, other debris or any equipment or vehicles shall be allowed inside the barrier. This protection shall remain in place through the entire development process, from before initial clearing of the site through completion and final use and occupancy approval of the house or other building construction.

B. Tree Maintenance

The City shall have authority to require maintenance needed to keep both public trees and private trees reasonably healthy and to minimize the risk of injury to people or property. Care of public trees may be accomplished by City personnel, by contract with commercial tree care companies, or by adjacent property owners, as required by the City. Tree maintenance may include pruning, fertilization, watering, insect and disease control, tree surgery or other related activities.

1. Responsibility for Maintenance

   It shall be the responsibility of each owner of property within the City to maintain in good condition trees and other landscaping (a) on the public right-of-way abutting the owner's property and (b) close enough to said right-of-way to affect public safety. The Code Enforcement Department,

when it determines that such trees or other landscaping require maintenance, may order the same to be done.

Where an owner of property will be responsible, through a homeowners or property owners association, for the maintenance of commonly-owned property, then

- required maintenance of trees and other landscaping on the public right-of-way adjacent to such property shall become the responsibility of such association upon approval of the development by the City; and
- such requirement shall be included in conditions of approval of the development.

2. Notice of Required Maintenance

The Forester or the Director of Code Enforcement or his designee (hereinafter the "Code Enforcement officer") shall serve notice in writing upon the owner or owners of the property abutting or containing the trees or other landscaping to conduct such maintenance as requested within the time period provided herein from the date of notification. Such maintenance shall conform to all standards currently adopted and enforced through the zoning ordinance, subdivision regulations, and other codes of the City.

No permit shall be required to conduct maintenance required herein on trees or other landscaping. However, the Code Enforcement Department shall be notified prior to conducting such maintenance on the public right-of-way, and an inspection prior to and following such maintenance will be made by that Department to ensure compliance with City standards.

3. Tree Topping Prohibited

The practice of tree topping is prohibited on all public trees, street trees, and trees in non-single-family residential development and is strongly discouraged as a tree care practice for trees on single-family residential lots.

Crape myrtles shall be maintained as trees in non-single family-residential development if they were presented as trees in the landscape plan. Crape myrtles on single-family residential lots are not affected by this part B.3.

Proper pruning with branch removal at branch or trunk junctures is the best practice for limb removal.

4. Pruning

Tree pruning shall be performed in a manner that protects the public

a. Street, public and private trees growing along streets and sidewalks must be pruned free of limbs to a height of eight (8) feet for sidewalks and twelve (12) feet for streets, with no lateral growth permitted onto the sidewalk or street below this height.

b. Tree branches shall not obstruct the view of any street lamp, street sign or stop sign. Likewise, tree or shrub vegetation shall not obstruct any street intersection and shall be pruned such that a driver has a clear line of vision of traffic coming from either direction.

c. Private trees shall be kept pruned of any dead, diseased or dangerous limbs or branches which could fall into the right-of-way or onto public property and thereby constitute a menace to public safety.

C. Tree Removal

1. Trees that pose a safety or health risk to the public or to other trees shall be removed by the responsible party in a timely manner.

2. The City shall have the right to cause the property owner to remove any dead, diseased or structurally damaged trees on public or private property when such trees constitute a potential hazard to life and property within the right-of-way or on public property.

3. As a normal procedure, all stumps of public and street trees shall be removed below the surface of the ground by grinding or other methods.

D. Trees of Historic or Special Significance

Champion, Landmark, and Historic Trees can constitute a unique asset to the community. A tree so designated will be given special protection, maintenance and recognition as the situation warrants.

E. Enforcement

1. Reporting

Whenever a complaint is filed charging that any property is in violation of this Section 23 and/or whenever it appears to the Code Enforcement officer that any property is in violation of this Section 23, the Code Enforcement officer shall issue and cause to be served upon the owner of and parties in interest in such property a written notice of the existing

violations, as provided in parts II.B.2 and II.C.2. The owner of and parties having an interest in said property shall have ten (10) calendar days from the receipt of such notice to (a) perform the maintenance to be in compliance with this Section 23 or (b) request more time to perform the maintenance or (c) exercise the right to appeal to the Property Maintenance Code Board of Appeals.

Complaints, orders and notices issued by the Code Enforcement officer shall be served personally or by registered mail. If the person to be served cannot be found, in the exercise of reasonable diligence, the Forester or the Code Enforcement officer shall make an affidavit to that effect. Then the serving of such complaint or order upon such persons may be made by publishing the same in a newspaper of general circulation in the City of Bartlett. A copy of such complaint, notice or order shall be posted in a conspicuous place on the premises affected by the complaint, notice or order.

2. Right of Appeal

If, upon receiving such notice, the person or persons notified disagree with the decision of the Code Enforcement officer, then they shall have the right of appeal to the Property Maintenance Code Board of Appeals within ten (10) calendar days. An application for appeal shall be based on a claim that the true intent of this Section 23 has been incorrectly interpreted, the provisions of this Section 23 do not fully apply, or the requirements of this Section 23 are adequately satisfied by other means, or that the strict application of any requirement of this Section 23 would cause an undue hardship. The Property Maintenance Code Board of Appeals may affirm, reverse or modify the decision of the Code Enforcement officer.

3. Failure to comply

If the owner fails to comply with an order to conduct the required maintenance, the Forester or the Code Enforcement officer may cause such maintenance to be conducted or may contract for the same.

4. Cost Assessed to Property Owner

The owner of the property where the Code Enforcement officer had the maintenance performed shall be liable for all costs incurred by the Forester of the Code Enforcement officer on behalf of the city relating to such action. The city attorney shall take steps to collect such actual costs plus an administrative fee equal to the greater of five (5) percent of the costs or one hundred dollars ($100), and to protect the city's interests in collecting such costs.

5. Notice to Finance Department

The Forester or the Code Enforcement Department shall provide to the Finance Department a record of required maintenance as inspections occur. Such notice shall be filed with the tax records for the property, so that any person purchasing such property, upon inquiring as to taxes due on the property, will receive notice of the obligation to pay the cost of such maintenance.

F. Fees and Penalties

Damage to or unapproved removal of an existing tree intended to be retained on a site will be subject to the maximum penalty allowed by state law.

A Subdivision Development Contract shall require a fee of $500 each for damage to or unapproved removal of an existing tree intended to be retained on a site.

For land disturbance or building on a lot where (1) a Subdivision Development Contract is not required and (2) a grading or building permit is required for an activity (under "III.G, Grading Plan Review"), an additional permit fee of $500 each shall be applied for damage to or unapproved removal of an existing tree intended to be retained on a site.

PART III. Construction Requirements and Approvals

A. General Requirements

For the purposes of this Section 23, public areas shall be defined as land owned by the City of Bartlett.

Tree planting shall be a required activity on public areas and on private property to which this Section 23 is applicable.

A planting program shall be developed by the City for all public areas and conducted in a systematic manner to assure diversity of age, classes, and species.

1. Sizes Defined

For the purpose of this ordinance, trees reaching up to twenty-five (25) feet in height at maturity are designated as small-density trees. Medium-density trees will mature at twenty-five (25) to fifty (50) feet. Large-density trees will mature at heights greater than fifty (50) feet.

2. Protection of Overhead and Other Utilities

a. Street trees with a mature height of up to twenty-five (25) feet shall be planted at least twenty (20) feet from any overhead utility wire.

Street trees with a mature height of more than twenty-five (25) feet and up to fifty (50) feet shall be planted at least twenty-five (25) feet from any overhead utility wire.

Street trees with a mature height of more than fifty (50) feet shall be planted at least forty (40) feet from any overhead utility wire.

b. No tree shall be planted within a utility easement.

3. Location Restrictions

a. In street plantings, no tree shall be planted closer than ten (10) feet to a fire hydrant, utility pole or street light. No tree shall be planted within fifteen (15) feet of a driveway/street intersection, or within a visibility triangle as defined under Article VI, Section 15 of this Ordinance.

b. Trees planted adjacent to sidewalks or curbs should not be planted any closer to either structure than two (2) feet for small trees, three (3) feet for medium trees and four (4) feet for large trees. However, trees planted in proper tree wells are not subject to these limitations.

4. Maintenance

The trees and plant material required by this Section 23 for land uses other than single-family residential homes on individual lots shall be maintained in perpetuity by the owner (including a homeowners or property owners association), until a new site plan is approved and executed. This maintenance includes mowing, trimming, pruning, disease and pest control, weed control, fertilizing, watering, and dead plant replacement. If any such tree or plant material dies or is topped or is removed for any reason, it shall be replaced by the owner.

B. Trees to be Planted

1. Compatibility

Trees scheduled for planting for residential and non-residential developments must be quality specimens whose physical site requirements are compatible with the intended development.

2. Species Selection

a. All trees planted under the requirements of this Section 23 shall be of a species referenced on the City's recommended tree list (Attachment A) or approved by the Forester.

b. A minimum of twenty percent (20%) of all tree plantings shall be evergreen/coniferous species.

c. Species selection for the circumstances of a particular site is subject to site plan review and approval by the Forester.

3. Condition

All trees shall be free of insects, diseases, or mechanical injuries and have straight trunk(s) and a form characteristic of the species.

4. Minimum size when planted

Except as otherwise provided herein or specified by a licensed landscape architect for particular species, small-density trees shall be 6' to 8' high when planted, and medium-density trees shall be 8' to 10' high when planted. Large density trees planted for residential and non-residential developments shall be no smaller than 2" - 2 ½" caliper (measured at 12" above the ground, and in accordance with American Standards for Nursery Stock, ANSI Z60.1-1996). Street and parking lot trees shall be no smaller than 2.5" - 3" caliper, to assure minimum limb clearance height adjacent to streets, parking lots, and drives at the time of planting.

C. Official City Trees

It is hereby decreed that the Cherrybark oak shall be the official City tree. This selection is made because of its history, superior form and shape, and its strength and lifespan in our geographic area. While it is not recommended that this species be selected over other species in planting on public or private property, it is recommended that the tree be recognized as a symbol of the Bartlett community.

Further, seasonal City Trees are hereby designated, to offer citizens and businesses seasonal color and a wider range of suggestions, as follows:

- *Spring:* Yoshino cherry
- *Summer:* Crape myrtle (Natchez or Muskogee)
- *Fall:* Black tupelo
- *Winter:* Ilex deciduas (deciduous holly)

D. Development Other than Single-Family-Residential

On all new development other than single-family residential, planting areas shall be provided as described herein.

1. Landscape Architect

   Landscape planting, irrigation, and site amenity plans in compliance with these requirements shall be drawn by a registered landscape architect.

2. Landscaping Plan

   Plans shall demonstrate compliance with this Section 23 and shall include the following:

   a. Scale of 1" = 20' or a scale approved by the Planning and Economic Development Department.

   b. North arrow, graphic and written scale.

   c. Name and address of owner.

   d. Name and address of person preparing plan.

   e. Plant Schedule including species, common and botanical names, caliper, planting height, spread, quantities.

   f. Locations of all proposed plant materials.

   g. Tree survey as required in part III.H., "Tree Survey."

   h. Calculations demonstrating compliance with density requirements.

   i. Visibility triangles for entrances and intersecting streets.

   j. All existing and proposed utilities and utility easements.

   k. Seal and dated signature of Landscape Architect.

3. Frontage planting area

   On all street frontages, a landscaped depth of at least twenty (20) feet from the right-of-way line shall be provided, with or without berms, depending on topography. Plates 23A, 23B, and 23C shall be used as guidelines for planting patterns. The landscaped depth may be increased and the Plates adjusted to accommodate overhead wires in accordance with part III.A.2, "Protection of Overhead and Other Utilities."

4. Parking areas

   a. A maximum of fifteen (15) parking spaces shall be allowed between planting islands along the street frontage.

b. A mixture of shrubs, deciduous as well as evergreen, shall be provided.

c. A planting island shall have a minimum area of 400 square feet for a large density tree (20' square or 22.5' diameter), 300 square feet for a medium density tree (17.3' square or 19.5' diameter), and 200 square feet for a small density tree (14.1' square or 16' diameter).

d. All parking spaces shall be within a maximum distance of seventy-five feet (75') from a tree.

5. Green/open space generally

a. A minimum of thirty-five percent (35%) of the total land area of the lot, excluding building footprints and pavement, shall be in green/open space.

b. Green/open space shall be distributed over the lot in proportion to the land areas between the building and the property lines.

c. Where land will be subdivided in a manner that distribution of green/open space required under 5.a and 5.b above on each lot is impractical, such distribution may be approved through submittal and approval by the Planning Commission of a Master Plan for compliance with these requirements over the entirety of the property to be developed.

d. Trees shall be planted in green/open space in accordance with part III.E, "Site Plan Review."

e. One percent (1%) of the green/open space shall be planted in seasonal color.

f. Irrigation of the green/open space shall be required on the site of construction of a new building. Installation of irrigation shall not be required on the site of change of occupancy or additions to or renovation of an existing building.

The irrigation system shall be in compliance with the following:

- Automatic controlled with timer.
- Sufficient coverage of all landscaped areas.
- Shall not spray onto paved areas, including sidewalks, driveways, streets, and parking and loading areas.

- Equipped with a reduced pressure principle backflow prevention device, which shall be inspected annually by a certified tester.

- Low-volume water conservation measures encouraged.

For a site with a landscaped area small enough that it can be maintained without an irrigation system, the irrigation requirement may be waived by the Board of Mayor and Aldermen upon submittal in the landscaping plan of reasonable alternative means of watering the area.

Drought-tolerant plant materials are encouraged.

6. Screen between Single-Family Residential and All Other Land Uses

A twenty-foot-deep (20') landscape screen, Plate 23D, shall be provided at the boundary between single-family residential use (or zoning, if the land is vacant) and all other land uses, on the property of the other use.

a. The landscape screen shall have the following configuration:

- 6' wood fence at the property line, with 2' square brick or stone columns at not more than 20' on centers, including at the property corners of the adjacent residential lots. Spacing of the brick or stone columns shall be determined in the same manner as in Article VI, Section 19, Fences, part F.6.

- Face of the columns and face of the fence flush at the residential property line.

  The fence shall be of shadowbox design unless a solid fence, with the smooth side toward the single-family-residential use, is approved by the Design Review Commission.

- Large evergreen shrubs at 6' on centers.

- Large-density deciduous shade trees, 2 ½" caliper, at 50' on centers.

- Between each pair of large-density trees, five (5) evergreen trees at 12' on centers (double rows, offset), 6' - 8' height when planted.

b. Use multiple layers of plant materials to provide a visually interesting mix, including consideration of berms.

c. Provide topography on the landscape plan, and show grades relative to adjacent residential lots.

d. Where irrigation of the green/open space is required in accordance with part III.D.5.f, irrigation of the landscape screen also shall be required.

Cross-reference. See also the requirements for screening of double-frontage residential lots, Article VI, Section 19, Fences.

7. Stormwater detention basins

Detention basin landscaping may be required by Engineering staff. Such landscaping may include a mix of deciduous, evergreen, and ornamental trees, shrubs, and groundcover. Areas not covered by plantings shall be seeded or sodded to minimize erosion. These areas may require irrigation depending on plant material selection. (See 8.d. below.)

8. Recommended plant materials

In addition to Attachment A, lists of recommended plant materials are available as follows:

a. Shrubs by category (deciduous, semi-evergreen, and evergreen) and size (small, medium, large).

b. Landscape screening plants (shrubs and trees).

c. The City of Bartlett Plant Index listing and describing trees; shrubs and vines; ornamental grasses, groundcovers, and ferns; perennials; and annuals.

d. For a detention basin, a template and specific list of plants may be provided by the Forester; or he may review the plant selection provided by the developer's engineer.

9. Bond

The developer will bond with the Engineering department the cost of landscaping prior to starting construction.

Such bond shall be in the amount of the bid price or the contract price for the work, whichever is determined by the Forester to be the best representation of the work. A cost estimate for the work shall be submitted for review by the Forester.

E. Site Plan Review

On developments that are required to have site plan approval by the Planning Commission and Design Review Commission, the quantity of trees on a site must meet a minimum tree density criterion in addition to the trees required in the frontage planting areas.

1. The site requirement is twenty (20) density units per acre.

2. Both existing trees and newly planted trees contribute to the total density, with the minimum tree size considered for existing trees to be six (6) inches DBH and the maximum tree size for existing trees to be forty (40) inches DBH.

F. Residential Subdivision Development

1. Tree Survey

A tree survey in accordance with part III.H, "Tree Survey," shall be prepared and submitted with a subdivision Master Plan application.

2. Trees to be Removed

The following trees may be shown as "to be removed":

a. Any tree lying within the proposed buildable area of a lot (bounded by the minimum yards) or within a proposed street right-of-way.

b. Any tree in an area that must be filled or cut, as determined by the City Engineer.

c. Any other tree where the Forester confirms that

- roots within the drip line of the tree are likely to be damaged by construction of a house, driveway, street, sidewalk, or utility lines to the degree that the tree will not survive, or

- limbs will have to be pruned away from a house to the degree that the tree will be so disfigured as to be of significantly less value, or

- the tree will cause functional problems for use of the house, such as blocking doorways or windows or the ability to pass through a side yard, such determination to be made in consultation with the Forester and the Director of Code Enforcement.

d. Trees in or adjacent to public sanitary sewer, water, and stormwater drainage easements where removal is determined by the City Engineer to be necessary.

Removal of trees under "a" and "b" above and especially other trees shall be subject to a determination of the Planning Commission that the following are not feasible:

- Adjust the layout of lots and streets or grading of lots to retain specific trees proposed to be removed.

- Retain groups of trees or larger individual trees by enlarging one or more adjoining lots or creating common open space, a park, or a landscaped median or cul-de-sac island around such trees or groups of trees.

3. Grading

Development of a subdivision as well as preparation of a lot for and construction of a single-family house is subject to part III.G, "Grading Plan Review."

4. Yard Trees

In residential subdivisions, at least one tree from the approved list with a minimum of 1.5 caliper-inches shall either exist or shall be planted in the front yard of every lot prior to issuance of a final permit approval.

5. Street Trees

On collector and arterial streets, where

- single-family residential lots face the street and

- depth is added to the right-of-way on each side to provide for a planting strip deeper than the conventional 4.5 feet between the sidewalk and curb.

place at least one street tree per lot in the additional depth. Use species indicated by the City to be suitable as street trees.

G. Grading Plan Review

1. Applicability

A grading or building permit shall be required for all grading, earth-moving, changing of elevation of property, or removal of live trees. This requirement applies to all such work, including the following:

- Work for which a site plan or a subdivision Construction Plan or Final Plan is required and has been approved by the Planning Commission. Application for a permit shall be to the Engineering Department.

- Work on a single-family residential lot for which a plot plan for a new house is required and has been approved by the Code Enforcement Department. Application for a permit shall be to the Code Enforcement Department.

- Work on any other lot where the owner has not obtained a permit for a site plan, subdivision, or plot plan for a house. Application for a permit shall be to the Code Enforcement Department.

2. Submittals

Permits may be obtained after the submittal of a written statement of the purpose of the work and a grading plan, site plan, or plot plan prepared by a licensed surveyor, landscape architect, architect, or engineer.

The grading plan, site plan, or plot plan shall include the following (see also parts III.D and III.F):

a. A tree survey in accordance with part III.H, "Tree Survey."

b. The nature and extent of the proposed grading, earth-moving or change in elevation.

c. Applicant's plans for controlling on-site-generated sedimentation, erosion and run-off.

3. Approval

A grading permit application shall be approved if the department authorized to accept the application determines that the following criteria are met:

a. The grading plan, including tree removal, has been prepared and will be performed in accordance with good flood, erosion, and sedimentation control practices and good forestry practices.

b. The application addresses the saving of existing trees when warranted.

c. The application provides for sufficient and timely replanting of trees to compensate for the removal of trees and foliage.

d. Preserved and replanted trees meet the minimum tree density, where applicable.

e. The applicant intends to complete development according to a time schedule or has taken steps to prevent any negative impacts resulting from the work proposed.

H. Tree Survey

A tree survey shall be submitted for subdivision or site plan development. The survey shall include the entire property and not less than 25 feet outside the perimeter of any area to be disturbed by development.

1. Preliminary Master Plan Survey

A preliminary survey shall be submitted as part of the Master Plan for the development, which shall show the boundary of clusters of trees, based on aerial photography. Individual trees within the clusters need not be shown, but isolated individual trees shall be shown. A Certified Arborist shall review the clusters or isolated trees and designate "trees worthy of retention," in accordance with the following criteria:

a. *Listed*. The tree is on Attachment A below, the recommended list of trees by category (deciduous or evergreen) and size.

b. *Height*. The tree has attained a significant portion of the mature height characteristic of the species; that is, so many years' growth are invested that the tree should be considered for retention rather than replaced elsewhere on the site. (See the small-, medium-, and large-density trees in Attachment A.)

c. *Form*. If a tree meeting criteria #1 and #2 is isolated or likely to become isolated by removal of surrounding trees, the tree has attained a form (branching pattern, including symmetry) characteristic of a free-standing tree of that species.

d. *Designation*. A tree is designated a Champion, Landmark, or Historic Tree.

The tree survey shall be prepared on a sheet with existing topography and the proposed subdivision street and lot layout or proposed site plan. The City Forester may require additional tree survey work if, after a site visit and review of the tree survey submitted, the Forester determines that all trees meeting the above criteria are not shown.

No survey shall be required in required buffers for state-protected streams, but protective plans shall be developed to ensure that no damage occurs to these trees.

2. Final Construction Plan Survey

The survey at the Construction Plan level shall show three types of areas:

a. Trees worthy of retention (trees not to be disturbed). All trees in the zone shall be saved by the developer and builder.

b. Marginal coverage (trees to be taken out only with a permit at the builder level). The developer shall save these trees; and the builder shall submit a plan to Code Enforcement justifying removal of individual trees.

c. Removal zone (take-out zone). The trees may be removed by the developer.

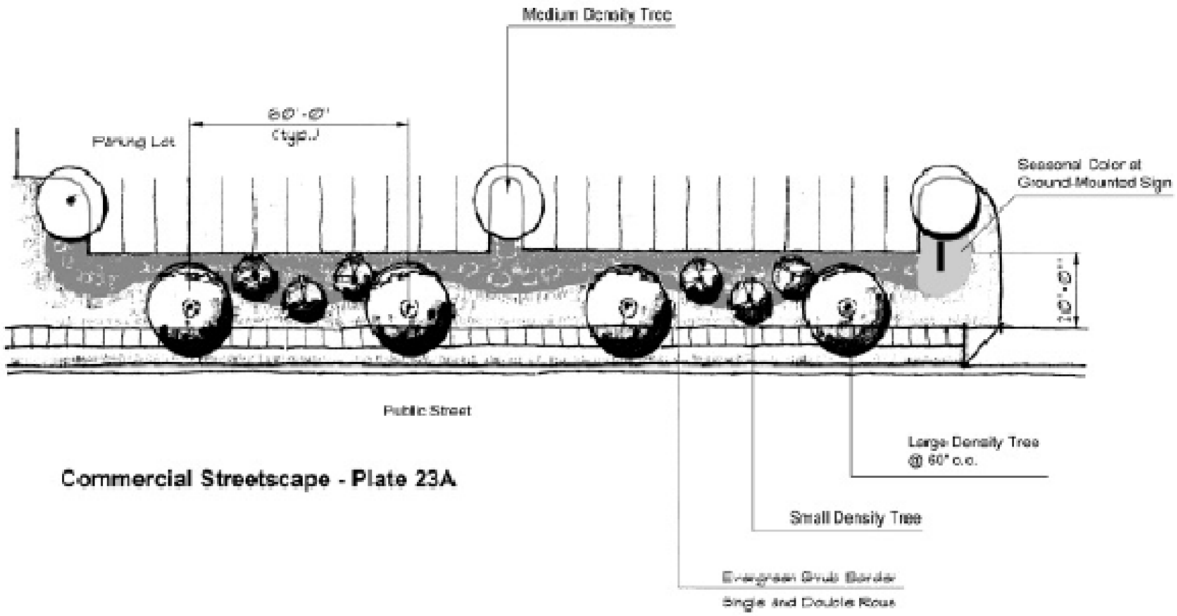
The three types of tree construction activity shall be located with an accurate survey shown on the plan. A protection plan will be devised for trees to be saved and submitted with construction Plans for approval. The protection plan will be reviewed and signed by the arborist and surveyor. All trees worthy of protection and groups of trees to be protected shall be delineated on the plat for protection. An additional sheet will be added to the final plat designating "trees worthy of retention" and "marginal" areas.

Attachment A. Trees by Category and Size
(bold type--Recommended street trees *-Recommended for use under and adjacent to overhead utility lines)
This list may be amended by Resolution of the Board of Mayor and Aldermen

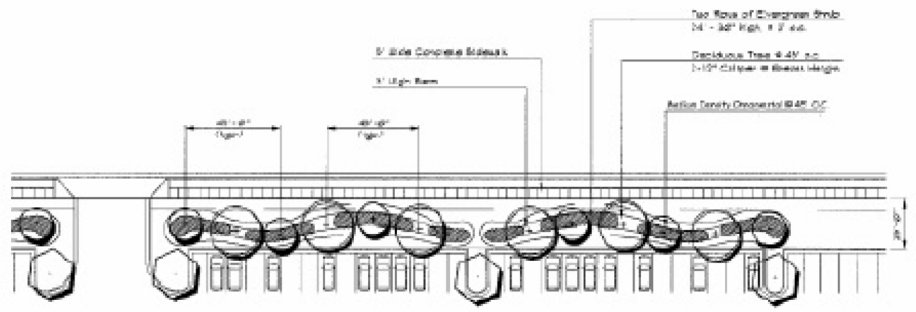
	Deciduous		Evergreen	
Small Density	**Bloodgood Japanese maple*** . . . . . . **Coral bark Japanese maple*** . . . . . . **Serviceberry*** . . . . . . Forest Pansy redbud . . . . . . **Smoketree** . . . . . . **Kousa dogwood*** . . . . . . **Winter King hawthorne*** Deciduous holly (possum haw) . . . . . . **Carolina Beauty crape myrtle*** . . . . . . **Catawba crape myrtle*** . . **Muskogee crape myrtle*** **Star magnolia*** . . . . . . Royal Star magnolia* . . . . . . **Carolina cherrylaurel*** . . **Flowering plum*** . . . . . . Weeping Higan cherry . . . . . Okame cherry . . . . . . Chastetree	*acer palmatum "Bloodgood"* *acer palmatum 'Sango-kaku'* *amelanchier spp. 'Autumn Brilliance* *'Robin Hill,' 'Tradition'* *cercis canadensis 'Forest Pansy'* *continus coggygria* *cornus kousa* *crategus viridis 'Winter King'* *ilex deciduas* *lagerstroemia indica 'Carolina Beauty'* *lagerstroemia indica 'Catawba'* *lagerstroemia indica 'Muskogee'* *magnolia stellata* *magnolia stellata 'Royal Star'* *prunus caroliniana* *prunus cerasifera* *prunus subhirtella 'Pendula'* prunus x 'okame' vitex	Burford holly (tree-form) . . . . . . Yaupon holly (tree-form) . . . . . . Nellie R. Stevens holly . Mary Nell holly . . . . . . Emily Bruner holly . . . . Hollywood juniper . . . . Wax myrtle . . . . . . Emerald Green arborvitae	*ilex cornuta 'Burfordi'* *ilex vomitoria* *ilex x 'Nellie R. Stevens'* *ilex x 'Mary Nell'* *ilex x 'Emily Bruner'* *juniperus chinensis 'Torulosa'* *myrica cerifera* *thuja occidentalis 'Emerald Green'*

	Deciduous		Evergreen	
Medium Density	**Trident maple***	acer buergeranum	Deodar cedar.	*cedrus deodra*
	Hedge maple*	acer campestre	Hinoki cypress	*chamaecyparis obtusa*
	Amur maple	acer ginnala	Savannah holly.	*ilex x 'Savannah'*
	Bowhall red maple	acer rubrum 'Bowhall'	Fosters holly	*ilex x attenuata 'Fosteri #2'*
	Eastern redbud*	cercis canadensis		
	Red, white, pink dogwood . .	cornus florida	Burki juniper	*juniperus virginiana 'Burki'*
	Thornless hawthorne* . . .	crateaegus spp.		
	Golden raintree*	koelreuteria paniculata	Little Gem magnolia . .	*magnolia grandiflora 'Little Gem'*
	Natchez crape myrtle* . . .	lagerstroemia indicia 'Natchez'		
	Saucer magnolia*	magnolia x soulangiana	Leyland cypress	*x cupressocyparis Leylandii*
	Sweetbay magnolia	magnolia virginiana		
	Crabapple (various)*	malus species		
	Pistachio	pisticia vera		
	Kwanzan cherry*	prunus serrulata 'kwanzan'		
	Yoshino cherry*	prunus serrulata 'Yoshino'		
	Cleveland Select pear.	pyrus celleryana 'Cleveland Select'		
	Greenspire linden.	tilia cordata 'greenspire'		

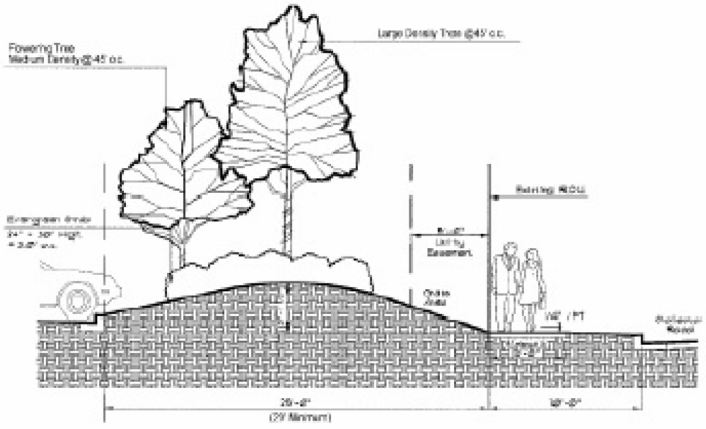
	Deciduous		Evergreen	
Large Density	Columnar Norway maple . . . Armstrong red maple . . . . . . October Glory red maple . . . Autumn Blaze maple . . . . . . American Yellowwood . . . . . Persimmon . . . . . . Green ash (hybrids) . . . . . . Ginkgo (male only) . . . . . . Thornless honeylocust . . . . . Seedless sweetgum. . . . . . Tulip tree or yellow-poplar Dawn redwood . . . . . . Black tupelo . . . . . . London planetree . . . . . . Sawtooth oak . . . . . . Swamp white oak . . . . . . Southern red oak . . . . . . Shingle oak . . . . . . Burr oak . . . . . . Chinkapin oak . . . . . . Water oak . . . . . . Nuttal oak. . . . . . Cherrybark oak . . . . . . Pin oak . . . . . . Willow oak . . . . . . English oak. . . . . . Northern red Oak. . . . . . Bald-cypress . . . . . . American elm . . . . . . Lace bark (or Chinese) elm Japanese zelkova	*acer platanoides 'Columnar'* *acer rubrum 'Armstron'* *acer rubrum 'October Glory'* *acer x freemanii* *cladrastis lutea* *diospyros virginiana* *fraxinus pennsylvanica* *ginkgo biloba* *gleditsa triacanthos var. inermas* *liquidambar styraciflua* *'Rotundiloba'* *liriodendron tulipifera* *metasequoia glyptostroboides* *nyssa sylvatica* *platanus x acerifloria* *quercus acutissima* *quercus bicolor* *quercus falcate* *quercus imbricaria* *quercus macrocarpa* *quercus muehlenbergrii* *quercus nigra* *quercus nuttallii* *quercus pagoda* *quercus palustris* *quercus phellos* *quercus robur 'Skyrocket'* *'Pyramich,'* *'Fastigiata'* *quercus rubra* *taxodium distichum* *ulmus americana* *ulmus parvifolia* *zelkova serrata*	Blue Nootka false cypress . . . . . . Southern magnolia. . . . Eastern red cedar. . . . . Japanese black pine . . . Virginia pine.	*chamaecyparis nootkatensis 'glauca'* *magnolia gradiflora* *juniperus virginiana* *pinus thunbergiana* *pinus virginiana*



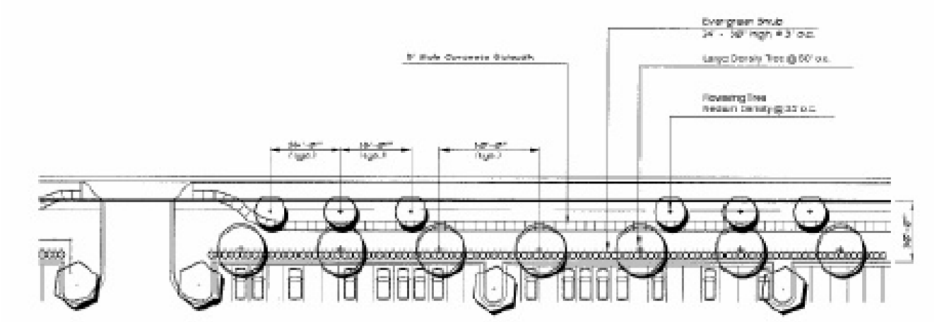
Commercial Streetscape - Plate 23A



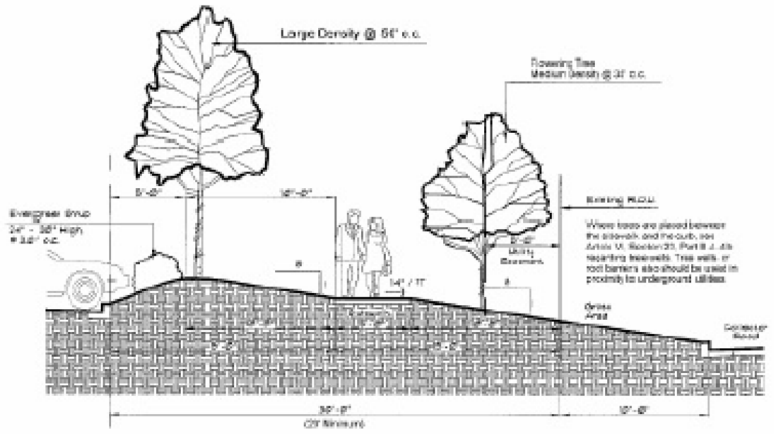
Commercial Streetscape Plate 23B



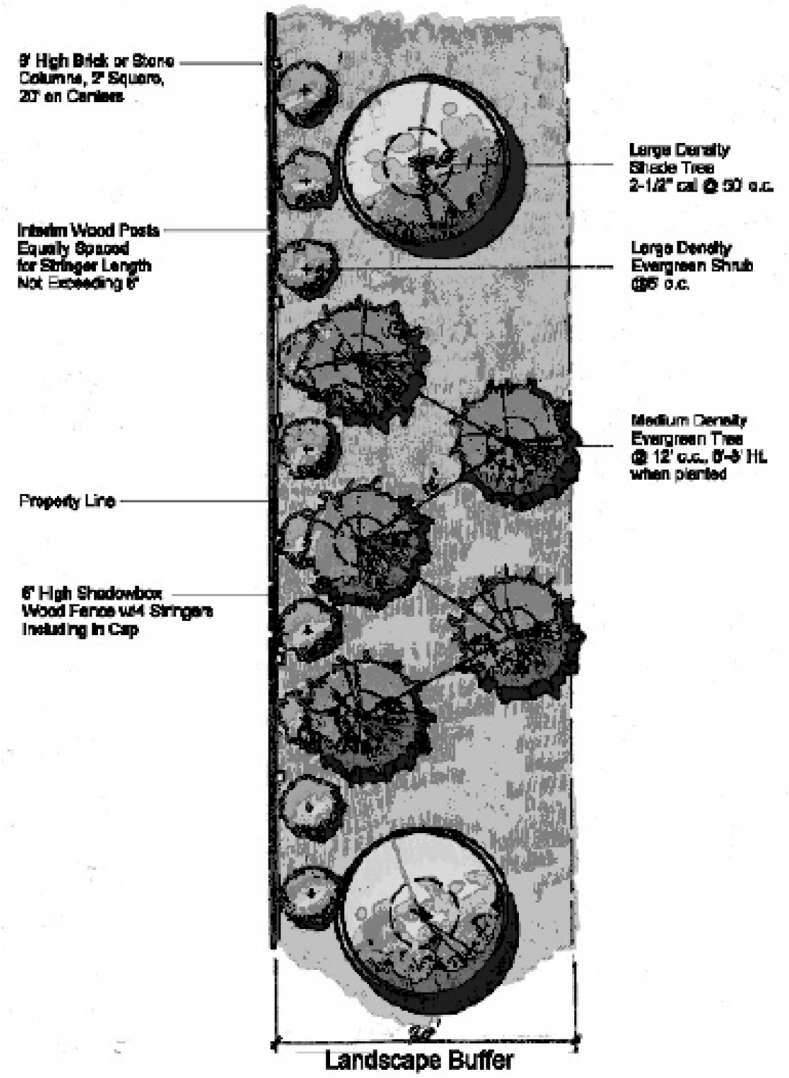
Commercial Streetscape Plate 23B



Commercial Streetscape Plate 23C



Commercial Streetscape Plate 23C



Screen Between Single-Family Residential and All Other Land Uses
Plate 23D

Section 24 - H - Historic Preservation Overlay Zone

(Ord. 99-12, 10/26/99)

A. PURPOSE

The purpose of this section is to describe and to provide for identifying the boundaries of areas wherein the provisions of Article VI, Section 25, Historic Preservation, apply.

B. RELATION BETWEEN HISTORIC PRESERVATION OVERLAY ZONES AND ZONING DISTRICTS

(Amended by Ord. 02-16, 12/10/02)

A historic preservation overlay zone is not a separate zoning district. Instead, it is an area within which additional requirements are imposed to supplement those of the underlying zoning districts in Article V. A single historic preservation overlay zone may extend over more than one zoning district.

The boundary of a historic preservation overlay zone and the boundaries of any underlying zoning districts are established independently and are not necessarily coincident. A historic preservation overlay zone may encompass all or only a portion of a particular zoning district.

Requirements for any area within a historic preservation overlay zone are

- the same as those for the underlying zoning district, including any special use permits approved in accordance with the Zoning Ordinance, plus
- the additional requirements of Article VI, Section 25, Historic Preservation.

C. DESIGNATION ON THE ZONING MAP

A historic preservation overlay zone shall be identified on the Official Zoning Map by marking the boundary and placing within the boundary the letter "H," together with such supplementary designation as is required by Article VI, Section 25, Historic Preservation.

Section 25 - Historic Preservation

(Ord. 99-12, 10/26/99)

A. STATEMENT OF PURPOSE

This Historic Preservation Ordinance is intended to promote and protect the health, safety, prosperity, education, and general welfare of the people living and visiting the City. More specifically, this Ordinance is designed to achieve the following goals:

1. Protect, enhance and perpetuate resources which represent distinctive and significant elements of the City's historical, cultural, social, economic, political, archaeological, and architectural identity.

2. Insure the harmonious, orderly, and efficient growth and development of the City.

3. Strengthen civic pride and cultural stability through neighborhood conservation.

4. Stabilize the economy of the City through the continued use, preservation, and revitalization of its resources.

5. Promote the use of resources for the education, pleasure, and welfare of the people of the City.

6. Provide a review process for the preservation and development of the City's resources.

B. DEFINITIONS

1. **Historic Resource.** A Historic Resource is a building, structure, object or site, at least fifty (50) years in age, which represents distinctive and significant elements of the City's historical, cultural, social, economic, political, archaeological and architectural identity.

2. **Historic Preservation District.** A Historical Preservation District is an area containing a group of contiguous properties where only normal maintenance and repairs, which do not alter the architectural characteristics of the properties, can be made without specific approval of the Commission.

3. **Historic Conservation District.** A Historic Conservation District is an area containing a group of contiguous properties where normal maintenance and repairs, including some alterations can be made without specific approval of the Commission.

4. **Historic Landmark District.** A Historic Landmark District is a collection of scattered, individual Landmark sites, which all meet the same criteria established by the Commission.

5. **Certificate of Appropriateness.** In a Historic District, a property owner, in most instances, will need a certificate of Appropriateness issued by the Historic Preservation Commission, as well as the normal permit issued by Bartlett Codes Enforcement, before commencing construction, alteration, relocation or demolition of a property.

6. **City building official.** The City of Bartlett's Director of Code Enforcement shall serve as the City building official as the term is used herein.

7. **Design review guidelines.** The Historic Preservation Commission will establish design review guidelines for each district and landmark with input from the property owners of the district or landmark. These guidelines will, among other things, determine what repairs, maintenance and alterations will or will not require a Certificate of Appropriateness.

8. **Property.** A property is any official subdivision lot and the improvements thereon.

9. **Economic Hardship.** The definition of economic hardship depends on what kind of property it is; income producing, residential, or a property owned by a not-for-profit organization.

    a. For an income-producing property, it is centered on whether or not a property can produce a reasonable rate of return on investment, if managed properly. The owner's financial circumstances are not to be considered; only the property's capability of generating a reasonable return. Also, if a property earns a reasonable rate of return, it would not be an economic hardship to prevent the construction of a new building that is capable of generating a higher rate of return. To prove economic hardship, the owner will be required to show that he realizes poor or non-existing earnings from the property; that he has made an honest effort to make a reasonable return; that he has considered alternative uses of the property, and he has been unsuccessful in trying to sell the property at a fair price to someone who would preserve it.

    b. Not-for-profit owners have a different standard for determining economic hardship. Here, the test is whether the property's historic designation physically or financially prevents or seriously interferes with carrying out the owner's non-profit purpose. To

prove economic hardship, the owner will be required to show the non-profit purpose of organization; how the property is interfering with achieving that purpose and that the owner has considered alternative ways the organization could achieve it's purpose without harming the property.

c. Economic hardship for homeowners is still another standard. The question is whether the historic home is capable of continued use as a home. Costs of real estate taxes, insurance, utilities, maintenance and repairs for older homes are higher than average, but may not interfere with the property's use as a residence. However, depending on the size of the property and the amount of expense necessary to occupy and maintain it, the feasibility of preserving it as a residence may diminish. To prove economic hardship, the owner will be required to show recent and anticipated costs of occupying and maintaining the property as a residence and why it is infeasible to continue doing so. The owner's financial circumstances may be considered.

C. HISTORIC COMMISSION: COMPOSITION AND TERMS

In accordance with Tennessee Code Annotated, § 13-7-401, the City hereby establishes a Historic Preservation Commission to preserve, promote, and develop the City's historical resources and to advise the City on the designation of preservation districts, conservation districts, landmarks, and landmark sites and to perform such other functions as may be provided by law.

The Historic Preservation Commission shall consist of nine (9) members, who shall be Bartlett citizens, including a representative of a local patriotic or historical organization; an architect or engineer, if available; a person who is a member of the Board of Mayor and Aldermen at the time of his/her appointment; a person who is a member of the City of Bartlett Planning Commission at the time of his/her appointment; and a person who is a member of the City of Bartlett Design and Review Commission at the time of his/her appointment. The remainder shall be from the community in general.

All members of the Historic Preservation Commission are appointed by the Mayor of the City of Bartlett, are approved by the City of Bartlett Board of Mayor and Aldermen, and serve at the will and pleasure of the Mayor. Members shall serve five-year terms and may be re-appointed. To achieve staggered terms, initial appointments shall be one member for one year, two members for two years, two members for three years, two members for four years and two members for five years. Members shall not receive a salary. All Commission members shall have a demonstrated knowledge of or interest, competence, or expertise in historic preservation, to the extent available in the community. The

Mayor should appoint professional members from the primary historic preservation-related disciplines of architecture, history, architectural history, or archaeology or from secondary historic preservation-related disciplines such as urban planning, American studies, American civilization, cultural geography, cultural anthropology, interior design, law, and related fields. The Mayor shall make a "good faith effort" to locate professionals to serve on the Historic Preservation Commission before appointing lay members. The Historic Preservation Commission shall also seek the advice, as needed, of professionals not serving on the board.

D. POWERS OF THE COMMISSION

1. The Historic Preservation Commission shall conduct or cause to be conducted a continuing study and survey of resources within the City.

2. The Historic Preservation Commission shall recommend to the Planning Commission and the Board of Mayor and Aldermen the adoption of ordinances designating preservation districts, conservation districts, landmarks, and landmark sites.

3. The Historic Preservation Commission may recommend that the Board of Mayor and Aldermen recognize sub-districts within any preservation or conservation district, and the Historic Preservation Commission may adopt specific guidelines for the regulation of properties within such a sub-district.

4. The Historic Preservation Commission shall review applications proposing construction, alteration, demolition, or relocation of any resource within the preservation districts, conservation districts, landmarks, and landmarks sites.

5. The Historic Preservation Commission shall grant or deny certificates of appropriateness and may grant certificates of appropriateness contingent upon the acceptance by the applicant of specified conditions.

6. The Historic Preservation Commission does not have jurisdiction over interior arrangements of buildings and structures, except where such change will affect the exterior of the buildings and structures.

7. The Historic Preservation Commission may apply to the Board of Mayor and Aldermen for appropriations for the purpose of carrying out the provisions of this ordinance.

8. The Historic Preservation Commission is authorized to request technical assistance from the staff of the City of Bartlett as may be required for the performance of its duties.

9. The Historic Preservation Commission is authorized, solely in the performance of its official duties and only at reasonable times and with the owner's permission, to enter upon private land or water for the examination or survey thereof. No member, employee, or agent of the Historic Preservation Commission shall enter any private dwelling or structure without the express consent and presence of the owner of record or occupant thereof.

E. RULES OF ORDER (BY-LAWS)

To fulfill the purposes of this ordinance and carry out the provisions contained therein, the Historic Preservation Commission shall take the following actions:

1. The Historic Preservation Commission annually shall elect from its membership a chairman and vice-chairman. It shall select a secretary from its membership or its staff. If neither the chairman nor the vice-chairman attends a particular meeting, the remaining members shall select an acting chairman from the members in attendance at such meeting.

2. The Historic Preservation Commission shall develop and adopt rules of order (by-laws) which shall govern the conduct of its business, subject to the approval of the Board of Mayor and Aldermen. Such rules of order (by-laws) shall be a matter of public record.

3. The Historic Preservation Commission shall develop design review guidelines for determining appropriateness as generally set forth in Section 25, paragraph G of this ordinance. Such guidelines shall insofar as possible be consistent with local, state, and federal guidelines and regulations, including, but not limited to, building safety and fire codes and the Secretary of the Interior's Standards for Rehabilitation. These guidelines shall be subject to the approval of the Board of Mayor and Aldermen.

4. The Historic Preservation Commission shall keep minutes and records of all meetings and proceedings including voting records, attendance, resolutions, findings, determinations, and decisions. All such material shall be a matter of public record.

5. The Historic Preservation Commission shall establish its own regular meeting time; however, regular meetings shall be scheduled at least once every three (3) months. The chairman or any two (2) members may call a special meeting to consider an urgent matter. Any members who miss three (3) regularly scheduled meetings in a one-year period are automatically removed from this Commission.

F. DESIGNATION OF LANDMARKS, LANDMARK SITES, AND HISTORIC DISTRICTS

By ordinance, the Board of Mayor and Aldermen may establish landmarks, landmark sites, preservation, and conservation districts within the area of its jurisdiction. Such landmarks, landmark sites, preservation districts and conservation districts shall be designated following the criteria specified in Section 25 paragraph A.

1. There are hereby created the following classifications of local historic overlay districts, as shown on the official zoning map of the City:

    a. Historic preservation district. In a designated historic preservation district, no building, structure, object or site shall be constructed, altered, relocated or demolished unless the action meets with the requirements set forth in the design review guidelines adopted for the historic preservation district and for issuance of a Certificate of Appropriateness.

    b. Historic conservation district. In a designated historic conservation district, no building, structure, object or site shall be constructed, relocated, demolished or increased or reduced in habitable area unless the action meets with the requirements set forth in the design review guidelines adopted for the historic conservation district and for issuance of a Certificate of Appropriateness.

    c. Historic landmark district. In a designated landmark district, no building, structure, object or site shall be constructed, altered, relocated or demolished unless the action meets with the requirements set forth in the design review guidelines adopted for the individual historic landmark and for issuance of a Certificate of Appropriateness. Each property in the landmark district will meet the criteria established for the district and have its own design review guidelines.

    The numbering system for the Historic district overlay zones shown on the zoning map shall be "HPD-1, HPD-2," etc. for Historic Preservation districts; "HCD-1, HCD-2," etc. for Historic Conservation districts; and "HL-1, HL-2," etc. for Historic landmarks. Each district shall have its own distinct set of design review guidelines. Any use permitted by the existing zoning classifications is also permitted in the Historic district overlay zone.

2. The Historic Preservation Commission shall initiate a continuing and thorough investigation of the archaeological, architectural, cultural, and

historic significance of the City's resources. The findings shall be collected in a cohesive format, made a matter of public record, and made available for public inspection. The Historic Preservation Commission shall work toward providing complete documentation for previously designated historic districts which would include the following:

a. A survey of all property within the boundary of the district, with photographs of each building.

b. A survey in a format consistent with the statewide inventory format of the Historic Preservation Division of the State Historic Preservation Office (SHPO).

3. The Historic Preservation Commission shall advise the Board of Mayor and Aldermen on the designation of preservation districts, conservation districts, landmarks, or landmark sites and submit or cause to be prepared ordinances to make such designation.

4. A resource or resources may be nominated for designation upon motion of three members of the Historic Preservation Commission or by an organization interested in historic preservation or by an owner of the property being nominated. A nomination shall contain information as specified by the Historic Preservation Commission. The Historic Preservation Commission must reach a decision on whether to recommend a proposed nomination to the Planning Commission within six months in the case of a preservation or conservation district and two months in the case of either a landmark or landmark site. After six months for a district and two months for a landmark or landmark site, if the Historic Preservation Commission has taken no action, the nomination shall be forwarded to the Planning Commission for their recommendation to the Board of Mayor and Aldermen.

5. The Historic Preservation Commission shall hold a public hearing on the proposed preservation or conservation district, landmark, or landmark site. If the Historic Preservation Commission votes to recommend the designation of a proposed resource, it shall promptly forward to the Planning Commission its recommendation, in writing, together with an accompanying file.

6. Before sending a recommendation to the Planning Commission for the designation of a preservation or conservation district, the Historic Preservation Commission shall take a vote of the owners of all property located within the proposed district. To take such a vote, the Historic Preservation Commission shall mail by Certified Mail, return receipt requested, to each of said property owners the following:

a. a copy of this Ordinance;

b. the boundaries of the proposed district;

c. the proposed design review guidelines for the district;

d. a letter requesting the owner's vote by a specific date and providing the names of Commission members as a source of additional information, if needed, and

e. one postage-prepaid, pre-addressed postal card for each property owned by the individual to be returned to the City Clerk of the City of Bartlett, showing the name of the owner and the tax assessor's parcel member assigned to the property and two choices to check:

_____ for the designation of the District or

_____ against the designation of the District

The card shall also provide a space for the owner's signature, which shall be required to record the vote.

The recommendation shall not be forwarded to the Planning Commission or Board of Mayor and Aldermen unless at least a majority of the properties located in the proposed district are represented by yes votes from the owners.

Before sending a recommendation to the Planning Commission or the Board of Mayor and Aldermen for the designation of a historic landmark, the Historic Preservation Commission shall supply the owner of the property with the same information required by this paragraph 6 subparagraphs a., b. and c. and obtain the owner's written approval of the recommendation.

7. The Historic Preservation Commission's recommendations to the Planning Commission for designation of a preservation or conservation district shall be accompanied by:

a. a map of the preservation district that clearly delineates the boundaries;

b. a written boundary description and justification;

c. a written statement of significance for the proposed preservation district;

d. the proposed design review guidelines for the district; and

e. a written statement setting forth the number of properties in the proposed district, the number of votes for designation and the number of votes against designation.

8. Upon receipt of a recommendation from the Planning Commission and receipt of the information provided under paragraph number 7, the Board of Mayor and Aldermen shall conduct a public hearing, after notice, to discuss the proposed designation and boundaries thereof. A notice of the hearing shall be published in a newspaper having general circulation in the City. Public hearing requirements which are set forth in Article 12 of the Zoning Ordinance shall be used.

9. After the public hearing held in connection herewith, the Board of Mayor and Aldermen shall reject or adopt the ordinance with or without modifications.

10. The Historic Preservation Commission shall recommend amendments to then existing Ordinances, which have designated a Landmark or Historic District, in order to change the boundaries and/or design review guidelines, by following the same procedures as is necessary to designate a new Landmark or Historic District.

11. Furthermore, the Historic Preservation Commission shall notify, as soon as is reasonably possible, the appropriate state, county, and municipal agencies of the official designation of all landmarks, and landmark sites, and all preservation and conservation districts. An updated list and map shall be maintained by the City and made available to the public.

G. CERTIFICATES OF APPROPRIATENESS

Except as provided in paragraph M herein, no exterior feature of any resource shall be altered, added to, relocated, or demolished until after an application for a Certificate of Appropriateness of such work has been approved by the Historic Preservation Commission. Likewise, no construction, which affects a resource, shall be undertaken without a Certificate of Appropriateness.

Therefore,

1. The Historic Preservation Commission shall serve as a review body with the power to approve and deny applications for certificates of appropriateness.

2. In approving and denying applications for Certificates of Appropriateness, the Historic Preservation Commission shall accomplish the purposes of this ordinance.

3. A Certificate of Appropriateness shall not be required for work deemed by the Historic Preservation Commission guidelines to be ordinary maintenance or repair which does not change the architectural characteristics of any resource.

4. All decisions of the Historic Preservation Commission shall be in writing and shall state the findings of the Historic Preservation Commission, its recommendations, and the reasons thereof.

5. Expiration of a Certificate of Appropriateness: A Certificate of Appropriateness shall expire if work has not begun within six (6) months of its issuance or not been completed with twelve (12) months. If a certificate has expired, an applicant may seek a new certificate.

6. Resubmitting of Applications: Twelve months after denial of an application for a certificate of appropriateness, the application may be resubmitted without change. A changed application may be resubmitted at any time.

H. CRITERIA FOR ISSUANCE OF CERTIFICATES OF APPROPRIATENESS

The Historic Preservation Commission shall use the Secretary of the Interior's Standards for Rehabilitation as the basics for Design Guidelines created for each district or landmark and the following criteria in granting or denying certificates of appropriateness:

1. General Factors:

    a. Architectural design of existing building, structure, or appurtenance and proposed alteration;

    b. Historic significance of the resource;

    c. Materials composing the resource;

    d. Size of the resource;

    e. The relationship of the above factors to and their effect upon the immediate surroundings and, if within a preservation district, upon the district as a whole and its architectural and historic character and integrity.

2. New Construction:

    a. The following aspects of new construction shall be visually compatible with the buildings and environment with which the new construction is visually related, including but not limited to

height, gross volume, proportion between width and height of the facade(s), proportions and relationship between doors and windows, rhythm of solids to voids created by openings in the facade, materials, textures, patterns, trims, and design of the roof.

b. Existing rhythm created by existing building masses and spaces between them shall be preserved.

c. The landscape plan shall be compatible with the resource, and it shall be visually compatible with the environment to which it is visually related. Landscaping also shall not be detrimental to the fabric of a resource or adjacent public or private improvements like sidewalks and walls.

d. No specific architectural style shall be required.

3. Exterior Alteration:

a. All exterior alterations to a building, structure, object, site, or landscape feature shall be compatible with the resource itself and other resources to which it is related.

b. Exterior alterations shall not adversely affect the architectural character or historic quality of a resource or the significance of resource sites.

4. In considering an application for the demolition of a landmark or a resource within a preservation district, the following shall be considered:

a. The Historic Preservation Commission shall consider the individual architectural, cultural, and/or historic significance of the resource.

b. The Historic Preservation Commission shall consider the importance or contribution of the resource to the architectural character of the district.

c. The Historic Preservation Commission shall consider the importance or contribution of the resource to neighboring property values.

d. The Historic Preservation Commission shall consider the difficulty or impossibility of reproducing such a resource because of its texture, design, material, or detail.

e. Following recommendation for approval of demolition, the applicant must seek approval of replacement plans, if any, as set forth in Section 25, paragraph I, prior to receiving a demolition permit and other permits. Replacement plans for this purpose shall include, but shall not be restricted to, project concept, preliminary elevations and site plans, and completed working drawings for at least the foundation plan, which will enable the applicant to receive a permit for foundation construction from the City Code Enforcement Department.

f. Applicants who have received a recommendation for demolition shall be required to obtain a demolition permit as well as a certificate of appropriateness for the new construction.

g. When the Historic Preservation Commission recommends approval of demolition of a resource, a permit shall not be issued until all plans for the site have received approval from all appropriate city boards, Commissions, departments, and agencies.

I. PROCEDURES FOR ISSUANCE OF CERTIFICATES OF APPROPRIATENESS

Anyone desiring to take action requiring a Certificate of Appropriateness concerning a resource for which a permit, variance, or other authorization from the City building official is required shall make application therefor in the form and manner required by the applicable code section or ordinance. Any such application shall also be considered an application for a Certificate of Appropriateness and shall include such additional information as may be required by the Historic Preservation Commission. After receipt of any such application, the City building official shall check to ensure that the application is proper, and no building permit shall be issued by the City building official that affects a resource without a Certificate of Appropriateness. In the event that a building permit need not be obtained for construction, alteration, demolition, or relocation of any resource, a Certificate of Appropriateness is still required before such work may be undertaken. Such application shall be reviewed in accordance with the following procedure:

1. When any such application is filed, the City building official shall immediately notify the Commission Chairman or Vice-Chairman, of the application having been filed.

2. The chairman or vice-chairman shall set the agenda for the regular meeting date or set a time and date, which shall be not later than thirty (30) days after the filing of the application, for a public hearing by the

Historic Preservation Commission, and the City building official shall be so informed.

3. The applicant shall, upon request, have the right to a preliminary meeting with the Historic Preservation Commission for the purpose of making any changes or adjustments that might be more consistent with the Commission's standards.

4. Not later than fifteen days before the date set for the said public hearing, the Commission Chairman shall mail notice thereof to the applicant at the address in the application and to all members of the Historic Preservation Commission.

5. The Commission Chairman shall give notice of the time and place of said hearing by publication in a newspaper having general circulation in the City at least fifteen (15) Days before such hearing and by posting such notice on the bulletin board at City Hall.

6. At such hearing, the applicant for a Certificate of Appropriateness shall have the right to present any relevant evidence in support of the application. Likewise, the Commission shall have the right to present any additional relevant evidence regarding the application.

7. The Historic Preservation Commission shall have the right to conditional approval.

8. Either at the hearing or within not more than thirty (30) days after the date of the application or the date of the preliminary meeting, which ever is later, the Historic Preservation Commission shall act upon it, either approving, or denying the application. Evidence of approval of the application shall be by Certificate of Appropriateness issued by the Historic Preservation Commission, and, whatever its decision, notice in writing shall be given to the applicant and the City building official.

9. The issuance of a Certificate of Appropriateness shall not relieve an applicant of the requirement for a building permit, special use permits, variance, or other authorization or from compliance with any other requirement or provision of the laws of the City concerning zoning, construction, repair, alteration, relocation or demolition.

J. ECONOMIC HARDSHIP

No decision of the Commission shall cause undue economic hardship. Any applicant denied a Certificate of Appropriateness by the Historic Preservation Commission may, within thirty (30) days, make application for a Certificate of Economic Hardship from the Historic Preservation Commission.

1. Information to be supplied by the applicant.

   a. The applicant shall submit by affidavit the following information:

      (1) The assessed value of the property and/or the structure in the case of a demolition, for the two (2) most recent assessments.

      (2) Real property taxes paid for the previous two (2) years.

      (3) The amount paid for the property by the owner, the date of purchase and the party from whom purchased, including a description of the relationship, if any, between the owner and the person from whom the property was purchased.

      (4) The current balance of any mortgages or any other financing secured by the property, and the annual debt service, if any for the previous two (2) years.

      (5) All appraisals obtained within the previous five (5) years by the owner or applicant in connection with purchase, offerings for sale, financing or ownership of the property, or state that none were obtained by the current owner.

      (6) All listings of the property for sale or rent, price asked and offers received, if any, within the previous five (5) years, or state that none were obtained by the current owner.

      (7) All studies Commissioned by the owner as to profitable renovation, rehabilitation or utilization of any structures or objects on the property for alternative use, or a statement that none were obtained.

      (8) For income producing property, itemized income and expense statements from the property for the previous two (2) years.

      (9) An estimate of the cost of the proposed alteration, construction, demolition or removal and an estimate of any additional cost that would be incurred to comply with the recommendations of the Historic Preservation Commission for changes necessary for it to approve a Certificate of Appropriateness.

(10) Form of ownership or operation of the property, whether sole proprietorship, for-profit or not-for-profit corporation, limited partnership, joint venture or other.

b. In the event that the information required to be submitted by the applicant is not reasonably available, the applicant shall file with the affidavit a statement of the information that cannot be obtained and shall describe the reasons why such information is unavailable.

c. Notwithstanding the submission of the above information, the Historic Preservation Commission may require additional evidence.

2. Public Hearing

a. The Historic Preservation Commission shall hold a public hearing on the application within thirty (30) days following receipt of the completed application form.

b. Notice of the application and of the public hearing and conduct of the public hearing, shall be in accordance with the provisions of the "Sunshine Law."

3. Determinations

The determination by the Historic Preservation Commission shall be made within thirty (30) days following the close of the public hearing and submission of all information, documentation or evidence requested by the Commission. The determination shall be accompanied by findings of fact.

4. Demolition Applications

The Historic Preservation Commission shall not grant approval of an application involving demolition, unless the Commission determines, upon clear and convincing evidence, that one or more of the following circumstances apply:

a. The structure is not subject to this Section 25; or

b. Denial of a demolition permit would result in a hardship to the property owner so great that it would effectively deprive the owner of all reasonable use of the property. The extent of any demolition permitted shall be limited to the amount necessary to allow reasonable use of the property. Where the condition of the

structure is claimed to prevent any reasonable use, the applicant shall establish that such condition is not the result of the acts of neglect of the owner or his predecessors in title occurring in whole or in part after adoption of this Section 25.

5. Disapproval by the Historic Preservation Commission

If the determination of the Historic Preservation Commission is to disapprove the application for a Certificate of Economic Hardship, the applicant shall be notified within ten (10) business days. The notice shall include a copy of the findings of fact and report.

K. APPEALS

The applicant who desires to appeal a decision by the Historic Preservation Commission shall file an appeal with the circuit court in the manner provided by law.

L. MINIMUM MAINTENANCE REQUIREMENTS

In order to ensure the protective maintenance of resources, the exterior features of such properties shall be maintained to meet the requirements of the City's building code.

M. PUBLIC SAFETY EXCLUSION

None of the provisions of this ordinance shall be construed to prevent any action of construction, alteration, or demolition necessary to correct or abate the unsafe or dangerous condition of any resource, or part thereof, where such condition has been declared unsafe or dangerous by the City building official or the fire department and where the proposed actions have been declared necessary by such authorities to correct the said condition; provided, however, that only such work as is necessary to correct the unsafe or dangerous condition may be performed pursuant to this section. In the event any resource designated as a landmark or located within a preservation or conservation district, shall be damaged by fire or other calamity to such an extent that it cannot be repaired and restored, it may be removed in conformity with normal permit procedures and applicable laws, provided that the City building official concurs with the property owner that the resource cannot be repaired and restored and so notifies the Historic Preservation Commission in writing before the demolition begins so that photographs can be made for the historic record.

N. ENFORCEMENT AND PENALTIES

The provisions of this ordinance shall be enforced by the City Building Official who shall have the right to enter upon any premises necessary to carry out his duties in this enforcement. Penalties for violations are as set forth in Article XIII of the Zoning Ordinance.

O. APPROPRIATIONS

The Board of Mayor and Aldermen is authorized to make appropriations to the Historic Preservation Commission as necessary for the expenses of the operation of the Commission.

P. DISQUALIFICATION OF MEMBERS BY CONFLICT OF INTEREST

Any member of the Historic Preservation Commission who has an interest in the property in question or in property within three hundred feet of such a property, or who is employed with a firm that has been hired to aid the applicant in any matter whatsoever, or who has any proprietary, tenancy, or personal interest in a matter to be considered by the Historic Preservation Commission shall be disqualified from participating in the consideration of any request for a Certificate of Appropriateness involving such a property. If any member of the Historic Preservation Commission must be disqualified due to a conflict of interest on a regular and continuing basis, the chairman or the vice-chairman, in his stead, shall ask the member to resign his Commission seat.

Section 26 - MS - Main Street Commercial Overlay District

(Ordinance 01-08, 6/26/2001)

A. Overlay district. The "Main Street Commercial Overlay" (MS) zoning overlay district may be applied by action of the Board of Mayor and Aldermen to any specific area within the City having an "office" or "commercial" zoning classification -- i.e., OR-1, OR-2, C-L, C-G, C-H, or SC-1.

Nothing in this section shall preclude either (1) changes to another zoning classification of the zoning districts underlying the MS overlay or (2) application to the same land area of the PRD-1 Planned Residential Development in Bartlett Station overlay or (3) removal of the MS overlay from areas no longer deemed appropriate for such overlay.

The standards herein shall apply within this overlay district but shall apply to existing development only upon construction of a new building or expansion of floor space of an existing building.

Except as otherwise provided, determination to be made within a designated MS district shall be made by the Planning Commission.

B. **Purposes.** The purpose of this zoning overlay district are as follows. No site plan shall be approved unless it is determined that these purposes are satisfied to a reasonable degree or to the extent feasible given the circumstances of the property, in accordance with the provisions of these regulations:

1. Maximize the building floor area on each lot.

2. Locate parking off the street frontage, so that businesses can move close to the sidewalk and more readily attract pedestrians.

3. Place buildings at a minimal front set-back line, close behind a sidewalk of adequate width.

4. Encourage construction of at least two-story buildings.

5. Locate retail uses on the ground-floor street frontage, preferably adjacent to other retail uses. Locate on second and higher floors office, service, and other non-residential uses that generate relativity low or no pedestrian traffic from the general public so as not to interrupt the continuity along the street frontage of retail uses.

6. Provide better access to the land areas remaining undeveloped or underdeveloped.

7. Develop sidewalks and building features (e.g., entrances, weather protection) so as to maximize safety, comfort, ease of movement, and convenience for pedestrians.

C. **Permitted uses.** All permitted uses of the underlying zoning districts shall be permitted by this overlay district.

D. **Lot width.** Minimum lot width may be reduced to twenty (20) feet, provided

- the width is uniform,

- a building of two or more stories is constructed on the lot, and

- any building less than 40 feet in width shall be attached to another building such that the total width of the attached buildings along the street frontage is at least 40 feet.

E. **Lot coverage.** There shall be no limit on lot coverage by buildings except where other site requirements such as setbacks, utility or access easements, parking, or landscaping preclude such coverage.

F. **Setbacks.** All building setback requirements shall be zero (0) feet, except as provided in part G.2, "Front setback," and in the following circumstances:

- Where other site requirements such as utility or access easements or landscaping preclude such reduction.

- Where it is determined that the use of existing buildings on adjacent parcels would be significantly adversely affected by setbacks from side or rear property lines that are smaller than those on the adjoining parcels (e.g., light would be blocked from existing windows on the side of a building).

- Where minimum required clearance from a 3-phase electric power line, based on the National Electric Code, must be maintained, especially for buildings of more than one story.

The front setback normally required for tree planting is addressed in part G.6.

For a particular site plan, a determination shall be made that setbacks approved are consistent with the purposes and provisions of this overlay district.

G. **New buildings and additions to existing buildings.** The following shall apply to either a new building or an addition to an existing building.

1. *Number of stories.* A new building for which any part of the parking requirement will be met off-site, as provided in part H.1, shall have at least two stories but not more than five stories. This also shall apply to an addition to an existing building unless it is determined that more than one story is impractical within the area available for expansion.

Such upper floors may be used and shall be suitable and available for retail, office, or other non-residential use.

A "half-story" under a pitched roof, with adequate dormers or other window arrangement for natural light, may be counted as a second story provided

- floor area is at least half that of the first floor;

- said floor area has at least nine-foot (9-foot) ceilings; and

- it is determined that the floor area, layout, and access are reasonably well-suited to the proposed use.

Floors above ground level shall have independent, separate access to the street.

2. *Front setback.* A new building or addition to an existing building shall be constructed no farther back than

   - at the street right-of-way line or
   - at the back of a required 15-foot sidewalk (see part G.3) or
   - at a distance behind the curb specified in plans adopted by the Board of Mayor and Aldermen for a specific area,

   whichever is the greatest distance behind the street curb. In no case shall the front setback specified for the underlying zoning district take precedence. (See part G.6 regarding the frontage tree-planting requirement.)

   Exceptions to the aforesaid front setback are:

   a. where a pedestrian courtyard (including outdoor seating for a business serving food or beverages) is created behind the sidewalk, in which case a building that abuts the courtyard may be set immediately behind it;

   b. where a building must be set back from the street to a location where the property is wider, because the street frontage is too narrow for the building; or

   c. where an addition to an existing building is at such a substantial distance from the aforesaid setback line or so located that it is determined that it can not reasonably be extended to that line (e.g., an addition to an existing building set well back on a shopping center property).

3. *Sidewalk.* Where the front setback for a new building is not an exception under part G.2, a sidewalk fifteen (15) feet in depth shall extend from the street curb to the building face. Street trees may be planted in the portion of the sidewalk area nearer the street curb.

   The sidewalk requirement also shall apply to an addition to an existing building, except:

   a. as provided in part H.6 for alteration of existing front parking; or

b. where the space between the existing front building face and a line fifteen (15) feet behind the curb is landscaped or improved for pedestrian use.

The width of sidewalk beyond the existing right-of-way may be either

- dedicated to the City; or
- maintained by the owner, with a public access easement granted to the City.

4. *Street face.* At least seventy percent (70%) of the horizontal dimension of ground-floor street faces of a new building or addition to an existing building shall be composed of windows opening into the interior, display windows (which need not be open into the interior), or entrances, which openings are determined by the Design Review Commission to be well-distributed along the face of the building or addition so as to minimize the lengths of blank wall areas.

Every street face shall have a public entrance that is open during business hours on the ground-floor space. (On a corner lot, a corner entrance may serve both street faces.)

5. *Building width.* A new building or addition to an existing building shall occupy the full width of the lot, except in the following circumstances:

a. A pedestrian passageway to parking or other businesses to the rear of the building is provided.

b. A side yard is used as an outside seating area for a restaurant or a public courtyard.

c. A driveway to parking spaces in the rear is allowed alongside the building because there is no reasonable alternative access to the parking spaces.

d. A utility easement precludes use of the full width, in which case one of the above uses shall be placed over the easement.

Where a new building will occupy an undivided portion of a shopping center parking lot, a "development area" for that building shall be identified and treated the same as if it were a separate lot.

6. *Trees.* Where the front setback is as provided in part G.2 above, the frontage planting strip and frontage trees requirement shall be reduced to zero (0).

With regard to the "20 density units per acre" tree-planting requirement of Article VI, Section 23, Part II, subpart B of the Zoning Ordinance, the calculation of density units may be altered in the following circumstances:

Where a portion of a lot is covered

- by a new building of two stories or more or
- by an addition of two stories or more to an existing building,

the area of such portion shall not be included in the lot area for the purpose of calculating required density units.

No tree planted shall have a caliper measurement of less than three-fourths (3/4) inch.

7. *Front parking.* No parking, driveway, or other area for vehicles shall be placed between the building and the street; or, if parking or other vehicle area already exists in front of an existing building, it shall be altered as described in part H.6 below.

H. **Parking.** Other parking requirements in the Zoning Ordinance notwithstanding, the following requirements shall apply:

1. *Off-site parking.* Where alternative off-site parking (either public parking or private parking obtained by lease or easement) is provided within 300 feet of the property, the on-site parking requirement shall be reduced to as little as zero (0), provided that the total of on-site and alternative off-site parking together shall meet the requirement for the proposed use and

   a. the building meets the requirement of part G.1 regarding number of stories or

   b. the use of existing floor space is proposed to be altered in a manner that requires more parking spaces (e.g., an existing space is being changed from office to retail use, or a restaurant is expanding the number of seats).

   The availability of alterative off-site parking for a particular development shall be determined based on

   - the total number of off-site parking spaces that will be available by the time of occupancy of the new floor space,
   - the cumulative amount of new floor space for which the off-site parking spaces are counted in meeting the parking requirement, and

- the maximum number of such off-site parking spaces likely to be utilized at any one time by the cumulative new floor space.

2. *Parking ratios.* The number of parking spaces provided for a site shall meet but shall not exceed the number calculated from the parking ratios required by the Zoning Ordinance, unless such higher number is justified to and approved by the Planning Commission.

   For a building of two or more stories, floor area lost to stairwells and elevator shafts shall not be included in total floor area for parking calculations.

3. *Parallel parking.* Where parallel parking is allowed on a street section abutting the property and on the same side of the street as the property, such parallel parking shall count toward meeting the parking requirement for the property.

4. *Alleys.* As development or redevelopment of the area permits, alleys shall be created for access to parking on the rear of properties.

5. *Shared parking.* Where a parking area will serve two or more uses for which peak parking demand occurs at different times, the Planning Commission may permit an appropriate number of such spaces to count toward the parking requirement for more than one of those uses.

6. *Existing parking in front of buildings.* Upon adding floor space to a lot with an existing building, where parking requirements are otherwise met, existing parking in front of buildings shall be replaced by uses such as

   - expansion of the existing building, including a one-story expansion such as a porch,
   - small "kiosk"-size retail buildings (for walk-up traffic),
   - outdoor seating for serving food or beverages, or
   - a pedestrian courtyard.

I. **Weather protection.** Awnings or canopies are not required, but any awnings and canopies approved by the Design Review Commission may extend over sidewalks (public or private), to protect patrons and to facilitate movement of pedestrians from building to building in inclement weather.

Supporting structure for such awnings or canopies shall not block any portion of a public sidewalk.

Awnings and canopies and any signs suspended from them shall clear the sidewalk by at least eight (8) feet.

J. **Pedestrian circulation.** Pedestrian circulation throughout the district shall be improved as development or redevelopment occurs, in accordance with general design principles and objectives of safety, comfort, ease of movement, and convenience of access to properties.

K. **Development pattern, land access.** As development and redevelopment occur, a pattern of "blocks and streets" shall be created where feasible, including private streets where determined to be appropriate. Such streets shall be two-way and have a 71 foot right-of-way, which shall include:

- two travel lanes (each 10 feet);
- a parallel parking lane (8 feet) on each side, which parking lane shall be terminated at intersections and at other pedestrian crossings with curb "bump-outs" so that pedestrians leave the sidewalk only to cross the travel lanes;
- curbs and gutters (2.5 feet each side);
- a sidewalk (15 feet) on each side, with any utilities so located that tree-planting wells may be placed in that portion of the sidewalk nearer the curb; and
- marked pedestrian crossings, including curb "bump-outs" at all intersections and mid-block pedestrian crossings.

This pattern shall be designed to permit safe, low-speed circulation of cars and pedestrians throughout the area, provide for the creation of small lots and buildings, and facilitate placement of additional buildings at the sidewalks of such additional streets.

Other street configurations may be considered, subject to determination that the purposes and provisions of this overlay district are satisfied to a reasonable degree.

Section 27 - Special Events

(Ord. 02-03, 3/12/02)

A. Purpose and intent

The purpose and intent of this Section is to provide for the temporary use of property for special events in a manner consistent with its normal use and not detrimental to the general welfare of the public. Furthermore, it is the intent

of this Section to protect nearby property owners, residents and businesses from special events that may be disruptive, unsightly, unsafe or inappropriate given site conditions, traffic patterns, land use characteristics, or the nature of the proposed use.

B. Special event defined

The term "special event" shall mean a temporary use of land or structures for one or more of the following types of activities:

1. *Type 1: Noncommercial Events.* Fund-raising or non-commercial events held outside an enclosed permanent structure, including parades, advertised demonstrations, or events, including structures used in conjunction with the event.

2. *Type 2: Special Seasonal Events.* Farmers' market, Christmas tree sales, fruit, flower or vegetable sales, or sale of other seasonal products, when sold other than on the site where grown, constructed or assembled.

3. *Type 3: Commercial Events.* Significant commercial events such as tent sales, sidewalk sales, trade shows, merchandise sales, product demonstrations or transient merchants.

4. *Type 4: Public Attractions.* Significant outdoor public events intended primarily for entertainment or amusement, such as carnivals, concerts, or festivals, including fireworks displays.

C. Exemptions

The following special events are exempt from the requirements of this Section:

1. *Public property.* Any special event wholly on public streets and right-of-ways or other property of the City, excluding public parks, which special event is allowed specifically or generally by action of the Board of Mayor and Aldermen.

2. *Public parks.* Any special event held within a public park. (Although exempt from this Section, these types of special events shall be governed by other provisions of the Codified Ordinances regulating conduct in City parks and recreation areas.)

3. *City sponsorship.* Any special event sponsored or co-sponsored by the City. Such event shall, however, be in compliance with the performance standards in Section 27.F.

4. *Special use permit or site plan.* Any business already operating under a special use permit or site plan that authorizes the display and sale of outdoor goods or authorizes the operation of any special event as defined herein.

5. *Yard sales.* Yard sales regulated under Article VI, Section 1 of the Zoning Ordinance.

6. *Auctions/estate sales.* Auctions/estate sale for individual property that is not considered a special event and is conducted by duly licensed auctioneers.

7. *Business deliveries.* Newspaper delivery or bona fide merchants who deliver goods in the regular course of business.

8. *Certain solicitations.* Solicitors for charitable, non-profit or religious organizations who go from dwelling to dwelling, business to business, street to street, taking or attempting to take orders for goods, wares and merchandise are exempt from these provisions, provided these organizations meet the Internal Revenue Service Criteria to qualify as a charitable, non-profit or religious organization.

9. *First Amendment activity.* The dispensing of religious pamphlets or other literature which is protected by the United States Constitution under Freedom of Speech, Religion or Press.

10. *Political campaigning.* Campaigning for public office.

D. Cross references

See the Codified Ordinances, Title 9, "Peddlers, Transient Vendors, Mobile Frozen Dessert Vendors" regarding (1) commercial activity on city streets and street right-of-ways and (2) door-to-door sales and similar activities in residential areas.

E. Special event approvals

When a permit is required under any City ordinance for a special event, such permit shall be granted pursuant to the application procedures and requirements specified in said ordinance.

When permit application procedures and requirements are not otherwise specified, the procedures and requirements specified in this Section shall apply.

F. Special event performance standards

Special events shall comply with the following standards:

1. *Location*. Special events that do not require the use of public right-of-way shall be conducted on private property in a commercial or industrial zoning district, except that non-profit organizations may conduct special events on any property where the owner has granted permission.

   For all special events that require the use of public right-of-way, the permit granted shall clearly specify the streets to be used for the event and the time that the streets will be closed, if applicable.

   Type 3 outdoor sales must be conducted by an existing permanent business adjacent to and on the property of the location of the permanent business. The outdoor sales are to be conducted as an adjunct to the existing permanent business.

2. *Land-use compatibility*. The special event shall be compatible with the purpose and intent of this Section and with adjacent land uses.

   The special event shall not impair the normal, safe and effective operation of a permanent use on the same site.

   The special event shall not endanger or be detrimental to the public health, safety or welfare or injurious to property or improvements in the immediate vicinity of the special event, given the nature of the activity, its location on the site and its relationship to parking and access points.

3. *Compliance with other regulations*. All structures shall meet all applicable provisions of the Building Code.

   Any temporary structure shall be promptly removed upon the cessation of the event. Within forty-eight (48) hours of cessation of the event, the site shall be returned to its previous condition, including the removal of all litter, signage, attention-attracting devices or other evidence of the special event. If the site is not returned to its previous condition, the City may restore the site at the event coordinator's expense.

4. *Hours of operation and duration*. The duration and hours of operation of a special event shall be consistent with the surrounding land uses. The total duration of a special event shall not exceed the duration set forth in Table VI, 27a; however, the duration of the special event may be modified by conditions attached to the issuance of the special event permit, as set forth in Section 27.F.

Table [VI-27a]. Special Event Maximum Duration	
Type of Special Event	**Duration**
Type 1: Noncommercial	30 days
Type 2: Special Seasonal	90 days
Type 3: Commercial	14 days
Type 4: Public Attractions	14 days

In addition to the maximum duration as set forth in Table VI, 27a, a shopping center may hold centralized special events, not connected to individual businesses within the shopping center, which do not exceed sixty (60) days in a calendar year. The duration of all special events in a shopping center may be extended on a case by case basis if the special event(s) take place in shopping center parking areas not required for the primary businesses.

5. *Frequency*. Except as otherwise provided herein, the maximum frequency of a special event on the same property shall be two (2) times per calendar year, excluding a shopping center. A shopping center shall be allowed to hold four (4) centralized events not connected to any individual business located within the center in addition to those events held by the individual businesses located within the shopping center.

   Type 3 outdoor sales at a specific location may be permitted only as follows:

   a. Outdoor sales may be permitted once in each calendar month if the duration is not more than three (3) days.

   b. Outdoor sales may be permitted once in each calendar quarter if the duration is more than three (3) days but not more than ten (10) days.

   c. The minimum time between consecutive outdoor sales periods for the same business on the same property shall be fourteen (14) days from the beginning of one period to the beginning of the next period.

Permitted durations are not cumulative in any time period, that is, the time periods in both "a" and "b" may not be added together.

6. *Traffic circulation.* The special event shall not cause undue traffic congestion or accident potential, given anticipated attendance and the design of adjacent streets, intersections, parking and traffic controls. All sidewalks shall be left open for pedestrian traffic unless special approval is received for blockage. No alleys, driveways, fire lanes or other access points shall be blocked by the special event unless specific approval is granted for the special event.

7. *Street closings.* The special event permit recipients shall be responsible for securing, installing and immediate removal upon cessation all barricades and signs when street closings are approved. Large Class III barricades shall be sandbagged to prevent blowing over.

8. *Fire safety.* The fire department shall be consulted for the following requirements and inspection, as necessary.

    a. Fire lanes a minimum of 20 feet in width and 12 feet in height or as otherwise approved by the Fire Chief must be provided in order to allow Fire Department access within 150 feet of all structures and on at least two sides of all two-story structures within 500 feet of the location of the special event.

    b. All fire hydrants in the area of the special event must be left with five (5) feet of clearance on all sides and shall be accessible from the fire lanes that are designated with the event.

    c. No open fires shall be permitted unless advance approval is obtained from the Fire Department.

    d. Fire extinguishers shall be available as determined by the Fire Chief.

    e. Temporary electrical wiring for the special event shall be installed in accordance with the requirements of the National Electrical Code.

    f. Tents shall comply with the Fire Code and applicable building codes.

    g. Exit signs and proper exiting aisles shall be provided in temporary special event structures.

9. *Off-street parking.* The event shall not create a parking shortage for any other use. All off-street parking surfaces used for the special event shall be concrete or asphalt.

10. *Public conveniences and litter control.* Adequate on-site rest room facilities and solid waste containers shall be provided. The applicant shall calculate the demand for such facilities and specify how the need will be addressed.

11. *Nuisances.* The special event shall not generate excessive noise, dust, smoke, glare, spillover lighting or other forms of environmental or visual pollution.

12. *Area of parking lot dedicated to outdoor special events.*

    a. No more than ten (10) percent of the parking stalls required for the structure associated with the parking lot in which the special event occurs shall be permitted to be used for a special event. Regardless of how many stalls are occupied by the special event, no special event that occurs in the parking lot for a permanent structure may cause a parking shortage for primary and accessory uses associated with that structure.

    b. No spikes, nails, anchors or other devices shall be driven into any public street, sidewalk or parking lot surface or into any existing concrete or asphalt. Such devices may be used on private parking lots provided any damage resulting therefrom shall be fixed upon cessation of the event and removal of the devices.

13. *City services.* If the applicant requests the City to provide services or equipment, including but not limited to traffic control or security personnel, or if the City otherwise determines that services or equipment are required to protect the public health, safety, or general welfare, the applicant shall be required to reimburse the City for the cost of the services. The City may require the applicant to submit a security deposit, in an amount determined by the Chief Administrative Officer and in the form approved by the City Attorney, prior to the event to ensure that the applicant complies with this provision.

14. *Insurance coverage.* Special event permit recipients must show proof of liability insurance at time of application. If the special event will take place on public property, said certificate of insurance shall name the City as an additional insured party in an amount determined by the Chief Administrative Officer based on the nature of the special event.

G. Conditions

When reviewing a request for a special event permit, the Permitting Official may establish any additional conditions deemed necessary to ensure

compatibility with adjacent land-uses and to minimize potential adverse impacts on nearby uses, including but not limited to the following:

1. Limitations on signs.

2. Temporary arrangements for parking and traffic circulation.

3. Requirements for screening/buffering and guarantees for site restoration and cleanup following the special event.

4. Modifications or restrictions on the hours of operation, duration of the event, size of the event or other operational characteristics.

5. The posting of security in an amount required by the Permitting Official to help ensure that the operation of the event and the subsequent restoration of the site are conducted according to required special event standards and conditions of approval.

6. The provision of traffic control or security personnel to ensure the public safety and convenience.

7. Execution of a "Special event agreement" in a form acceptable to the City Attorney to ensure the indemnification of the City and that public property will be protected and/or restored to its condition prior to the special event.

H. Special event permit - when required

A special event permit shall be required for all special events, as defined in this Section, except those events not requiring a permit as set forth in part C.

I. Special event permit - application, content and submission Requirements

A complete application shall be submitted to the Permitting Official at least ten (10) days prior to the requested start date of any special event. Any person desiring to operate any special event that, in accordance with this Section, requires a special event permit shall submit a written application on the form provided by the City to the Permitting Official. The application shall set forth and contain the following information:

1. Name and address of the applicant.

2. Names and address of the owner of the premises on which the proposed event is to be held.

3. Written approval from the property owner agreeing to the proposed event, if the applicant is not the same as the property owner.

4. Description of the site on which the proposed event is to be held.

5. Date of the proposed event.

6. A narrative written description of the proposed event, the hours of operation, anticipated attendance, and any buildings/structures, signs or attention-attracting devices proposed to be used in conjunction with the event, as well as a statement that the standards set forth in this Section have been satisfied. The narrative written description shall also state what public streets, if any, are requested to be used for the special event.

7. A site plan in the form and the level of detail as required by the Permitting Official, showing the location of all existing or proposed uses, structures, parking areas, outdoor display areas, signs, streets, and property lines.

8. Location and number of proposed temporary public toilets.

9. Proposed temporary potable water supplies, which shall be subject to approval by the Director of Code Enforcement, pursuant to applicable authority of the City.

10. Any other information deemed necessary by the Permitting Official to ensure compliance with the standards set forth in this Section.

J. Special event permit - authorization by Permitting Official

Type 1, 2 and 3 special events (as defined in part B) may be issued a special event permit by the Permitting Official on the form provided by the City when all of the following conditions have been satisfied and continue to be met throughout the special event:

1. A complete application is made on the form provided by the City and a fee paid in accordance with City ordinances.

2. The application has been reviewed and approved in writing by the Code Enforcement, Fire, Police, and Public Works Departments for traffic control and other safety concerns.

3. An electrical plan, if required for the special event, is approved by the Director of Code Enforcement.

4. The Permitting Official determines the following:

a. The special event will comply with the special event performance standards set forth in part F;

b. The special event will not endanger the public health, safety, or general welfare given the nature of the activity, its location on the site, and its relationship to parking and access points;

c. The special event will not impair the usefulness, enjoyment or value of adjacent property due to the generation of excessive noise, smoke, odor, glare, litter, or visual pollution;

d. The special event shall comply with all applicable state and federal health, safety, environmental and other applicable requirements.

K. Special event permit - authorization by Board

All Type 4 events, and any other event not meeting the criteria of a Type 1, 2 or 3 special event, may be granted a special event permit by the Board of Mayor and Aldermen after review and report by the Permitting Official, and when all of the conditions set forth in part J have been satisfied.

L. Special event permit - appeals

Any denial of an application or notice of revocation of an existing permit by the Permitting Official shall be in writing. In the event a special event permit is denied or an existing permit revoked, the applicant shall have the right to appeal the decision of the Permitting Official to the Board of Mayor and Aldermen at the next regular meeting of the Board.

M. Special event permit - standards of operation

The standards and conditions governing the operation of a special event pursuant to a special event permit shall be as enumerated in this Section and as specified in the permit.

N. Special event permit -prohibition on transfer

No special event permit issued under the provisions of this Section shall be assignable or transferable to any other person or transferable to another location for the operation of a special event by that business or person at a different location.

Section 28 - Guest Unit

(Ord. 04-01, 2/10/04)

A. Definition

A guest unit is a second dwelling unit, attached or detached, on the same lot with a principal dwelling unit and treated as an extension of the principal dwelling unit.

A guest unit is detached if it is in a separate building from the principal dwelling unit and such buildings do not have a common or party wall joining them. A guest unit is attached if it is within the same building as the principal dwelling unit and is joined to the principal dwelling unit by one or more common interior doorways.

With regard to regulation of accessory buildings under other parts of this Zoning Ordinance, a guest unit is not considered an "accessory building."

B. Lot size

For a detached guest unit, the lot must have an area of at least one acre (43,560 square feet) and a minimum width at the regulation front setback line of 150 feet. For an attached unit, there is no minimum lot size, but all minimum setback and maximum lot coverage requirements of the Zoning Ordinance must be met.

C. Location, setbacks

The guest unit shall be located to the rear of the main dwelling unit but within the building setback lines for the main dwelling unit. If the guest unit is detached, it shall be separated from the main dwelling unit by at least ten (10) feet.

D. Floor area

Heated floor area of the guest unit shall not exceed one-third (1/3) of the heated floor area of the main dwelling unit or one thousand (1,000) square feet, whichever is less; but shall not be less than five hundred (500) square feet in any case. A guest unit may have a covered porch or covered patio of no more than one hundred (100) square feet.

E. Stories

The guest unit shall have only a single story, at ground level. No part of a basement may be used as a guest unit.

F. Design

All requirements of City codes for a dwelling unit shall be met.

The unit shall be of an architectural design compatible with the main dwelling unit, as determined by the Building Official. Where it is determined that a garage for a detached unit is acceptable, no more than one-car garage shall be permitted.

For an attached unit, there shall be no impediment, in terms of layout and access, to a single family making normal use of the entire building; and there shall be nothing about the configuration of the floor space or the exterior appearance (such as a separate entrance on the front facade) that suggests a separate rental unit. This determination will be made by the Building Official. A separate outside entrance is permitted to the extent needed for fire safety.

G. Variances prohibited

In no case shall variances to the setback (yard) requirements or maximum lot coverage requirements be allowed for the addition of a guest unit.

H. Number of guest units; covenants

No more than one guest unit may be placed on a lot with a principal single-family dwelling unit.

Addition of a guest unit must be in compliance with any subdivision covenants.

I. Extension

A guest unit, whether attached or detached, is an extension of the principal dwelling unit and may not be rented separately from the principal unit. The guest unit shall not have a separate street address or separate utility metering from that of the principal dwelling unit.

J. Submittals

A request for approval of a guest unit shall include the following:

1. Photographs of the principal dwelling unit showing all four sides.

2. A plot plan showing locations of all present buildings and the proposed guest unit, drawn to scale.

3. Plans of the proposed guest unit, including elevations, drawn to scale.

4. A copy of any subdivision covenants governing the lot on which the guest unit is to be placed, or a copy of the deed to show that there are no such restrictions.

Section 29 - RMU - Residential Mixed Use Overlay District.

(Ord. 05-07, 9/13/05, as amended by Ord. #19-04, Oct. 2019 ***Ch7_12-08-20***)

A. General Description

The "Residential Mixed Use" (RMU) is a site specific special use intended to allow residential uses with mixed uses including commercial and office developments in buildings of two or more stories. Also, single family residential may be integrated into the overall development but it is the intent of this ordinance that the mixed use character be maintained. The RMU shall be applied for as a Special Use Permit that will be reviewed by the Planning Commission, requiring the final action of the Board of Mayor and Aldermen.

B. General Requirements for the Special Use Permit

The Special Use Permit for the RMU may be allowed in suitable areas of the City of Bartlett having one of the following "office" or "commercial" zoning classifications: OR- I, OR-2, O-C, CL, C-G, C-H, or SC-I. The RMU may also be allowed in residential zoning districts (RE, RS, RTH, RM) where existing commercial and office zoning directly abuts residential zoning or on lots with combination zoning that includes residential zoning along with commercial, and/or office zoning, and having major and/or minor road frontage.

Density, yards, and lot coverage within the proposed development will be regulated to ensure adequate sunlight, air, and open space. A 5-acre minimum is required, except for properties within the Bartlett Station area (CG-MS General Business Main Street Overlay District). Density is subject to available sewer and water capacity. The location and intensity of the land use should not cause traffic congestion or preclude the amenities of good housing.

The provisions of this ordinance shall supersede any more restrictive provisions of the underlying zoning ordinance, except where noted.

Board of Mayor and Aldermen and/or Planning Commission:

The application for the Special Use Permit must include:

1) A Master Plan of Development conceptual sketch design that provides the location of land uses with acreages and/or square footages, number of residential units, major, minor and collector roads, streetscape, and landscape screen delineations.

2) An outline plan describing the rules, regulations, and requirements for the development.

C. Development Requirements

Planning Commission:

Following the approval of the RMU Special Use Permit by action of the Board of Mayor and Aldermen, the applicant shall apply to the Planning Commission by way of the individual applications in the order as listed:

1) Master Plan that provides the locations of all land uses and land use acreages as they relate to the layout of the buildings and number of buildings (units and/or square footages), parking areas, driveways, alleys, roads, open space, landscaping, garbage collection areas, etc. with an outline plan
2) Construction Plan
3) Final Plan with the final outline plan
4) Site Plan

The Master Plan application may include a phasing plan for the development with the intent that Construction Plans, Final Plans, and Site Plans will follow in coordination with each phase.

When the proposed development does not require the subdivision of land, the applicant will be required to obtain approval of the Master Plan of Development from the Planning Commission with an outline plan and may propose a phasing plan. Upon the approval of the Master Plan of development the applicant shall return to the Planning Commission with a site plan application including construction details for necessary infrastructure and/or public improvements.

A final plat shall be recorded within five years from the date of the approval of the Special Use Permit for the RMU; or, if no subdivision of land is needed, a site plan must be approved and a building permit must be current within five years of the approval date by the Board of Mayor and Aldermen for the Special Use Permit. The Board of Mayor and Aldermen may grant an extension of time based upon the written request by the applicant/developer prior to the five year expiration date of the Special Use Permit. The Board of Mayor and Aldermen will conduct a public hearing to determine the applicability of granting the time extension. If the final plat is not recorded, or the building permit has expired within the allotted time period, the underlying zoning will apply to any future development of the property.

Design Review Commission:

The environment of the development must be desirable in character while incorporating sustainable features. Following Final Plan and Site Plan approval from the Planning Commission, the applicant shall obtain Design Review Commission approval for building exterior materials and colors, all common open space feature materials, landscaping, subdivision fence, lighting, garbage collection areas, and signage.

D. Uses Allowed:

1. Residential single family homes, townhomes, apartments and condominiums in multi-story buildings.

2. Banks/Credit Unions (not Consumer Lending), Beauty/Barber Shops, Child Care Center (13+), Church, Convenience Store, Pharmacy/Drug Store, Hotel, Indoor Flower or Plant Store, Grocery and/or Food Market, Offices, Medical Clinics, Small Fitness Centers (3,000 square feet or less), Restaurants, Retail Shops (new merchandise), Retail Bakery, Antique Store (not second hand goods) Business Services, and Personal Services.

A combination of retail, personal service, business service, office and coffee shop uses may be permitted on the first floor in buildings of two or more stories with residential uses located on the second, third or fourth stories. However, certain building designs may incorporate commercial/office uses in limited areas on the upper floors of the building. Free-standing restaurants over 3,000 square feet (kitchen and seating area combined) or with drive thru windows service, and free-standing office and commercial retail buildings and uses over 3,000 square feet will only be permitted on outparcels of the development that have major or minor road frontage, or located in a pre-designated area within the development plan that is identified in the Master Plan of Development.

E. Yard Requirements and Setbacks:

Minimum yards shall be as listed in Article V, Chart 2. However, the applicant may propose to the Planning Commission reduced setback and yard requirements with the Special Use Permit application. The applicant may incorporate transect (template) designs into the Master Plan to show setbacks and yards as they relate to street frontages, sidewalks and building frontages, side and rear yards, alleys with rear load garages, and parking areas. Lot coverage requirements in the residential sections of the development will be based on the setbacks.

F. Building Height:

Building height shall be as listed in Article Y, Chart 2. Provisions shall be made to ensure adequate water pressure throughout buildings for both fire protection and domestic use, as determined by the appropriate City departments.

G. Off-Street Parking:

The number of off-street parking spaces shall be as provided in Article VI, Section 12, Part B of the Bartlett Zoning Ordinance for commercial/office and residential uses. However, should the applicant provide evidence that less than the minimum number of required parking is needed (based on the use), the Planning Commission may approve a reduction in the required number of parking spaces.

1. Single Family and Townhomes: Parking area designs that would result in a cluttered appearance along street frontages are

discouraged. Although street parking and front load garages are permitted. Where streets are 22-feet wide or less, parking inlets shall be installed adjacent to the sidewalk so as to keep the driving surface clear of vehicles. Front load garages must be recessed at least 20-feet from the front porch or wall of the house.

2. Alleys will be permitted with rear load garages. A two car rear load garage is required to have a parking pad in front of the garage door setback at least 20-feet from the alley. Where rear loaded garages are not setback at least 20-feet from the alley, a parking pad shall be provided alongside of the garage.

3. Condominiums, Multi-Family Units, and Commercial: An off-street parking lot may be placed between a street and a building with a streetscape landscape screen as provided in Article VI, Section 23 of the Tree and Landscape Ordinance, but parking behind or on the side of buildings is preferred with a front yard setback up to the required streetscape when not in conflict with utilities. Parking structures may be permitted to avoid excessive use of land for surface parking.

Assigned parking spaces for tenants and guests are highly encouraged. Parking areas shall be separated with a designation for commercial/office uses.

H. Green Open Space:

Plans for open space on the site or development plan shall be prepared by a registered landscape architect. Green open space for the entire development shall be required at 20% of the overall acreage. Green open space shall be dispersed throughout the development, but it shall also be placed in locations for the convenience of the residents.

Storm-water detention areas may only be included in the 20% green open space requirement when it is incorporated into useable areas such as: pocket parks, play yards, walking trails, water activity and communal areas.

In addition to the 20% green open space requirement, the applicant shall follow the development requirements of Article VI, Section 23 of the "Tree and Landscape Ordinance" to comply with the tree density count, streetscape, parking areas, garbage collection areas, and landscape screening requirements. Also, where an RMU abuts an existing single family residential development, a 30-foot wide landscape screen and fence will be required with a 100-foot building setback. The landscape screen may be reduced to 20-feet with a building setback of 50-feet when a section of single family residential homes or townhomes not to exceed 35-feet in height are placed abutting the existing single-family residential neighborhood.

I. Communal space and amenities:

Communal space may include amenities within the development such as shared live-work space, community gathering rooms for social events, pocket parks, splash parks, play yards, walking trails, outdoor activity areas, dog parks, and carwash bays. Also, the integration of some of the natural features with activity areas within the landscape like a rope swing across a creek that is part of the water detention, etc. Creativity in the design of communal space is highly encouraged.

A central mail delivery location is required by the US Postal Service.

J. Connectivity:

Walkable connective pedestrian sidewalks shall be designed throughout the development so that all uses are easily accessible and comply with ADA requirements.

K. Property Maintenance:

A property maintenance association and/or homeowner association shall be assigned the duties of the exterior building maintenance and grounds keeping maintenance for the entire development. This includes but is not limited to: all building exteriors and roofing, landscaping, common amenities, lighting, garbage collection, street cleaning and repaving, storm-water detention basin(s) mailboxes and signage. A note to this effect shall be placed on the final recorded plat for the development.

Section 30. Short-Term Rentals. (Ord. # 18-04, 7/10/18)

Subsection A. Generally.

1.1. Purpose. The City has determined that regulation of Short-Term Rental Units is necessary in order to protect the health, safety, and welfare of the public, as well as to promote the public interest by regulating the areas and methods of operation. To meet these ends, the City has determined that all persons or entities that desire to operate Short-Term Rental Units within the City must be issued a permit pursuant to the requirements of this section.

1.2. Definitions. The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this section. The word "shall" is always mandatory and not merely advisory.

a. Consideration. The charge, whether or not received, for occupancy in a Short-Term Rental Unit valued in money,

whether to be received in money, goods, labor, or otherwise, including all receipts, cash, credits, property and services of any kind or nature. Nothing in this definition shall be construed to imply that consideration is charged when the Short-Term Rental Unit provided to the Transient Guest(s) is complimentary from the Operator(s) or, if different, the Owner(s) and no consideration of any type is charged to or received from any person.

b. Short-Term Rental Unit. A dwelling unit, a portion of a dwelling unit, or any other structure or space that is occupied or intended or designed or advertised for occupancy by Transient Guests for dwelling, lodging, or sleeping, and which is offered to Transient Guests for Consideration for a period of up to 30 consecutive calendar days. Short-Term Rental Unit shall not include dwelling units owned by the federal government, the state, or any of their agencies or political subdivisions; facilities licensed by the state as health care facilities, including temporary family healthcare structures; hotels; inns; motels; boarding houses; Bed and Breakfast establishments approved by the City of Bartlett pursuant to the Bartlett Zoning Ordinance; campgrounds; or dwelling units rented to the same occupant(s) for more than thirty continuous days.

c. Hosting Platform. A person or entity that facilitates the booking of a Short-Term Rental Unit. "Facilitate" includes, but is not limited to, the act of allowing an Operator(s) or, if different, the Owner(s) to offer to list or advertise, typically for a charge or fee, the Short-Term Rental Unit on an Internet website, in a print publication, or through another forum provided or maintained by the Hosting Platform.

d. Residential District. Any zoning district designated in the City of Bartlett where the principal permitted uses in the district include residential uses, including houses, duplexes, and multi-dwelling structures. As of the date of the adoption of this Ordinance, Residential Districts shall include the following districts identified in the City of Bartlett Zoning Ordinance: R-E, RS-I8, RS-15, RS-12, RS-10, R-TH, R-D, and R-M.

e. Non-Residential District. Any zoning district designated in the City of Bartlett that allows residential uses, but is not a Residential District. As of the date of the adoption of this

Ordinance, Non-Residential Districts shall include the following districts identified in the City of Bartlett Zoning Ordinance: A-O, O-R- I, O-R-2.

f. Occupancy. The use or possession, or the right to the use or possession, of any room(s), lodgings, or accommodations in any Short-Term Rental Unit.

g. Operator. The person or entity, if applicable, offering a Short-Term Rental Unit, whether as the owner or otherwise.

h. Transient Guest. Any person(s) who exercises Occupancy or is entitled to Occupancy of any room(s), lodgings, or accommodations in a Short-Term Rental Unit for a period of less than thirty (30) consecutive calendar days.

Subsection B. Permit Types. Application.

1.1. Operating Permit Required. It is unlawful to operate or advertise any Short-Term Rental Unit within the City of Bartlett without a Short-Term Rental Unit Operating Permit issued under this section.

1.2. Application. Every Operator(s) or, if different, every Owner(s) desiring to operate a Short-Term Rental Unit shall submit an application for an Operating Permit to the Bartlett Code Enforcement Office. Each application shall contain, at the least, all of the following information, along with a statement that the information being provided is true and accurate. In addition to the information required by the application, the Bartlett Code Enforcement Office may request other information reasonably required.

The permit application shall not be considered complete until the Bartlett Code Enforcement Office has all information as required by the application or otherwise.

a. Acknowledgment of Rules. Written acknowledgment by the Operator(s) and, if different, the Owner(s) that he/she/it has read and acknowledges responsibility for compliance with the provisions of this section and with all regulations pertaining to the operation of a Short-Term Rental Unit, including but not limited to the City's business license requirements, the City's Property Maintenance Code; the City's occupancy privilege tax requirements, and any

additional administrative regulations promulgated or imposed by the City to implement this section.

b. Affidavit of Life Safety Compliance/Inspection. During each Short-Term Rental Unit Occupancy, each Short-Term Rental Unit shall have the following life safety equipment on the premises and installed to manufacturer specifications: (i) a smoke alarm meeting Underwriters Laboratory (UL) 217 standards inside each sleeping room, outside of and within fifteen feet of sleeping rooms, and on each story of the dwelling unit, including basements; (ii) a carbon monoxide detector within 15 feet of all bedrooms; and (iii) a fire extinguisher. Every smoke and carbon monoxide alarm must function properly, with the alarm sounding after pushing the test button, and the fire extinguisher must be operational. It shall be unlawful to operate a Short-Term Rental Unit without a smoke alarm, carbon monoxide detector, and fire extinguisher as required by this section. An application for the issuance or renewal of a Short-Term Rental Unit Operating Permit must be accompanied by an affidavit, signed by the Operator(s) and, if different, the Owner(s), verifying the number, locations, and operation of the required life safety equipment for the Short-Term Rental Unit, and confirming compliance with all safety requirements relating to swimming pools, spas and hot tubs on the premises, including but not limited to required barriers, gates and alarms. Upon receipt of an application for issuance or renewal of a Short-Term Rental Unit Operating Permit, an inspection of the Short-Term Rental Unit will be made by the Code Official to ensure compliance with all life safety equipment and compliance with all safety requirements relating to swimming pools, spas and hot tubs on the premises.

c. Local Contact Person. A person designated by the Operator(s) or, if different, the Owner(s) who shall be available twenty-four (24) hours per day, seven (7) days per week for the purpose of: (i) being able to physically respond, as necessary, within forty-five (45) minutes of notification of a complaint regarding the condition, operation, or conduct of occupants of the Short-Term Rental Unit, and (ii) taking remedial action necessary to resolve any such complaints. A Local Contact Person may be the Operator(s) or, if different, the Owner(s) or the Operator(s)' or Owner(s)' agent.

d. Operator/Owner Information. The full legal name, street and mailing addresses, the e-mail address, and the telephone number of the Operator(s) and, if different, the Owner(s) of the property sought to be used as a Short-Term Rental Unit and, in cases where a business entity or trust is the owner of the property that is sought to be used as a Short-Term Rental Unit, the individual who has the responsibility to oversee the ownership of the property sought to be used as a Short-Term Rental Unit on behalf of the business entity or trust, including the mailing address, the e-mail address, and the telephone number of the individual having such responsibility. If the Owner(s) of a Short-Term Rental Unit is a business entity, information and documentation is required demonstrating the Owner(s)' valid status with the Tennessee Secretary of State.

e. Site Plan. A site plan and floor plan accurately and clearly depicting the size and location of the existing dwelling unit designed to be used as a Short-Term Rental Unit and the approximate square footage in the dwelling unit, the number and location of designated off-street parking spaces and the maximum number of vehicles allowed for overnight occupants. The floor plan shall describe the use of each room in the dwelling unit, and the number, location and approximate square footage of all bedrooms.

f. Confirmation regarding private agreements. Written acknowledgment by the Operator(s) and, if different, the Owner(s) that he/she/it is solely responsible for confirming and that he/she/it has confirmed that operating the Short-Term Rental Unit would not violate any Home Owners Association agreement or bylaws, Condominium Agreement, Covenant, Codes and Restrictions, mortgage agreement, insurance contract, or any other contract or agreement governing and limiting the use of the proposed Short-Term Rental Unit.

g. Confirmation regarding notice if the STR unit shares a common wall or driveway. Where the proposed Short-Term Rental Unit shares a common wall or driveway with another property, the Operator(s) and, if different, the Owner(s) shall provide proof of written notification to the owner of such property prior to filing the application. Proof of written notification shall be: (a) a signature of an owner; (b) a signed receipt of U.S. registered or certified mail addressed

to an owner; or (c) notice from the U.S. Postal Service that registered or certified mail to an owner was refused or not timely accepted.

h. Proof of Insurance. The Operator(s) or, if different, the Owner(s) shall provide proof of insurance evidencing homeowner's, fire, hazard, and liability insurance on the property sought to be used as a Short-Term Rental Unit. Liability coverage shall have limits of not less than one million dollars per occurrence.

I. Proof of payment of all taxes due. For a Type 2 Permit, the Operator(s) or, if different, the Owner(s) shall provide proof that all taxes, including property taxes, room, occupancy and sales taxes due on renting the dwelling unit pursuant to Title 67, Chapter 6, Part 5 of the Tennessee Code Annotated were paid for filing periods that cover at least six (6) months within the twelve-month period immediately preceding July 10. 2018.

j. Indemnification. Written acknowledgment and agreement by the Operator(s) and, if different, the Owner(s) that, in the event a Short-Term Rental Unit Operating Permit is approved and issued, the Operator(s) and, if different, the Owner(s) agree to assume all risk and indemnify, defend and hold the City harmless concerning the City's approval of the Short-Term Rental Unit Operating Permit, the operation and maintenance of the Short-Term Rental Unit, and any other matter relating to the Short-Term Rental Unit.

1.3 Short-Term Rental Unit Operating Permit Types.

a. Type 1 Operating Permit. Owner-Occupied.

I. Generally. A Type 1 Short-Term Rental Unit Operating Permit is available in the following Residential Districts: R-E, RS-I8, RS-15, RS-12, RS-10, RTH, R-D, and R-M upon meeting the criteria in this section. A Type 1 Short-Term Rental Unit Operating Permit can be issued only to the Owner(s) of the Short-Term Rental Unit. The property where the Short-Term Rental Unit is located must be the Owner(s)' principal residence, except in the instance of duplexes as further described in this section. A person can only hold one (1) Type 1 Short-Term

Rental Unit Operating Permit in the City of Bartlett. The Type I Short-Term Rental Operating Permit is available only to a natural person or persons, and a Type 1 Short-Term Rental Unit Operating Permit holder may not be a limited liability entity, including, without limitation, a corporation or limited liability company, nor may a Type 1 Short-Term Rental Unit Operating Permit holder be an unincorporated entity, including, without limitation, a partnership, joint venture or trust.

ii. Guest Units and Duplexes. A guest unit that is detached from the principal dwelling unit may not be used as a short-term rental unit. If a property houses a legal duplex and an Owner(s) owns both sides of the duplex, one (1) Type 1 Short-Term Rental Unit Operating Permit is available to the Owner(s) for either side of the duplex, so long as the Owner(s)' principal residence is one side of the duplex.

iii. Proof of Ownership and Residency. Ownership shall be established by the deed for the property as recorded in the office of the Shelby County Register of Deeds. Residency shall be established by at least two of the following documents, which must list the address of the Short-Term Rental Unit on the document:

1. The Owner(s)' motor vehicle registration;
2. A valid driver's license or TN identification card of the Owner(s);
3. The address of the Owner(s)' children's school registration;
4. The Owner(s)' voter registration card; or
5. The Owner(s)' W-2 mailing.

At least one Owner listed on the deed for the Short-Term Rental Unit must establish residency at the Short-Term Rental Unit according to the criteria set forth in this section.

b. Type 2 Operating Permit, STR Units In Operation Prior to July 10, 2018.

I. Generally. A Type 2 Short-Term Rental Unit Operating Permit is available in the following Residential and Non-Residential Districts: R-E,

RS-18, RS-15, RS-12, RS-10, R-TH, R-D, R-M, A-O, O-R-1 and O-R-1 to an Operator(s) or, if different, to an Owner(s) who operated a Short-Term Rental Unit and remitted all taxes, including room, occupancy and sales tax due on renting the Short-Term Rental Unit pursuant to Title 67, Chapter 6, Part 5 of the Tennessee Code Annotated for filing periods that cover at least six (6) months within the twelve-month period immediately preceding July 10, 2018 ("Qualifying Date"). A person or entity can obtain a Type 2 Short-Term Rental Unit Operating Permit for each Short-Term Rental Unit operating prior to the Qualifying Date upon meeting the criteria in this section. Proof of operation and payment of taxes shall be required upon application. A Type 2 Short-Term Rental Unit Operating Permit is specific to the Short-Term Rental Unit for which it issued; it cannot be transferred to another location.

ii. Window of Availability/Inspection. Any application for a Type 2 Short-Term Rental Unit Operating Permit, containing all information set forth in Section 1.2 above, must be submitted by September 10, 2018, after which time no Type 2 Short-Term Rental Unit Operating Permits shall be issued under any circumstances whatsoever. Upon receipt of a timely application, an inspection of the Short-Term Rental Unit in use prior to July 10, 2018 will be made by the Code Official to ensure compliance with all life safety requirements and compliance with all safety requirements relating to swimming pools, spas and hot tubs on the premises.

iii. Owner Eligibility. A Type 2 Short-Term Rental Unit Operating Permit can be issued to the Owner(s) of the property being used as a Short-Term Rental Unit, who does not need to occupy the Short-Term Rental Unit as a principal residence. A Type 2 Short-Term Rental Unit Operating Permit is available to a person or an entity.

Subsection C. <u>Fees</u>.

An application for a Short-Term Rental Unit Operating Permit under this section shall be accompanied by a fee in the amount of seventy-five dollars ($75.00). The Bartlett Code Enforcement Office shalt collect the

permit fee. There shall be no proration of fees. Fees are non-refundable once a Short-Term Rental Unit Operating Permit has been issued by the Bartlett Code Enforcement Office.

Subsection D. Issuance.

Once the Short-Term Rental Unit Operating Permit application is considered complete by the Bartlett Code Enforcement Office, a determination will be made to issue or deny the Short-Term Rental Unit Operating Permit within fourteen (14) business days. If the Bartlett Code Enforcement Office is satisfied that the application and the Short-Term Rental Unit conform to the requirements of this section and other pertinent laws and ordinances, a Short-Term Rental Unit Operating Permit shall be issued to the applicant. If the application or Short-Term Rental Unit does not conform to the requirements of this section or other pertinent laws or ordinances, the Bartlett Code Enforcement Office shall not issue the Short-Term Rental Operating Permit, but shall inform the applicant of the denial. Such denial, when requested by the applicant, shall be in writing and state the reason(s) for denial. Once issued, the Short-Term Rental Operating Permit shall be valid for one (1) calendar year from the date of issuance, unless the Short-Term Rental Unit Operating Permit is suspended or revoked pursuant to this section or terminated by ordinance or otherwise.

Subsection E. Renewal.

1. Type 1 Short-Term Rental Unit Operating Permits. Unless suspended or revoked for a violation of any provision of this section or other rule or regulation of the City, a Type 1 Short-Term Rental Unit Operating Permit can be renewed annually, provided that a renewal fee of fifty dollars ($50.00) is paid no later than fourteen (14) business days before the Short-Term Rental Unit Operating Permit's expiration. An application for renewal of a Type 1 Short-Term Rental Unit Operating Permit, which shall include an updated acknowledgment of rules signed by Owner(s); an updated affidavit of life safety compliance signed by the Owner(s); any updated information regarding the local contact person; any updated Owner(s) information; an updated confirmation regarding private agreements signed by the Owner(s); an updated proof of insurance; an updated indemnification agreement signed by the Owner(s); and proof of payment of all taxes due, shall be made through the Bartlett Code Enforcement Office. Upon receipt of an application for renewal, an inspection of the Short-Term Rental Unit will be made by the Code Official to ensure compliance with all life safety equipment and compliance with all safety requirements relating to swimming pools, spas and hot tubs on the

premises. After the Short-Term Rental Unit Operating Permit's expiration, the holder of the Short-Term Rental Unit Operating Permit forfeits the right to renew and the Owner(s) must reapply for a new Short-Term Rental Unit Operating Permit. A renewed Short-Term Rental Unit Operating Permit shall be good for one calendar year from the date of issuance.

2. Type 2 Short-Term Rental Unit Operating Permits. Unless suspended or revoked earlier for a violation of any provision of this section or other rule or regulation of the City, a Type 2 Short-Term Rental Unit Operating Permit can be renewed annually, provided that a renewal fee of fifty dollars ($50.00) is paid no later than fourteen (14) business days before the Short-Term Rental Unit Operating Permit's expiration. An application for renewal of a Type 2 Short-Term Rental Unit Operating Permit, which shall include an updated acknowledgment of rules signed by the Operator(s) and, if different, the Owner(s); an updated affidavit of life safety compliance signed by the Operator(s) and, if different, the Owner(s); any updated information regarding the local contact person; any updated Operator(s)/Owner(s) information; an updated confirmation regarding private agreements signed by the Operator(s) and, if different, the Owner(s); an updated proof of insurance; an updated indemnification agreement signed by the Operator(s) and, if different, the Owner(s); and proof of payment of all taxes due, shall be made through the Bartlett Code Enforcement Office. Upon receipt of an application for renewal, an inspection of the Short-Term Rental Unit will be made by the Code Official to ensure compliance with all life safety equipment and compliance with all safety requirements relating to swimming pools, spas and hot tubs on the premises. If a Type 2 Short-Term Rental Unit Operating Permit expires or is revoked under this section and such revocation is not reversed during the appeal process set forth herein, it cannot be renewed or reapplied for, and the ability of the Operator(s) or, if different, the Owner(s) to obtain or hold a Type 2 Short-Term Rental Unit Operating Permit for the Short-Term Rental Unit is extinguished permanently.

Subsection F. Prohibitions Against Transfer.

1. Generally. No person or entity holding a Short-Term Rental Unit Operating Permit shall sell, lend, lease, or in any manner transfer the permit for value.

2. Type I and Type 2 Short-Term Rental Unit Operating Permits. The permission to operate a Short-Term Rental Unit under a Type 1 or Type 2 Short-Term Rental Unit Operating Permit shall be personal

and limited to the Operator(s) or, if different, the Owner(s) to whom the City issued the permit. A Type 1 and/or Type 2 Short-Term Rental Unit Operating Permit shall terminate immediately upon the transfer of the property covered by the permit, whether such transfer is by deed, by law, or otherwise.

a. Transfers Invalid. Any unauthorized transfer or attempt to transfer a Short-Term Rental Unit Operating Permit shall automatically void such permit. Persons violating this provision, including both the transferor and transferee, may be subject to a citation and fine. Each unauthorized transfer or attempt to transfer of a Short-Term Rental Unit Operating Permit shall constitute a separate violation, and the penalty for such violation is fifty dollars ($50.00) per day.

Subsection G. No Vested Rights.

Except in instances where constitutional principles or binding state or federal laws otherwise provide, the provisions of this section and any ordinances or other measures concerning Short-Term Rental Units are not a grant of vested rights to continue as a Short-Term Rental Unit indefinitely. Any Short-Term Rental Unit use and permits for Short-Term Rental Units are subject to the provisions of ordinances, resolutions, or other City measures concerning Short-Term Rental Units that may be enacted or adopted at a later date, even though such ordinances, resolutions, or other city measures may change the terms, conditions, allowance, or duration for Short-Term Rental Unit use, including but not limited to those that may terminate some or all Short-Term Rental Unit uses, with or without some period of amortization. While this recitation concerning vested rights is implicit in any uses permitted by the City, this explicit recitation is set forth to avoid any uncertainty or confusion.

Subsection H. Compliance with Laws; Complaints; Remedies and Permit Revocation.

1. Compliance with City and State Laws. It shall be unlawful to operate a Short-Term Rental Unit that does not comply with all applicable city and state laws.

2. Operation without Permit. Any Short-Term Rental Unit operating or advertising for operation without a valid Short-Term Rental Unit Operating Permit shall be deemed a public safety hazard. The City may issue and the Operator(s) or, if different, the Owner(s) or the Local Contact Person may receive a civil citation for operating or advertising for operation without a Short-Term Rental Unit

Operating Permit, and the penalty for such violation is fifty dollars ($50.00) per day.

3. Public Nuisance. It is unlawful and a violation of this section and is hereby declared a public nuisance for any person to commit, cause, or maintain a violation of any provision or to fail to comply with any of the requirements of this section. The operation or maintenance of a Short-Term Rental Unit in violation of this section or any other City ordinance or State law may be abated or summarily abated by the City in any manner authorized by the Bartlett Code of Ordinances or otherwise provided by law for the abatement of public nuisances. The City may issue and the Operator(s) or, if different, the Owner(s), the occupants, or the Local Contact Person may receive a civil citation for any violation of this section or any other City ordinance by the Operator(s) or, if different, the Owner(s), the Local Contact Person, or the occupants of the Short-Term Rental Unit, and the penalty for such violation is fifty dollars ($50.00) per day.

4. Complaints. If a complaint is filed with the City of Bartlett alleging that the Operator(s) or, if different, the Owner(s) has violated the provisions of this section or any other applicable City ordinance or State law, the Code Official shall provide written notification of the complaint by regular mail to the Operator(s) or, if different, the Owner(s) at the Operator or Owner's address listed on the application, and the Code Official shall investigate the complaint and inspect the property being used as a Short-Term Rental. Within twenty (20) days of the date that the notification was sent to the Operator(s) or Owner(s), the Operator(s) or, if different, the Owner(s) may respond to the complaint, present evidence, and respond to evidence produced by the investigation. If the Code Official finds the complaint to be supported by a preponderance of the evidence, the Code Official may suspend or revoke the Short-Term Rental Unit Operating Permit or take or cause to be taken other enforcement action as provided in the Bartlett Code of Ordinances. Any false complaint made against a Short-Term Rental Operator or Owner is punishable as perjury under Title 39, Chapter 16, Section 702 of the Tennessee Code Annotated.

5. Revocation of Permit. The Code Official may revoke a Short-Term Rental Unit Operating Permit if the Code Official discovers that (i) an applicant obtained the Short-Term Rental Unit Operating Permit by knowingly providing false information on the application; (ii) the continuation of the Short-Term Rental Unit

presents a threat to public health or safety; (iii) the Operator(s) or, if different, the Owner(s) or Short-Term Rental Unit has violated any of the provisions of this section or has violated any other City ordinance or State law; (iv) the Operator(s) or, if different, the Owner(s) operated a Short-Term Rental Unit without a Short-Term Rental Unit Operating Permit or (v) the Short-Term Rental Unit has been in violation of a generally applicable local law three (3) or more separate times, and no appeal rights remain for any of the three (3) violations. Should the Short-Term Rental Unit Operating Permit be revoked, in addition to any other penalty, there shall be a one-year waiting period from the date of revocation for the property to become eligible again for a Short-Term Rental Unit Operating Permit. Upon reapplication, the Operator(s) or, if different, the Owner(s) must pay the full permit fee.

6. Appeal of Suspension or Revocation. If a Short-Term Rental Unit Operating Permit is suspended or revoked, the Code Official shall state the specific reason(s) for the suspension or revocation. Any Operator(s) or, if different, any Owner(s) whose Short-Term Rental Unit Operating Permit has been suspended or revoked may appeal such suspension or revocation by submitting a written request to the Bartlett Code Enforcement Office for a hearing before the Code Appeals Board within twenty (20) days of receiving the notice of suspension or revocation. A hearing date will be set within twenty (20) calendar days of the filing of an appeal. All hearings before the Code Appeals Board shall be open to the public. The appellant, the appellant's representative, the Code Official or his/her designee, and any person whose interests are affected shall be given an opportunity to be heard. A quorum shall consist of not less than two-thirds (2/3) of the Board membership. The Code Appeals Board may reverse or affirm, wholly or in part, or may modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision, or determination as ought to be made. The decision of the Code Appeals Board shall be the final administrative decision and shall be subject only to judicial review in the Circuit or Chancery Court pursuant to state law. In addition to any other penalty imposed, if the decision of the Code Appeals Board to revoke a Type 1 Short-Term Rental Unit Operating Permit is upheld, the Operator(s) or, if different, the Owner(s) must wait one (1) year before reapplying for a new Short-Term Rental Unit Type 1 Operating Permit. Upon reapplication, the Operator(s) or, if different, the Owner(s) must pay the full permit fee. In addition to any other penalty imposed, if the decision of the Code Appeals Board to revoke a Type 2

Short-Term Rental Unit Operating Permit is upheld, it cannot be renewed or reapplied for, and the ability of the Operator(s) or, if different, the Owner(s) to obtain or hold a Type 2 Short-Term Rental Unit Operating Permit for the Short-Term Rental Unit is extinguished permanently.

7. City Shall Not Enforce Private Agreements. The City of Bartlett shall not have any obligation or be responsible for making a determination regarding whether the issuance of a Short-Term Rental Unit Operating Permit or the use of a dwelling as a Short-Term Rental Unit is permitted under any private agreements or any covenants, codes, conditions, and restrictions, or any of the regulations or rules of a homeowners' association or maintenance organization, Condominium Agreement, mortgage agreement, insurance contract, or any other contract or agreement governing and limiting the use of the Short-Term Rental Unit, and the City shall have no enforcement obligations in connection with such private agreements or covenants, conditions and restrictions or such regulations or rules.

Subsection I. Operational Requirements.

1. Taxes. The City of Bartlett levies a privilege tax upon the privilege of occupancy in a Short-Term Rental Unit of each Transient Guest Such tax is in the amount of five percent (5%) of the consideration charged by the Short-Term Rental Unit Property Operator(s) or, if different, the Owner(s). Such tax is a privilege tax upon the Transient Guest occupying such Short-Term Rental Unit and is to be collected and enforced by the City as provided pursuant to the Bartlett Charter. Each Short-Term Rental Unit Operator(s) or, if different, the Owner(s) is responsible for collecting such tax from the Transient Guest(s) renting the Short-Term Rental Unit and paying all applicable taxes, including, but not limited to, the Occupancy Privilege Tax to the City of Bartlett, sales tax to the State of Tennessee, and gross receipts tax to the State of Tennessee. An Operator(s) or, if different, the Owner(s) shall be required to obtain a City of Bartlett and a Shelby County business license for the purposes of the gross receipts tax.

2. Advertising. It shall be unlawful to advertise any Short-Term Rental Unit without the Operating Permit number clearly displayed on the advertisement. For the purposes of this section, the terms "advertise," "advertising" or "advertisement" mean the act of drawing the public's attention to a Short-Term Rental Unit in any forum, whether electronic or non-electronic, in order to promote the availability of the Short-Term Rental Unit.

3. Maximum Occupancy. The maximum occupancy of any Short-Term Rental Unit by Transient Guests shall not exceed ten (10) persons.

4. Term of Rental. Renting for an hourly rate, or for rental durations of less than twenty-four (24) consecutive hours, shall not be permitted.

5. Age Requirement. The principal renter (Transient Guest) of a Short-Term Rental Unit shall be at least twenty-one (21) years of age.

6. Signage. Signs or other displays on the property indicating that the dwelling unit is being utilized, in whole or in part, as a Short-Term Rental Unit, are prohibited.

7. Food Service. No food shall be prepared for or served to the Transient Guest(s) by the Operator(s) or, if different, the Owner(s).

8. Contact Information Shall Be Posted. The name and telephone number of the Operator or, if different, the Owner or Local Contact Person shall be conspicuously posted within the Short-Term Rental Unit. The person listed on this posting shall answer calls twenty-four (24) hours per day, seven (7) days a week for the duration of each short-term rental period to address problems associated with the Short-Term Rental Unit.

9. Parking. No recreational vehicle, camper, boat, boat trailer, travel trailer or other recreational-type equipment, and no bus or truck or trailer having a declared maximum Gross Vehicle Rating (GVWR) of fourteen thousand (14,000) pounds and/or more than six (6) wheels, shall be parked in any residential zoning district in the City of Bartlett in conjunction with the use of a Short-Term Rental Unit. A recreational vehicle or trailer may be parked behind the building line of the front elevation of the dwelling unit where the Short-Term Rental unit is located.

10. Compliance with Bartlett City Code. The Operator(s) or, if different, the Owner(s) must ensure that the use of the Short-Term Rental Unit is in compliance with the applicable noise, nuisance, parking, trash, property maintenance code, and public decency provisions of the Bartlett City Code. A prohibition against making loud noise in such a manner as to disturb the quiet, comfort or repose of neighboring property owners must be included in the short-term rental rules. All outdoor activities producing noise discernible from a neighboring property shall cease between the

hours of 10:00 p.m. to 7:00 a.m. These requirements must be included in the short-term rental rules.

11. Simultaneous Rentals Prohibited. A Short-Term Rental Unit may only be rented as a whole unit to one party of short-term Transient Guests at any one time. Separate rooms may not be rented to separate parties of Transient Guests.

12. Rules for Transient Guests. The Operator(s) or, if different, the Owner(s) must provide the Transient Guest(s) renting the Short-Term Rental Unit with a written list of rules applicable to the short-term rental, and the Rental Agreement must contain a written acknowledgment by the Transient Guest(s) of their agreement to comply with such rules.

Subsection J. Severability.

The Board of Mayor and Aldermen for the City of Bartlett hereby declares that, should any section, paragraph, sentence, phrase, term or word of this Ordinance be declared for any reason to be invalid, it is the intent of the Board that it would have adopted all other portions of this Ordinance independent of the elimination of any such portion as may be declared invalid. If any section, subdivision, paragraph, sentence, clause or phrase of this Ordinance for any reason should be rendered void or unenforceable by any court of law, statute or other authority, the rest and remainder of this Ordinance shall remain in full force and effect.

ARTICLE VII.

NON-CONFORMING LOTS, USES OF LAND, STRUCTURES, USES OF STRUCTURES AND PREMISES, AND NON-CONFORMING CHARACTERISTICS OF USE

Section 1 -Intent

Within the district established by this Ordinance or amendments that may later be adopted there exist lots, structures, uses of land and structures, and characteristics of use which were lawful before this Ordinance was passed or amended, but which would be prohibited, regulated, or restricted under the terms of this Ordinance or future amendment. Non-conforming uses are declared by this Ordinance to be incompatible with permitted uses in the districts involved. It is the intent of this Ordinance to permit these non-conformities to continue until they are removed, but not encourage their survival. To avoid undue hardship, nothing in this Ordinance shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this Ordinance and upon which actual building construction has been carried on diligently. Actual construction is hereby defined to include the placing of construction material in permanent position and fastened in a permanent manner. Where excavation or demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such excavation or demolition or removal shall be deemed to be actual construction, provided that work shall be carried on diligently.

Section 2 -Non-Conforming Lots Of Record

In any district in which single family dwellings are permitted, a single family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this Ordinance, notwithstanding limitations imposed by other provisions of this Ordinance. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the district, provided that yard dimensions and requirements other than these applying to area or width or both of the lot shall conform to the regulations for the district in which such lot is located. Variance of yard requirements shall be obtained only through action of the Board of Zoning Appeals.

Section 3 -Non-Conforming Uses of Land (or Land With Minor Structures Only)

Where at the time of passage of this Ordinance, lawful use of land exists which would not be permitted by the regulations imposed by this Ordinance, the use may be continued so long as it remains otherwise lawful, provided:

A. That no change in the use of the land is undertaken;

B. No additional land shall be acquired for expansion of the non-conforming use;

C. If any such non-conforming use of land ceases for any reason for a period of more than thirty (30) days, any subsequent use of such land shall conform to the regulations specified by this Ordinance for the district in which such land is located;

D. No additional structure not conforming to the requirements of this Ordinance shall be erected in connection with such non-conforming use of land.

Section 4 -Non-Conforming Structures

Where a lawful structure exists at the effective date of adopting or amendment of this Ordinance that could not be built under the terms of this Ordinance by reason of restrictions on area, lot coverage, height, yards, such structure may be continued as long as it remains otherwise lawful, subject of the following provisions:

A. No such non-conforming structure may be enlarged or altered in a way which increases its non-conformity, but any structure or portions thereof may be altered to decrease its non-conformity.

B. Should such non-conforming structure be destroyed by any means to an extent of more than fifty (50) percent of its replacement cost at the time of destruction, it shall not be reconstructed except in conformity with the provisions of this Ordinance.

Section 5 -Non-Conforming Uses of Structures or of Structures and Premises In Combination

(Amended by Ord. 02-16, 12/10/02)

If lawful use involving individual structures or of structure and premises in combination exists at the effective date of adoption or amendment of this Ordinance that would not be allowed in the district under the terms of this Ordinance, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

A. Any non-conforming use may be extended throughout any part of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of this Ordinance.

B. Any structure, or structure and land in combination, in or on which a non-conforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district, and the non-conforming use may not thereafter be resumed.

C. When a non-conforming use of a structure, or structure and premises in combination, is discontinued or abandoned for six (6) consecutive months or for eighteen (18) months during any three (3) year period (except when government action impeded access to the premises), the structure, or structure and premises in combination shall not thereafter be used except in conformity with the regulations of the district in which it is located.

Section 6 - Repairs, Maintenance and Building Expansion

On any non-conforming structure or portion of a structure containing a non-conforming use, work may be done on ordinary repairs, or on repair or replacement of the structure as the case may be, provided that there is a reasonable amount of space for such expansion on the property owned by such industry or business so as to avoid nuisances to adjoining land owners. Any building expansion or rebuilding shall occur only on land owned and in use by such non-conforming business, and shall not operate to permit expansion of an existing industry or business through the acquisition of additional land. Nothing in this Ordinance shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by an official charged with protecting the public safety, upon order of such official.

(Section 7 deleted by Ord. 02-16, 12/10/02.)

ARTICLE VIII.

ADMINISTRATION AND ENFORCEMENT--BUILDING PERMITS AND CERTIFICATES OF ZONING COMPLIANCE

Section I - Administration and Enforcement

A. Building Official designated by the Board of Mayor and Aldermen shall administer and enforce this Ordinance. He may be provided with the assistance of such other persons as the Board of Mayor and Aldermen may direct.

B. If the Building Official shall find that any of the provisions of this Ordinance are being violated, he shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. He shall order discontinuance of illegal use of land, buildings, or structures; removal of illegal buildings or structures or of illegal additions, alterations, or structural changes; discontinuance of any illegal work being done; or shall take any other action authorized by this Ordinance to insure compliance with or to prevent violation of its provisions.

Section 2 - Building Permits Required

(Amended by Ord. 02-16, 12/10/02)

No building or other structure shall be erected, moved, added to, or structurally altered without a permit therefore, issued by the Building Official. No Building Permit shall be issued by the Building Official except in conformity with the provisions of this Ordinance, unless he receives a written order from the Board of Zoning Appeals in the form of an administrative review or variance as provided by this Ordinance.

Section 3 - Application for Building Permit

(Amended by Ord. 06-06, 4/25/06)

All applications for Building Permits for non-residential property and multi-family property shall be accompanied by three (3) sets of working plans and three (3) sets of plot plans prepared by a registered architect or registered engineer drawn to scale, showing the actual dimensions and shape of the lot to be built upon; the exact sizes and locations on the lot of buildings already existing, if any; and the location and dimensions of the proposed building or alteration. Any applications for Building Permits for additions or outbuilding on non-residential and multi-family property shall be accompanied by three (3) sets of working plans prepared by a registered architect or registered engineer which show the dimensions of the addition or outbuilding and how it will relate to

existing buildings and all lot lines. The application shall include such other information as lawfully may be required by the Building Official including existing or proposed building or alteration; existing or proposed uses of the building and land; the number of families, housekeeping units, or rental units the building is designed to accommodate; conditions existing on the lot; and such other matters as may be necessary to determine conformance with, and provide for the enforcement of this Ordinance.

One copy of the working plans shall be returned to the applicant by the Building Official after he shall have marked such copy either as approved or disapproved and attested to same by his signature on such copy. The original and one copy of the working plans and plot plans similarly marked shall be retained by the Building Official. All other applications for Building Permits shall be accompanied by one (1) set of working plans and one (1) set of plot plans drawn to scale, showing the actual dimensions and shape of the lot to be built upon; the exact sizes and locations on the lot of buildings already existing, if any; and the location and dimensions of the proposed building or alteration. Any applications for Building Permits for additions or outbuildings shall be accompanied by one (1) set of plot plans which show the dimensions of the addition or outbuilding and how it will relate to existing buildings and all lot lines. The application shall include such other information as lawfully may be required by the Building Official, including existing or proposed uses of the building and land; the number of families, housekeeping units, or rental units the building is designed to accommodate; conditions existing on the lot; and such other matters as may be necessary to determine conformance with, and provide for the enforcement of this Ordinance. Said one (1) copy of the working plans and plot plans shall be retained by the Building Official.

Before receiving approval to begin construction on a building, the contractor, owner or occupant must first place the foundation boards and have a form survey completed by a surveyor, licensed by the State of Tennessee, to ensure compliance with the required setbacks. The form survey must take into consideration the exterior finish dimensions to be applied as part of the building. The required form survey must be submitted to the Code Enforcement Department prior to the building being framed for interior and exterior walls. Framing may begin once Code Enforcement has reviewed the survey and contacted the builder to proceed.

The Director of Code Enforcement may grant a variance of up to 2% of an applicable required front or rear yard setback and 5% for a required side yard setback for a residentially zoned lot of record. The person seeking the variance must submit an application and fee as is required for other variances. Public notice shall not be required. Any appeal of an administrative decision shall be to the Board of Zoning Appeals. Public notice of the Board of Zoning Appeals hearing on such an appeal shall be the same as other applications for variances.

Administrative variance may be granted only when it is determined that a field error has occurred regarding the placement of the structure on the lot. If the Director of Code Enforcement denies an application for a variance and the Board of Zoning Appeals denies any subsequent appeal of same, a reapplication on the same property, for the same variance may not be filed within one year of the date that the Board of Zoning Appeals took final action or the previous application, unless authorized by the Board of Mayor and Aldermen.

Section 4 - Certificates of Zoning Compliance for New, Altered or Non-Conforming Use

It shall be unlawful to use or occupy or permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted, or wholly or partly altered or enlarged in its use or structure until a Certificate of Zoning compliance shall have been issued therefore by the Building Official stating that the proposed use of the building or land conforms to the requirements of this Ordinance. No non-conforming structure or use shall be maintained, renewed, changed, or extended until a Certificate of Zoning Compliance shall have been issued by the Building Official. The Certificate of Zoning Compliance shall state specifically wherein the non-conforming use differs from the provisions of this Ordinance, pro vided that upon enactment or amendment of this ordinance, owners or occupants of non-conforming uses or structures shall have three (3) months to apply for Certificate of Zoning Compliance. Failure to make such application within three (3) months shall be presumptive evidence that the property was in conforming use at the time of enactment or amendment of this Ordinance. No permit for erection, alteration, moving, or repair of any building shall be issued until an application has been made for a Certificate of Zoning Compliance, and the Certificate shall be issued in conformity with the provisions of this Ordinance upon completion of the work. A temporary Certificate of Zoning Compliance may be issued by the Building Official for a period not exceeding six (6) months during alterations or partial occupancy of a building pending its completion provided that such temporary certificate may include such conditions and safeguards as will protect the safety of the occupants and the public. The Building Official shall maintain a record of all Certificates of Building Compliance, and a copy shall be furnished upon request to any person. Failure to obtain a Certificate of Zoning Compliance shall be a violation of this Ordinance and punishable under Article XIII.

Section 5 - Expiration of Building Permit

If the work described in any Building Permit has not begun within ninety (90) days from the date of issuance thereof, said permit shall expire, and be canceled by the Building Official and written notice thereof shall be given to the persons affected. If the work described in any Building Permit has not been substantially completed within one (1) year of the date of issuance thereof, said permit shall

expire and be canceled by the Building Official and written notice thereof shall be given to the persons affected, together with notice that further work as described in the canceled permit shall not proceed unless and until a new Building Permit has been obtained.

Section 6 - Construction and Use to Be as Provided in Applications, Plans, Permits and Certificates of Zoning Compliance

Building Permits or Certificates of Zoning Compliance issued on the basis of plans and applications approved by the Building Official authorize only the use, arrangement, and construction set forth in such approved plans and applications, and no other use, arrangements, or construction. Use, arrangement, or construction at variance with that authorized shall be a violation of this Ordinance and is punishable as provided by Article XIII.

Section 7 -Abandonment of Construction Activity

If the work described in any Building Permit has begun within the required time but work has thereafter stopped and no substantial work is done within one hundred eighty (180) continuous days, the Building Official may, at his discretion, order the persons affected to complete the structure or to remove it within sixty (60) days. The Building Official shall give the parties affected written notice. Violation of the order of the Building Official shall be a violation of this Ordinance and is punishable as provided by Article XIII.

ARTICLE IX.

BOARD OF ZONING APPEALS

Section 1 - Establishment

A Board of Zoning Appeals is hereby established, which shall consist of five (5) members to be appointed by the Mayor and approved by a majority of the membership of the Board of Mayor and Aldermen, each for a term of three (3) years. The Board shall consist of at least one (1) member of the Board of Mayor and Aldermen, one (1) member of the Municipal Planning Commission and one (1) member of the Community Design and Review Commission. Members of the Board of Zoning Appeals may be removed from office by the Board of Mayor and Aldermen. Vacancies shall be filled by the Board of Mayor and Aldermen for the unexpired term of the member affected.

Section 2 -Proceedings of the Board of Zoning Appeals

The Board of Zoning Appeals shall adopt rules necessary to the conduct of this Ordinance. Meetings shall be held at the call of the chairman and at such other times as the Board may determine. The Chairman or, in his absence, the acting Chairman, may administer oaths and compel the attendance of witnesses. All meetings shall be open to the public.

The Board of Zoning Appeals shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be a public record and be immediately filed in the office of the Board.

Section 3 -Hearings; Appeals; Notice

(Amended by Ord. 02-16, 12/10/02)

Appeals to the Board of Zoning Appeals concerning interpretation or administration of this Ordinance may be taken by any person aggrieved or by any officer or bureau of the governing body of the City affected by any decision of the Building Official. Such appeals shall be taken within a reasonable time, not to exceed sixty (60) days or such lesser period as may be provided by the rules of the Board, by filing with the Building Official and with the Board of Zoning Appeals a Notice of Appeal specifying the grounds thereof. The Building Official shall forthwith transmit to the Board all papers constituting the record upon which the action appealed from was taken. The Building Official shall also transmit to the Planning Commission notice of the appeal. The Board of Zoning Appeals shall fix a reasonable time for the hearing of appeal, give public notice thereof as well as due notice to the parties in interest, and decide the same

within a reasonable time. At the hearing, any party may appear in person or by agent or attorney.

At least fifteen (15) days notice of the time and place of the Public Hearing shall be published in a newspaper of general circulation in the City, and written notice given residents whose property is within three hundred (300) feet of the site or a minimum of ten (10) property owners, whichever results in the greater number of notices, for Administrative Review and Variance cases. The applicant shall provide a vicinity map showing the property which is the site of the application and all parcels of property required to be notified. Such vicinity maps shall show any and all streets, roads, or alleys and shall indicate the owner's name and dimensions of each parcel of property shown. The applicant shall also provide a list of the names and addresses of the owners of property shown on the vicinity map.

Section 4 - Stay of Proceedings

An appeal stays all proceedings in furtherance of the action appealed from, unless the Building Official, from whom the appeal is taken, certifies to the Board of Zoning Appeals, after the notice of appeal is filed with him, that by reason of facts stated in the Certificate, a stay would, in his opinion, cause imminent peril to life and property. In such case proceedings shall not be stayed other than by a restraining order which may be granted by the Board of Zoning Appeals or by a court or record on application, on notice to the Building Official from whom the appeal is taken and on due cause shown.

Section 5 - Powers and Duties

(Amended by Ord. 02-16, 12/10/02)

The Board of Zoning Appeals shall have the following powers and duties:

A. ADMINISTRATIVE REVIEW

To hear and decide appeals where it is alleged by the appellant there is error in any order, requirement, permit, decision, or refusal made by the Building Official or any other administrative official in the carrying out or enforcement of any provision of this Ordinance; and for interpretation of the Zoning Map.

B. VARIANCES: CONDITIONS GOVERNING APPLICATIONS; PROCEDURES

Where,

- by reason of exceptional narrowness, shallowness or shape of a specific piece of property at the time of the enactment of the Zoning Ordinance, or

- by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of such piece of property,

the strict application of the Zoning Ordinance would result in peculiar and exceptional practical difficulties to or exception or undue hardship upon the owner of such property; to authorize, upon an appeal relating to the property, a variance from such strict application so as to relieve such difficulties or hardship; provided, that such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the Zoning Map and Zoning Ordinance.

A variance from the terms of this Ordinance shall not be granted by the Board of Zoning Appeals unless and until the following requirements are met:

1. A written application for a variance is submitted demonstrating

   a. That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district;

   b. That literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Ordinance.

   c. That the special conditions and circumstances do not result from the actions of the applicant.

   d. That granting the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to other lands, structures, or buildings in the same district.

   No non-conforming use of neighboring lands, structures, or buildings in the same district, and no permitted or non-conforming use of lands, structures or buildings in other districts shall be considered grounds for the issuance of a variance.

2. Notice of public hearing shall be given as required in this Article.

3. The public hearing shall be held. Any party may appear in person, or by agent or attorney.

4. The Board of Zoning Appeals shall make findings that the requirements of this Article have been met by the applicant for a variance.

5. The Board of Zoning Appeals shall further make a finding that the reasons set forth in the application justify the granting of the variance,

and that the variance is the minimum variance that will make possible the reasonable use of the land, building, or structure.

6. The Board of Zoning Appeals shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this Ordinance, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

In granting any variance, the Board of Zoning Appeals may prescribe appropriate conditions and safeguards in conformity with this Ordinance. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Ordinance and punishable under Article XIII of this Ordinance.

Under no circumstances shall the Board of Zoning Appeals grant a variance to allow a use not permissible under the terms of this Ordinance in the district involved, or any use expressly or by implication prohibited by the terms of this Ordinance in said district.

C. BOARD HAS POWERS OF ADMINISTRATIVE OFFICIAL ON APPEALS; REVERSING DECISION OF THE BUILDING OFFICIAL

In exercising the above mentioned powers, the Board of Zoning Appeals may, so long as such action is in conformity with the terms of this Ordinance, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from and may make such order, requirement, decision, or determination as ought to be made, and to that end shall have the powers of the Building Official from whom the appeal is taken.

The concurring of a majority of the Board of Zoning Appeals shall be necessary to reverse any order, requirement, decision, or determination of the Building Official, or to decide in favor of the applicant on any matter upon which it is required to pass under this Ordinance, or to effect any variation in the application of this Ordinance.

Section 6 -Appeals from the Board of Zoning Appeals

Any person or persons, or any board, tax payer, department, board or bureau of the City aggrieved by any decision of the Board of Zoning Appeals may seek review by a court of record of such decision, in the manner pro vided by the laws of the State of Tennessee.

All decisions and findings of the Board of Zoning Appeals on appeals or upon applications for variances shall in all instances be final administrative decisions.

ARTICLE X.

DUTIES OF THE BOARD OF MAYOR AND ALDERMEN

It is the intent of this Ordinance that the duties of the Board of Mayor and Aldermen in connection with this Ordinance shall not include hearing and deciding questions of interpretation and enforcement that may arise. The procedure for deciding such questions shall be as stated in Article IX of this Ordinance. Under this Ordinance the Board of Mayor and Aldermen have only duties (1) of considering and adopting or rejecting proposed amendments or the repeal of this Ordinance, as provided by law of the State of Tennessee and (2) of establishing a schedule of fees and charges.

ARTICLE XI.

ESTABLISHMENT OF FEES, CHARGES AND EXPENSES

The Board of Mayor and Aldermen shall establish a schedule of fees, charges, and expenses and a collection procedure for Building Permits, Certificates of Zoning Compliance, appeals, and other matters pertaining to this Ordinance. The schedule of fees shall be posted in the office of the Building Official and may be altered or amended only by the Board of Mayor and Aldermen.

Until all applicable fees, charges, and expenses have been paid in full, no action shall be taken on any application or appeal.

ARTICLE XII.

AMENDMENTS

Section 1 - Public Hearing Required before Amendment

The regulations, restrictions and boundaries set forth in this Ordinance may from time to time be amended, supplemented, changed, or repealed by the Board of Mayor and Aldermen. Such amendments may be at the Board's own initiative, at the recommendation of the Planning Commission, or at the request of an applicant with a contractual interest in the property. All requests for amendments shall be reviewed by the Planning Commission before submission to the Board of Mayor and Aldermen. The Planning Commission shall submit its recommendations on the request to the Board.

The request for an amendment shall be heard by the Board of Mayor and Aldermen at a regularly scheduled meeting. Before enacting any amendment, the Board shall set a public hearing for the proposed amendment.

No amendment may be approved until after a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. At least fifteen (15) days notice of the time and place of such hearing shall be published in a newspaper of general circulation in the City, and written notice given residents whose property is within one thousand (1,000) feet of the land proposed for rezoning or a minimum of fifty (50) property owners, whichever results in the greatest number of notices. The applicant shall provide a vicinity map showing the property which is the site of the application and all parcels of property required to be notified. Such vicinity maps shall show any and all streets, roads, or alleys and shall indicate the owner's name and dimensions of each parcel of property shown. The applicant shall also provide a list of the names and addresses of the owners of property shown on the vicinity map. The applicant shall pay the cost of notifying residents.

The party requesting the rezoning must place a 4' x 4' sign on the property at least fifteen (15) days before a Public Hearing at the Planning Commission level and Board of Mayor and Aldermen level. Said sign must clearly state the name, address and telephone number of the party requesting the rezoning and date, time and place of the Public Hearing. The sign must show the existing zoning and the proposed zoning change with the telephone number of the City of Bartlett Planning Department. The location of the sign on the property will be set by the Bartlett Planning Department.

Section 2 -Re-Application

When an application for rezoning is rejected, no re-application can be made on the same property for at least twelve (12) months after the date of rejection.

ARTICLE XIII.

LEGAL STATUS PROVISIONS

Section 1 - Provisions of Ordinance Declared to be Minimum Requirements

In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements, adopted for the promotion of the public health, safety, morals or general welfare. Wherever the requirements of this Ordinance are at variance with the requirements of any other lawfully adopted rules, regulations, ordinances, or deed restrictions, the most restrictive, or that imposing the higher standards, shall govern.

Section 2 - Complaints Regarding Violations

Whenever a violation of this Ordinance occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint stating fully the causes and basis thereof shall be filed with the Building Official. He shall record properly such complaint, immediately investigate, and take action thereon as provided by this Ordinance.

Section 3 -Penalties for Violation

(Amended by Ord. 02-16, 12/10/02)

Violation of the provisions of this Ordinance or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances) shall constitute a misdemeanor. Any person who violates this Ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not more than Fifty Dollars ($50.00), and in addition shall pay all costs and expenses involved in the case. Each day such a violation may continue shall be considered a separate offense.

The owner or tenant of any building, structure, premises, or part thereof, and any architect, builder, contractor, agent, or other person who commits, participates in, assists in, or maintains such violation may each be found guilty of a separate offense and suffer the penalties herein provided.

Nothing herein contained shall prevent the City from taking such other lawful action as is necessary to prevent or remedy any violation.

SUBDIVISION ORDINANCE

City of Bartlett, Tennessee

Table of Contents

SUBDIVISION ORDINANCE

ARTICLE I.

PURPOSE, AUTHORITY, JURISDICTION AND POLICY

Section 1 - Purpose

The purpose of these subdivision regulations is to provide for the harmonious development of the City of Bartlett and its environs; to secure a coordinated layout with adequate provision for traffic, light, air, recreation, transportation, water, drainage, sewers, and other sanitary facilities and services; to promote a distribution of population and traffic which will tend to create conditions favorable to health, safety, convenience and prosperity. Accordingly, these subdivision regulations set forth the procedures and minimum standards adhered to by developers of lands for residential, commercial, and industrial uses, and to provide a guide for the planning commission and other city officials in exercising their duties pertaining to the review, approval and administration of land subdivision development within the jurisdiction of the City of Bartlett.

Section 2 - Authority

These subdivision regulations and the procedures and standards set forth herein are adopted by the planning commission under the authority granted by Tennessee Code Annotated, §§ 13-4-301 through 13-4-309. The planning commission has fulfilled the requirements set forth in those statutes as a prerequisite to the adoption of such regulations, having filed a certified copy of the Major Street Plan in the Office of the Register of Shelby County, Tennessee.

Section 3 - Jurisdiction

These regulations shall govern all subdivision of land lying within the corporate limits of the City of Bartlett, Tennessee as now or hereafter established.

Within these regulations, the term "subdivision" means a tract of land divided into two (2) or more lots, sites or other parcels, requiring new street or utility construction and/or any division of less than four (4) acres, for the purpose, whether immediate or future, for sale or building development, and includes a resubdivision of all or part of an existing "subdivision" by decreasing or enlarging the size of the lots, sites, or other parcels.

When appropriate to the context, the term "subdivision" does not include a division of any tract of land into two (2) or more parcels when each parcel meets the following requirements and requires neither new street construction to

provide minimum lot frontage nor extension of publicly-owned water or sanitary sewer lines:

1. Parcel has four (4) or more acres in area, exclusive of existing street right-of-way or right-of-way to be reserved.

2. If created prior to the effective date of annexation (See "A" below), parcel has a minimum of fifty (50) feet of frontage on a public street; and if created on or after the effective date of annexation, parcel has a minimum width in accordance with these regulations and the zoning ordinance.

3. Parcel has reserved major street right-of-way in accordance with the MPO Major Road Plan.

4. Parcel has drainage flows exiting the parcel produced by watersheds of less than two hundred fifty (250) acres. Any lot of four (4) acres or more that does not conform to the standard for drainage in exempt lots herein shall not be granted such exemption unless approved by the city engineer. The city engineer may require minor drainage improvements including rip-rapping, dredging, sloping, seeding, sodding and other efforts to ensure the proper flow of storm water and to minimize erosion. Upon satisfactory completion of the improvements and inspection by the city engineer, a building permit may be issued.

The owner of any parcel claiming to be exempt from these regulations shall, at the time a building permit is applied for, provide to the building official a sealed survey certified by a professional land surveyor certifying the parcel and all other parcels created by subdivision of the original parcel of record to be in conformance with the criteria for said exemption above.

A. For an exemption for a division of land where that land to be divided was within the Bartlett city limits on or prior to March 6, 1956, and therefore not subject to Shelby County subdivision regulations, the "original parcel of record" is that tract of land existing by recorded deed or plat immediately prior to June 8, 1967. For an exemption for a division of land where that land to be divided was effectively annexed into Bartlett after March 6, 1956 and therefore subject to Shelby County subdivision regulations, the "original parcel of record" is that tract of land existing by recorded deed or plat prior to March 6, 1956 or as legally created thereafter under Shelby County subdivision regulations. (Ord. #02-18, Dec. 2002, modified)

Section 4 - Policy

It shall be the policy of the planning commission to encourage subdivision development which enhances the health, safety and welfare of the community and which optimizes the use of land while providing a prudent balance between the economic considerations of the developer and the public interest. Conversely, it shall be the policy of the planning commission to disapprove proposed subdivision development which is deemed to be inefficient use of the land, inconsistent with the needs and character of the community, economically untimely, or otherwise not in the public interest. Further, it shall be the policy of the planning commission to consider each proposed subdivision development on its merits in context with existing or planned land use, population and traffic distribution, and the needs and best interest of the community; consequently, the mere compliance with the minimum standards set forth in these regulations does not grant to the developer an implicit or explicit right to subdivision approval; accordingly, the planning commission may require that a proposed subdivision development exceed the minimum standards to satisfy site peculiar conditions or to conform to the existing neighborhood. In furtherance of this policy, the planning commission will consider, at least, the following objectives in the review of proposed subdivisions:

A. Minimization of hazards to life, health and property resulting from fire, flood, pollution of surface and ground water, traffic, unsafe excavations or earthworks erosion, and other potential hazards.

B. Improvement in safety of roads, driveways and parking areas.

C. Avoidance of wasteful and untimely spending for city services and costs to the city resulting from defective subdivision development.

D. Protection of fragile and valuable parts of the natural environment.

E. Protection and preservation of historic landmarks.

F. Efficient use of the land in a manner which enhances and preserves the beauty and character of the community.

G. Promotion of energy conservation.

H. Preservation of open space for public uses such as parks, playgrounds, schools and other similar activities.

I. Protection and enhancement of property values and the quality of life for all residents and property owners in the City of Bartlett.

ARTICLE II.

PROCEDURES FOR SUBDIVISION APPROVAL

Section 1 - General

The procedures for review and approval of a subdivision and its documentation by recorded plat consists of three (3) separate steps. The initial formal step is the preparation of a master plan of a proposed subdivision for submission to the planning commission. The second step is the preparation of a construction plan of the proposed subdivision or sections thereof for review by the city engineer and other agencies as required followed by submission to the planning commission for approval. The third and final step is the preparation of a final subdivision plat with all required certificates for submission to and approval by the planning commission. This final plat becomes the instrument to be recorded in the office of the Shelby County Register when final approval has been attested to by signature of the secretary of the planning commission.

Section 2 - Application, Administration and Fees

Any owner or developer of land lying within the area of jurisdiction of the planning commission who wishes to subdivide such land shall make application to the planning commission by submitting the required plans and plats of the proposed subdivision along with the application fees. Such plans and plats set forth in Articles III and IV of these regulations and such additional site peculiar criteria as may be deemed necessary by the planning commission. Upon receipt of a subdivision application, the planning commission shall take appropriate action within the time hereinafter specified.

A. Required Submissions

Prior to the making of any street improvements, installation of utilities or any horizontal construction, the developer shall submit plans to and obtain the approval of the indicated agencies as follows:

1. Master plan to the planning commission in accordance with Section 3 of this article.

2. Construction plans to the following applicable agencies in accordance with Section 4 of this article:

    a. City engineer;

    b. Flood administrator;

c. Shelby County Health Department (if septic tanks utilized);

d. Tennessee Department of Environment and Conservation;

e. United States Environmental Protection Agency where applicable.

f. Corp of Engineers if applicable.

3. Subsequent to approval of said plans by the agencies noted above, the developer shall submit the construction plans to the planning commission for review and approval. Following such approval by the planning commission, and upon execution of a subdivision contract with the City of Bartlett, the developer may proceed with the development and installation of improvements. Upon satisfactory completion of all required improvements, or upon posting a construction performance bond, and payment of all required fees and deposits, the developer shall submit the final plat for approval by the planning commission. No plat of a subdivision of land lying within the area of jurisdiction of the planning commission will be filed or recorded by the Register of Shelby County, Tennessee, without the express approval of the planning commission as specified herein.

B. Application Fees

The schedule for fees required to accompany each application for plan or plat review will be as established by the board of mayor and aldermen.

Section 3 - Master Plan

The master plan is the initial formal plan for a proposed subdivision which may be of such extent that development and installation of improvements must be accomplished incrementally over an extended period. Regardless of the extent of a proposed subdivision, large or small, the developer should consult informally with the planning commission and staff for advice and assistance before the preparation of the master plan. Such consultation will assist the developer in gaining familiarity with these regulations, the major street plan and other official plans or public improvements which might affect the area, and should preclude unnecessary and costly revisions.

A. Submission and Content of the Master Plan

1. After consultation with the planning commission and staff, and not less than twenty-one (21) days prior to the meeting of the planning commission at which the master plan is to be considered, the developer

shall submit to the city planner or his designated representative at city hall, fifteen (15) copies of the plan drawn to scale of not less than one inch equals one hundred feet (1" = 100') together with the applicable fee. The city planner shall make prompt distribution of the copies as follows: One (1) copy each to members of the planning commission, the city engineer, the flood administrator, and one (1) copy to be retained in the planning commission files.

2. The master plan shall include the design of the entire subdivision on a topographic base map with contours plotted at vertical intervals of not more than two (2) feet and shall give the following information:

   a. The proposed subdivision's name and location, the name(s) and address(es) of the owner(s) or optioner(s), and the name, address and registry number of the designer who shall be a professional civil engineer or land surveyor, registered in the State of Tennessee.

   b. Date, true or grid north point, graphic scale, reference scale and contour interval.

   c. An adjusted or balanced boundary survey of the land to be subdivided, showing the location of the point of beginning, the true or grid bearing and length of each side, and the area in acres.

   d. A sketch map inset showing the location and relationship of the proposed subdivision to the surrounding area.

   e. Names and addresses of the surrounding property owners and the names of surrounding subdivision.

   f. The location, area, and zoning classification of the proposed land uses within the subdivision.

   g. The location and extent of all land within the proposed subdivision subject to flooding.

   h. The location and size of existing sewer, gas, and water lines and other public utilities within or adjacent to the proposed subdivision.

   i. The location and description of all existing structures, streets, easements, rights-of-way, watercourses, bridges, culverts, and

perennial or intermittent springs on or adjacent to the land to be divided.

j. The locations and dimensions of proposed street right-of-ways, easements for drainage, floodways, and utilities, and building setback lines.

k. A lot or parcel layout plan showing the dimensions, area, and number identification for each lot or parcel.

l. A drainage study in sufficient detail to determine all surface drainage and evidence of subsurface drainage which may affect or be affected by the proposed subdivision.

m. Any other information that may be necessary for the full and proper consideration of the proposed subdivision.

n. Tree survey as outlined in the tree ordinance.

3. If the developer plans to develop the subdivision in phases, the tentative plan for such phasing shall be shown on the master plan.

4. Requests for variances from the subdivision regulations, along with justification of proposed variances shall be submitted in writing with the application for master plan approval. Justification for variances shall be in accordance with Section 1, Article V, of these regulations.

B. Planning Commission Hearing

Normally, within thirty (30) days after submission of the master plan, the planning commission will review it in open public meeting and indicate approval, disapproval, or approval subject to modification. If the plan is disapproved, reasons for such disapproval shall be stated in writing. If approved subject to modification, the nature of the required modification shall be indicated. Failure of the planning commission to act on the master plan within thirty (30) days shall be deemed approval of the plan unless the applicant for the commission's approval shall have waived this requirement and consented to the extension of such period as provided in Tennessee Code Annotated, § 13-4-304.

C. Submission of Approved Master Plan

Upon approval of the master plan by the planning commission, the developer shall submit to the city planner five (5) copies of the master plan, as approved by the planning commission. A signature block shall be provided on the master

plan that indicates the date of approval of the master plan and provides a signature block for the secretary to the planning commission to certify this is the approved master plan. The plan shall be distributed as follows: One (1) copy to be retained in the planning commission files, one (1) copy shall be returned to the developer with a notation by the city planner indicating the date of planning commission approval, the expiration date of such approval, and whether or not required modification, if any, has been satisfactorily made; one (1) copy shall be forwarded to the water and sewer department; one (1) copy shall be forwarded to the city engineer; and one (1) copy retained by the city planner.

D. Effect of Approval on Subsequent Plan or Plat Submissions

Approval of the master plan by the planning commission shall not constitute acceptance of the construction plan or the final plat and shall not be so indicated on the master plan.

E. Expiration of Approval and Renewal

Approval of the master plan shall lapse unless a construction plan for all or part of the proposed subdivision is submitted within twelve (12) months from the date of the master plan approval, or unless an extension of time is applied for and granted by the planning commission. Failure of the developer to act within the specified time or denial of a time extension shall require a new application for master plan approval including the applicable fee.

Section 4 - Construction Plan

The construction plan is a fully engineered design of all or part of the proposed subdivision in sufficient detail for the review agencies to determine that the improvements to be installed or constructed for said subdivision meet the required standards, provide adequate protection of the public's health and safety, and do not create or aggravate potential hazards to life or property.

A. Submission and Content of the Construction Plan

1. After master plan approval and upon obtaining the required certifications from the appropriate review agencies, and prior to final plat approval, the developer shall submit five (5) copies of the construction plan, together with applicable fee, to the city planner or his designated representative. The planner shall retain one (1) copy for the planning commission files and forward three (3) copies to the city engineer for presentation to the planning commission in an open public meeting, and one (1) copy shall be retained by the city planner. The developer shall make application for construction plan approval not later than twenty-one (21) days prior to

the planning commission meeting at which time the plan is to be considered.

2. The construction plan shall meet, at least, the minimum design of Article III, meet the prerequisites and standards for construction of improvements set forth in Article IV, and conform substantially to the approved mater plan. If the construction plan is at variance with the approved master plan, the following procedure shall apply:

   a. If the variance is minor, the planning commission may at its discretion, authorize the change with a notation in the minutes of a regular or special meeting.

   b. If the variance is major, the developer shall be required to submit a revised master plan for planning commission approval prior to approval of the construction plan.

3. The construction plan shall include all of the information required for the master plan and shall meet the following additional requirements:

   a. The plan shall carry the signature and seal of the designer who shall be a professional civil engineer, registered in the State of Tennessee.

   b. A grading plan showing the existing contours in dashed lines and the finished contours in solid lines plotted at vertical intervals of not more than two (2) feet. Contours shall be extended fifty (50) feet beyond property boundary.

   c. If any portion of the land to be subdivided is below the one-hundred (100) year flood elevation, the limits and the actual elevation of said flood shall be shown.

   d. Detailed plans of proposed utility layouts (sewers and water) showing feasible connections to adequate existing or proposed utility systems. Where such connections are not feasible, the plans shall include the designs for any proposed individual water supply and/or sewage disposal systems which shall have been approved by the Tennessee Department of Environment and Conservation and the Shelby County Health Department.

   e. Plan and profile sheets showing all engineering data necessary for construction of proposed streets, storm drainage, controls for surface and ground water, and utility layouts (sewer and water)

and showing all connections to existing and/or proposed streets, storm drainage, and utility systems. The street profiles shall be plotted along the centerline showing the existing and finished grades, and sewer locations, drawn to a scale of not less than one inch equals one-hundred feet (1" = 100') vertical. Typical street cross section shall be shown.

f. Where required, a landscaping plan and planting schedule including use of existing suitable trees; temporary and permanent erosion control for drainage channels, runoff ponding areas, common use open space, or other areas subject to erosion; and planting screens and fences between differing land uses and along the rear of double frontage lots.

g. A comprehensive drainage plan which shall include, but not be limited to, an analysis of the drainage area, a storm water runoff routing plan showing maximum quantities of flow and maximum rates of after development plans for drainage structure and channels with the hydraulic data used in designing and sizing such structures and channels, the water surface profiles in open channels at peak flow and peak back water conditions, and measures for control of ground water flow and relief of excess hydrostatic pressures on structures, buildings and paved surfaces. The limits of the drainage design parameters shall be as determined by the city engineer.

h. A clearing plan and tree protection plan.

i. An erosion control plan.

4. Certificates required to be included on the construction plan are shown in Appendix 1 to Article II. The authorized signatures for these certificates shall be obtained by the developer prior to submitting the construction plan to the planning commission.

5. Concurrent with the presentation of the construction plan, the city engineer will recommend to the planning commission the amount and terms of a construction performance bond in accordance with Article IV, Section 1 and 13, of these subdivision regulations.

B. Planning Commission Hearing

Normally, within thirty (30) days after submission of the construction plan, the planning commission will review it in open public meeting and indicate

approval, disapproval, or approval subject to modification. If the plan is disapproved, reasons for such disapproval shall be stated in writing. If approved subject to modification, the nature of the required modification shall be indicated. Failure of the planning commission to act on the construction plan within thirty (30) days shall be deemed approval of the plan unless the applicant for the commission's approval shall have waived this requirement and consented to the extension of such period as provided in Tennessee Code Annotated, § 13-4-304, but such failure to act shall not constitute waiver of any requirement of these regulations nor of the technical specifications of the City of Bartlett.

C. Submission of Approved Construction Plan

Upon approval of the construction plan by the planning commission the developer shall submit three (3) copies of the construction plan, and one (1) set of reproducible mylars, to the city engineer for distribution to the review agencies and the affected city departments.

D. Effect of Approval on Final Plat Submissions

Approval of the construction plan by the planning commission shall not constitute acceptance of the final plat and shall not be so indicated on the construction plan.

E. Expiration of Approval and Renewal

Approval of the construction plan shall lapse unless a final plat based thereon is submitted within twelve (12) months from the date of construction plan approval, or unless an extension of time is applied for and granted by the planning commission. Failure of the developer to act within the specified time or denial of a time extension shall require a new application for construction plan approval including the applicable fee.

F. Phasing of Subdivision Development

In the review of the construction plan, the planning commission shall consider the orderly phasing of subdivision development. In particular, the planning commission shall consider the following:

1. Proper access to the requested area of development.

2. The feasibility of developing any severed tracts of land.

3. The implication of proposed drainage improvements, diversions or retentions on existing and future, upstream and down stream development.

4. The adherence of each phase to the design standards in Article III of these regulations.

G. Waiver of Construction Plan Requirement

Where proposed subdivision fronts on an existing public street, all or part of the construction plan requirement may be waived by the planning commission upon request of the developer provided the following conditions are met:

1. No street, drainage or other improvements are involved;

2. No conflict exists between the proposed subdivision and the recorded major street plan;

3. It can be clearly ascertained that the proposed subdivision is not to be used for phasing development of large parcels of land, thereby circumventing the normal subdivision approval procedures.

Section 5 - Final Plat

The final plat is the culmination of the land subdivision process. When approved and duly recorded as provided by law, the final plat becomes a permanent public record of the survey of lots or parcels, right-of-ways, easements and public lands, and the restrictive covenants as may be applicable to the lots or parcels within the boundary of the subdivision. As such it serves as a vital instrument in the sale and transfer or real estate, in the dedication of right-of-way, easements and public lands, and in future land survey of the properties contained in or adjoining the subdivision.

A. Submission and Content of the Final Plat

1. After the construction plan has been approved or waived and upon obtaining the required certifications, the developer shall submit fifteen (15) copies of the final plat, together with applicable fee, to the city planner or his designated representative. The planner shall retain one (1) copy for the planning commission files and forward one (1) copy to each member of the planning commission. The developer shall make application for final plat approval not later than twenty-one (21) days prior to the regular meeting of the planning commission at which it is to be considered.

2. The final plat shall conform substantially to the approved master plan and the approved construction plan. If desired by the developer, the final plat may be submitted incrementally and may include the area of development shown on one (1) or more approved construction plans provided that the final plat increment shall conform to all requirements of these regulations.

3. The original of the final plat shall be in black permanent ink on a sheet of moisture resistant drawing cloth or drafting film, twenty inches by twenty-four inches (20" x 24"), to a scale of one inch equals one-hundred feet (1" = 100'). If more than one sheet is required, an index sheet of the same size shall be filed and shall show a key map of the entire area being platted. The separate sheets of the final plat be keyed alphabetically and show match lines with the adjoining sheets.

4. The final plat shall show the following information:

   a. The lines of all streets and roads, alley lines, lot lines, building setback lines, lots numbered in numerical order, reservations for easements, permanent landscaped buffer strips, and any areas to be dedicated or reserved for public use or designated for other than residential use with notes stating their purpose and limitations.

   b. Sufficient data to determine readily and to reproduce on the ground location, true or grid bearing and length of every street line, lot line, boundary line, block line, easement line, buffer line, and building line whether curved or straight. This shall include the location of the point or curvature (PC) and point of tangency (PT), the central angle, the radius, tangent distance, and chord distance for the centerline of curved streets and for curved property lines which are not bordering on a curved street. For property lines bordering on a curved street, the recorded distance shall be measured along the property line either from corner to corner, PC to corner, PC to PT, or corner to PT. Where the computed arc distance along any curved property line exceeds the measured chord by more than five-hundredths of a foot (0.05') both the arc and the distance shall be recorded.

   c. The location and description of a clearly identified, competent, and verifiable point of beginning for the survey of the subdivision.

   d. The location and description of all permanently monumented survey points established or recovered within or on the boundary of the subdivision.

e. Distances to the nearest one-hundredth of a foot (0.01') and angles or true or grid bearings to the nearest twenty seconds of arc (20").

f. The names of all streets within the subdivision, the names and locations of adjoining subdivisions and public streets, and the location and ownership of adjoining unsubdivided property.

g. Date, title, name and location of the subdivision in relation to the surrounding area.

h. Sketch map inset showing the location of the subdivision in relation to the surrounding area. Any restrictive covenants which are to apply to lots or other parcels within the subdivision.

i. The most recent recorded deed book and page number for each deed constituting part of the property being subdivided and platted.

5. Certificates required to be included on the final plat are shown in Appendix 2 to Article II. The authorized signatures for these certificates shall be obtained by the developer prior to submitting the final plat to the planning commission.

B. Subdivision Development Contract

Before the final plat is recorded, the developer must enter into a contract with and satisfactory to the City of Bartlett Board of Mayor and Aldermen relative to all required improvements including, but not limited to, streets, sewer and water lines, surface and subsurface drainage, and the payment of fees and the required deposit of funds, bonds, warranties and/or other collateral with the City of Bartlett equal to one hundred (100) percent of the projected costs of the public improvements and private conditions required by planning commission, design review or the mayor and board. If no plat is recorded and/or no permit(s) issued, a minimum bond can be set out as outlined in the subdivision contract. (as amended by Ord. #20-02, July 2020 ***Ch7_12-08-20)***

C. Planning Commission Hearing

Normally, within thirty (30) days after submission of the final plat, the planning commission will review it in open public meeting and indicate approval, disapproval, or approval subject to modification. If the plat is disapproved, reasons for such disapproval shall be stated in writing. If approved subject to modification, the nature of the required modification shall be indicated. Failure of the planning commission to act on the final plat within thirty (30) days shall

be deemed approval of the plat unless the applicant for the commission's approval shall have waived this requirement and consented to the extension of such period as provided in Tennessee Code Annotated, § 13-4-304, but such failure of the planning commission to act shall not constitute waiver of any requirement of these regulations nor of the Technical specifications of the City of Bartlett.

D. Recording and Distribution of the Approved Final Plat

Upon approval of the final plat by the planning commission, the developer shall submit to the city planner the original and one (1) copy of the final plat. The city planner shall verify that the plat is acceptable for recording and that required modifications, if any, have been properly made. Upon such verification, the secretary of the planning commission shall attest to approval by signing the appropriate certificate on the original and the copy of the plat. The secretary of the planning commission shall deliver the original to the Mayor of Bartlett or his authorized representative, who shall record the approved plat in the Office of the Register of Shelby County, Tennessee, and shall note the date, plat book and page number of recording on the file copy of the plat. The city shall have made a reproducible copy of the recorded plat to be delivered to the city engineer and ten (10) copies, one each to be delivered to the following:

1. Water and sewer department;

2. Police department;

3. Building department;

4. Fire department;

5. Post office;

6. Telephone company;

7. County assessor;

8. Office of planning and development;

9. Bartlett Planning Department;

10. Cable provider.

The recorded original plat shall be returned to the City of Bartlett's Engineer.

E. Effect of Final Plot Approval

Approval of the final plat by the planning commission shall not constitute the acceptance by the public of the dedication of any streets or other public ways or grounds.

ARTICLE III.

GENERAL REQUIREMENTS AND STANDARDS OF DESIGN

Section 1 - General Design Concepts

Land subdivision design is a compromise among competing and often conflicting objectives. Users of these regulations should recognize that land subdivision is far more than a means of marketing land; it is primarily the first step in the process of building a community. Once land has been divided into lots, streets established, utilities installed, and building constructed, correction of defects is costly and difficult. Moreover, the development pattern is permanently ingrained upon the community and unlikely to be changed. Ultimately, subdivision land becomes public responsibility requiring the maintenance of improvements and the provision of public services. Additionally, for the sake of future owners and the community, subdivided lands should not only be presently marketable, but should remain competitive with future developments, thereby presenting a stable and liquid investment. Therefore, the interests of the public, the developer and future owners are served by adherence to sound concepts and standards of design. To achieve the desired objectives, all subdivisions within the City of Bartlett must conform to the following four (4) basic design concepts:

A. External Factors

Subdivision design must provide for external factors of community-wide concern including the proper extension of major streets, extension of utilities, preservation of major drainage channels and related floodlands, and the reservation of needed school and park sites. Additional external factors to be considered include proximity to local, community, and regional shopping centers; to places of employment; to educational and recreational facilities; and to public transportation.

B. Land Use

Subdivision design must be related to proposed and existing land uses. Layout of a subdivision is inseparable from the use to which the land is to be put. Moreover, adjacent land use patterns must be considered. Some uses, such as parks, certain institutional uses, and bodies of surface water, may be used in the design to create value. Others, such as railroads, power lines and associated easements, poorly subdivided lands, and unsightly strip commercial developments, may require special design techniques to minimize their deprecatory effect on property values.

C. Natural Environment

Subdivision design must give due consideration to the natural environment. Areas of natural beauty, such as fine stands of trees and prominent terrain, should be conserved by the design. Low areas subject to flooding or areas of unsuitable soil or ground water conditions should not be put to residential use.

D. Internal Details

Subdivision design must give attention to internal design details including the proper layout of streets, utilities, needed open space, and lots and adjustment of the design to the topography and soil capabilities of the land. A major aspect of internal detailing is careful attention to drainage.

Section 2 - Storm Water Drainage

Storm water drainage is a major aspect of land subdivision design; however, it should not dominate over other important design considerations. Nevertheless, considerable attention must be given to drainage design because of the potential disastrous effects on life and property resulting from defective design. Accordingly, no land subdivision shall be approved within the City of Bartlett unless a detailed drainage plan for such subdivision has been submitted to and approved by the city engineer and the city planning commission. The following principles are to be applied to all drainage designs for land subdivision within the City of Bartlett.

A. Internal Regulation of Drainage

The amount and rate of water from all sources leaving a subdivision or other developed areas shall not be significantly different after than before development unless approved by the city engineer. This will be effective for a series of storms (2, 5, 10, 25, 100) and will consist of peak flow.

B. Drainage System Design

The storm water drainage system shall consist of a major and a minor element. The major element, which will operate infrequently, shall be designed to prevent the loss of life and significant property damage from any reasonably foreseeable rainfall event. The minor element, operating frequently, shall provide for an acceptable degree of convenient access to property during and after frequent normal rainfall events. Both elements of the drainage system shall incorporate storage (retention and detention), where necessary, to provide an effective solution to the problem of controlling the amount and rate of runoff.

C. Integrated Drainage Planning

The storm water drainage solution for each subdivision shall be consistent with limits as determined by the city engineer and/or in conformance with a comprehensive watershed plan. The overall storm water management system for the City of Bartlett, of which each subdivision becomes an intricate part, is predicated on accommodating water from upstream while mitigating the impact of outflow on downstream areas.

Section 3 - Street Layout

The layout or arrangement of streets is the singularly most important aspect of subdivision design. To a large extent it determines the effectiveness of the drainage system. Additionally, the street layout determines the shape, size, and orientation of building sizes and, to a major extent, the character and beauty of residential neighborhoods and the attractiveness of non-residential developments.

A. Conformity to the Major Street Plan

The location and width of all streets and roads shall conform to the official major street plan and any other plans of the City of Bartlett.

B. Relation to Adjoining Street System

The arrangement of streets in a subdivision shall provide for the continuation of existing streets in adjoining subdivisions (or their proper projection when adjoining property is not subdivided). The width shall be the same or greater than the existing street, but in no case less than the minimum width required. The arrangement of streets shall be such as to provide for future extension of utilities and storm water drainage, to prevent creation of severed parcels of land, and to cause no undue hardship on owners of adjoining properties.

C. Relation to Existing Topography

The arrangement of streets in a subdivision shall make optimum use of the existing natural topography by designing the layout around the natural drainage routings and by carefully adjusting the streets to the topography so as to minimize grading and drainage problems. Collector streets should generally follow valley lines and land access streets should cross contours at right angles. Side hill street locations are to be avoided where possible. Flag lots are strongly discouraged.

D. Relation to Land Use Density

The arrangement of streets shall, insofar as is practical, optimize the total length of streets such that the cost per lot or building site for the construction and maintenance of streets, underground utilities, and other improvements are minimal. The use of cul-de-sacs in a subdivision may be an effective means of optimizing land use density relative to other improvements.

E. Relation of Street Elevation to Drainage

Surface street elevation, at all points, shall be set to preclude periodic inundation due to the overflow of constructed or natural open channels, or due to local storm water runoff which has a flow depth exceeding the curb height. Where curb and gutter is not required, no appreciable amount of runoff water shall be permitted on streets. Street elevation may be raised by fill embankment provided such embankment does not result in flooding of lots or building sites within the subdivision, nor in increased flood heights upstream and downstream except as may be provided for in a comprehensive watershed plan for the City of Bartlett. Drainage openings through roadbed embankment shall not impede the flow of water except where such embankment is an integral part of a planned detention basin requiring regulated outflow. In no case shall flooding of residential lots or building sites be permitted by design.

F. Street Right-of-Way Widths

The minimum width of right-of-way, measured from lot line to lot line, shall be as shown on the major street plan, or if not shown on such plan, shall be not less than listed below (in cases where topography or other physical conditions make a street of the minimum required width impracticable, the planning commission may modify the above requirements by no more than ten (10) percent of the specified width. In no case shall the street widths be modified solely for the purpose of increasing the area of marketable land, nor to accommodate a land use which might otherwise be inappropriate):

1. Major thoroughfare, 106 feet and 114 feet (see major road plan);

2. Minor thoroughfare, 80 feet and 84 feet;

3. Major collector street, 68 feet;

4. Minor collector street, 60 feet;

5. Commercial access street, 60 feet.

Commercial access streets are land access streets which are primarily intended to provide access to commercial and industrial properties, to office parks, and to any non-residential land uses which may generate a significant volume of traffic.

6. Single Family Residential Street, 50 feet;

Single family residential streets are land access streets which are primarily for access to abutting residential properties and which are designed to discourage through traffic.

7. Dead-end Street (Cul-de-sac), 50 feet;

Cul-de-sacs are permanent dead-end streets which may provide access to commercial, industrial, or residential properties.

8. Limited Access Residential Development Street, 40 feet;

Limited access residential development streets are land access streets which provide access to properties within a planned residential development, or other similar developments as approved by the planning commission and are designed to be an integral part of the developments' landscaping and open space and to avoid through traffic and on-street parking.

G. Additional Width on Existing Street

Subdivisions abutting on existing streets shall dedicate additional right-of-way to meet the minimum width requirements of Article III, Section 2 F.

1. The entire right-of-way shall be provided where any part of the subdivision is on both sides of the existing street.

2. Where the subdivision is located on only one side of an existing street, one-half (½) of the required right-of-way, measured from the center line of the existing right-of-way, shall be provided.

3. A non-residential subdivision abutting and having access on a residential street shall provide the total additional right-of-way required for a commercial access street.

4. If the realignment of streets is required for safety reasons, the developer will dedicate and improve the street to the width necessary to create a safe situation.

H. Restriction of Access

1. Where a subdivision fronts on an arterial street or highway, or where a non-residential use abuts on a street opposite a residential use area, the planning commission may require that frontage be provided on a marginal access street. Double frontage shall not be permitted between any residential or major street and a marginal access street.

2. For residential subdivisions bordering on an arterial street or highway, the planning commission may require, in lieu of a marginal access street, that "through" and "corner" lots be provided with double frontage on both the arterial street or highway and a single family residential street. In this case, the right of vehicular access to the arterial street or highway shall be permanently dissolved and such dissolution shall be noted on the final plat of the subdivision.

I. Street Alignment and Grades

All design of street geometry will meet or exceed AASHTO requirements. In setting the alignment and grades for streets, due consideration shall be given to storm drainage. In general the depth of flow in gutters and the allowable spread of water shall be consistent with the functional classification of the street. Arterial streets shall be designed to remain virtually free of water. Deeper flows and wider spreads may be tolerated on collector and land access streets. Streets alignment and grades shall be designed so that, during severe rainfall events, the collector and land access street can serve as open channels supplementary to the minor, normally piped, storm drainage system without flooding adjoining lots or building sites; therefore, midblock sags in street grades are to be avoided and grades are to be set so as to generally parallel storm sewer gradients. During frequent normal rain fall events, appreciable runoff shall not be permitted to flow across intersections. The rate of flow for runoff contained on streets shall not normally exceed ten (10) feet per second.

J. Maximum Street Grades

Grades on arterial and major collector streets shall not exceed seven (7) percent. Grades on all other streets shall not exceed ten (10) percent.

K. Horizontal Curves

Where a deflection angle of more than ten (10) degrees of arc in the alignment of a street occurs, a curve of reasonably long radius shall be introduced. The minimum is presented below:

Arterials, 1,400'
68' Collectors, 825'
60' Collectors, 400'
50' Locals, 150'

L. Vertical Curves

Every change in street grade shall be connected by a vertical curve designed to afford a minimum sight distance of two hundred (200) feet as measured from a driver's eyes, which are assumed to be three and one-half (3 ½) feet above the pavement surface, to an object six (6) inches high on the pavement. Vertical curves shall be of standard parabolic design. The minimum K values are shown below:

		Recommended
Designed Speeds	Sag	Crest
50 m.p.h. Major Road	100	145
40 m.p.h. Major Collector	60	65
30 m.p.h. Minor Collector and Local	40	30

Or as required by ASHTO Green book design requirements.

M. Intersections

1. The angle of intersections between two (2) major streets or between a major street and a land access street shall, generally, be a right angle, but in no case shall such intersections be less than eighty-five (85) degrees of arc. The angle of intersection between a major and a collector or a collector and a collector shall in no case be less than eighty (80) degrees of arc. All other street intersections shall be as near a right angle as possible, but in no case less than seventy-five (75) degrees of arc.

2. Property line radii at street intersections involving arterial or collector streets shall be not less than thirty-five (35) feet. All other intersections shall have property line radii of not less than twenty-five (25) feet.

N. Tangents

A tangent street segment shall be introduced between reverse or compound curves, where necessary, to provide a minimum sight distance of two hundred (200) feet between any two (2) points within the paved street surface. Between

reverse curves on arterial and collector streets, a tangent of not less than one hundred (100) feet in length shall be provided.

O. Street Jogs or Offsets

Local street jogs with center-line offsets of less than one hundred fifty (150) feet, and major road offsets of less than three hundred (300) feet, shall not be allowed.

P. Dead-End Streets

1. Cul-de-sacs designed to have one end permanently closed shall be no more than eight hundred (800) feet long. They shall be provided at the closed end with a turn-around having an outside roadway diameter of at least eighty (80) feet and a street right-of-way diameter of at least one hundred (100) feet. The planning commission may approve an alternate design for longer cul-de-sacs to meet unusual site conditions.

2. Where the planning commission determines a need for future access to adjacent properties, proposed subdivision streets shall be extended or additional street segments provided to the boundary of the subdivision at locations specified by the planning commission. Such extensions or additions shall be designed as temporary dead-end streets with temporary turn-arounds having a paved area with a diameter equal to the width of the required street right-of-way.

Q. Private Streets and Reserve Strips

1. There shall be no private streets platted in any subdivision. Every lot or parcel in subdivided property shall have street frontage.

2. There shall be no reserve strips controlling access to streets, except where the control of such strips is definitely placed with the City of Bartlett under conditions approved by the planning commission.

R. Street Names

Proposed streets which are obviously in alignment with others already existing and named shall bear the names of the existing streets. In no case shall the name for a proposed street duplicate an existing street name, irrespective of the suffix used; i.e., street, avenue, boulevard, drive, parkway, cove, court or place.

S. Alleys

Alleys may be provided to serve the rear of lots or building sites used for commercial or industrial purposes. Alleys shall not be provided in any solely residential block. Resubdivision of land for residential use in areas where alleys exist shall provide for vacation of such alleys.

Section 4 - Blocks

Block configuration within a subdivision is essentially determined by the street layout; hence, it must be considered concurrently with the alignment of streets.

A. Block Length

Blocks shall be not less than three hundred (300) feet nor more than fifteen hundred (1500) feet in length measured centerline to centerline of street, except as the planning commission may deem necessary to secure efficient use of the land or desired features of street pattern. The planning commission may require one or more public cross walks of not less than ten (10) feet in width extending entirely across the block at locations deemed necessary.

B. Block Width

Blocks shall be wide enough to allow two (2) rows of lots, except where double frontage or open space is provided or required, or where prevented by topography or other physical conditions of the site. In such cases, the planning commission may permit a single row of lots.

Section 5 - Lot Layout

In general, all lots within a subdivision shall have about the same area. Minimum lot areas and frontages are specified in the Bartlett Code of Zoning Ordinances; however, a subdivision plan should not be predicted solely on producing a maximum density of minimum sized lots. In addition to lot density, the lot layout plan should give balanced consideration to the natural topography of the tract being subdivided, to the conservation and preservation of the natural environment, to the provision of adequate open space, to the enhancement of the character and beauty of the community, to the optimization of lot density to improvement ratio, and to the protection of life and property.

A. Adequate Building Sites

Each lot shall contain a building site not subject to flooding or other hazards as defined in Section 7 of this article, and such site shall be outside the limits of

any easements, right-of-way, building lines, side yards, rear yards, buffers, screens or landscaped areas which are existing or are required by the Bartlett Code of Zoning Ordinances.

B. Arrangements of Lots

Where practical, side lot lines shall be at right angles to straight street lines and radial to curved street lines. Each lot shall front on a public street or road which has a right-of-way width of not less than forty (40) feet. Where lots abut on an arterial street, double frontage, marginal access or other acceptable arrangements shall be made to control ingress and egress onto such streets from the individual lots.

C. Minimum Size of Lots

The size, shape and orientation of lots or building sites shall be as the planning commission deems appropriate for the intended use and topography of the site, for adjoining land uses, and for the protection of life and property.

1. The minimum area and dimensions of residential lots shall be as specified by the Bartlett Code of Zoning Ordinances.

2. The minimum area and dimensions of office, commercial and industrial tracts shall be as specified by the Bartlett Code of Zoning Ordinances and such tracts shall also provide adequate space for the off-street service and parking facilities, landscaping and screening required by the type of use and proposed development.

D. Building Setback and Yard Requirements

All lots or tracts shall have at least the minimum front, side, or rear yard that is required by the Bartlett Code of Zoning Ordinances. To accommodate site peculiar conditions, such as side yards drainage, the planning commission may require increasing the yard requirements for a given lot or tract.

E. Large Tracts or Parcels

Where land is subdivided into larger parcels than ordinary building sites, such parcels shall be arranged to allow for future opening of streets and for logical resubdivision. In no case shall this be construed to allow the creation of severed parcels.

F. Lot Drainage and Grading

Where possible, lots shall drain toward the street or toward both the street and the rear lot lines. In case of drainage to the rear lot line, lateral drainage along rear lot lines shall be required, necessitating careful attention to grading. Where required by the topography, side yard drainage may be required, in which case it may be necessary to increase minimum side yard requirements. Terracing of lots, particularly in residential subdivision, shall be avoided unless essential for erosion control or to reduce the velocity of runoff.

Section 6 - Open Space and Easements

No single aspect of subdivision design contributes more to the attractiveness and value of a subdivision development than the effective use of open space. The provision of open space and easements, preferably designed for multiple uses, is an essential consideration in the planning and design of both residential and non-residential subdivisions.

A. Compliance with Parkland Development Fee and Dedication Ordinance

In all residential developments the Bartlett Planning Commission is designated by the Bartlett Board of Mayor and Aldermen and by Tennessee Code Annotated, § 13-4-303 to provide for adequate open space, recreation, and conditions favorable to health, safety, convenience, and prosperity. The Bartlett Planning Commission, with assistance for the Bartlett Planning Department, Bartlett Public Works Department, and the Bartlett Parks Department, shall act on behalf of the board of mayor and aldermen in the enforcement and administration of the Parkland Development Fee and Dedication Ordinance. The duties of each of these departments is further defined below:

1. Payment of Parkland Development Fee

In all residential developments in the City of Bartlett a parkland development fee shall be assessed against the development based upon a rate to be established by the board of mayor and aldermen per lot or dwelling unit. This fee shall be collected as a part of the subdivision contract between the board of mayor and aldermen and the developer of the proposed residential development, and may be used exclusively to acquire or improve land for parks.

2. Dedication in Lieu of Development Fees

In all residential developments the developer may choose, in lieu of a fee, to dedicate to the city, free and clear of all liens and encumbrances, land

to be used exclusively for city owned parkland in an amount equal to five percent (5%) of the total land area of the residential development, provided, however, that no parcel less than five (5) acres shall be accepted unless such land adjoins other dedicated parkland. When a master plan for a residential subdivision is submitted, the planning, public works and parks departments shall review the master plan to determine if a park is needed in the area and make a recommendation to the planning commission on the location and size of a proposed park. The dedicated land shall be of good quality as determined by the city and shall not contain an excessive amount of low land or ditches. If the park site is approved by the planning commission, said park site shall be incorporated into the master, construction, and final plans of the development. If the developer chooses to dedicate land in lieu of a fee, the land is dedicated to the city at the time the subdivision plat is recorded. If the developer choose to pay the fee, the city may purchase the proposed park site.

3. Combination of Development Fee and Dedication

A combination of a development fee and dedication may be allowed, subject to the approval of the city and developer.

B. Open Space for Control of Storm Water Runoff

Where necessary, design of permanent and temporary ponding shall be an integral part of subdivision design. Such design shall consider opportunities to create open space and landscaped areas for ponding while at the same time considering dual uses, such as public neighborhood parks and playgrounds or private use recreational areas. Buffers of greenbelt area along aquatic resource streams are required under stormwater ordinance with dedication of buffers to the city.

C. Easements for Open Channel Drainage

Each open channel, including retention and detention ponds, natural or constructed, shall be provided an easement of width sufficient to accommodate major runoff events. Such an easement shall also provide for operation of construction and maintenance equipment, erosion control, insect vector control, landscaping, and operation of any water level flow control structures.

D. Easements for Utilities

Except where alleys are permitted for the purpose, utility easements with a minimum width of five (5) feet shall be provided along all side and rear lot lines.

The planning commission may require utility easements for sanitary sewer, storm water drainage, and water lines to have a width to a maximum recommended by the city engineer. Where a sanitary sewer, storm water drainage, or water easement runs from front to back through a residential building lot, such easement shall be centered on a side lot line between two (2) lots.

Unless approved by the planning commission, no landscape plantings except for lawn grasses and other appropriate ground cover vegetation shall be permitted within a required utility easement. No driveway pavement shall be placed in a sanitary sewer, storm water drainage, or water easement running along the side of a residential building lot. On non-residential lots, driveway and parking area pavement shall not encroach on such easements except to the minimum extent necessary for continuity of traffic circulation. Planting and driveway restrictions within utility easements shall be noted on the final plat. Exceptions for encroachments can be allowed only with prior approval, encroachment letter signed by the mayor, code enforcement and engineering.

The driveway restrictions shall be effective on all residential lots for which a final plan is approved by the planning commission after September 10, 2002. For residential lots for which final plans were approved by the planning commission on or before this date, a driveway may be placed on a sanitary sewer, storm water drainage, or water easement only upon execution of an agreement with the city governing conditions of encroachment on the easement. The driveway and pavement restrictions shall be effective on all non-residential lots for which a final plan or site plan is approved by the planning commission after September 10, 2002. Exceptions for encroachments can be allowed only with prior approval, encroachment letter signed by the mayor, code enforcement and engineering. (Ord. #02-11, Sept. 2002, modified)

E. Landscaped Buffers and Screens

Open space shall be reserved for fences and vegetative screening and other landscaped areas as required by the Bartlett Code of Zoning Ordinances and by these subdivision regulations. The design of landscaped buffers and screens shall be in accordance with the technical specifications of the City of Bartlett, and shall be subject to review and approval of the design and review commission. Where residential lots have double frontage on public streets, there shall be a continuous screening of acceptable design along the rear of such lots.

F. Conservation and Preservation of Community Assets

For all types of land uses, due consideration shall be given to providing open space needed to conserve notable features of the natural environment such as

large trees, watercourses, and prominent scenic terrain. Adequate provision shall be made to protect and preserve historical sites or similar community assets which add to the attractiveness and value of property.

G. Private Use Open Space

Open space may be reserved for private use contingent upon residency or employment, or as required by the City of Bartlett for on-site drainage retention or detention; however, such open space shall not become the responsibility of the City of Bartlett, rather, the owners or members of an owner's association shall have full responsibility for all care, preservation, and maintenance of the grounds and facilities contained within the reserved open space. An appropriate provision, declaring the responsibilities to the owner or owner's association and absolving the City of Bartlett of any responsibility for private use open space, shall be included in the covenants and restrictions of the subdivision.

H. Preservation of Open Space

Once an area has been designated as a greenbelt, landscaped area, buffer, screen or other permanent open space, whether for public or private use, it shall not be encroached upon by any building, structure, or parking area, and shall be so noted on the final plat of the subdivision.

Section 7 - Suitability of Land

The planning commission shall not approve the subdivision of any land where it has been found that, in the public interest, the land is not suitable for subdivision development of the type and use proposed. Any land use which may result in increased upstream or downstream flooding, endanger health, life or property, or aggravate downstream erosion, sedimentation or pollution shall not be approved for subdivision. Any land within a proposed subdivision which is unsuitable for the intended use shall be reserved for open space or other compatible uses which will not be endangered by any inherent hazard of the site.

A. Residential Land Use

Land which is subject to flooding or which has unsuitable soil or ground water conditions shall not be subdivided for any type of residential use.

B. Building Site Suitability

No lot or tract intended for use as a building site shall be permitted where any natural or man-made condition, on or adjacent to such lot or tract, may endanger the integrity of any building or structure erected on the site.

Section 8 - Planned Unit Developments

The concepts of planned unit developments may be applied to residential, office, commercial, and industrial developments. The purpose of planned unit development is to provide for comprehensive large scale site planning which may be carried out concurrently with land subdivision planning and design, and to permit maximum innovation and design variation while protecting existing and future development. Applicable requirements of the Bartlett Code of Ordinances shall be complied with, and unless specifically waived or modified by the planning commission, all requirements of these subdivision regulations shall be adhered to.

ARTICLE IV.

PREREQUISITES TO FINAL SUBDIVISION APPROVAL

Section 1 - General Requirements

As a condition precedent to the final approval of any plat of subdivision, subdivision addition or resubdivision, every subdivision developer shall be required to grade and improve streets and other public ways, to install survey monuments, utilities, curbs, sidewalks, sewers, water mains, storm water inlets, surface and ground water drainage channels and structures, and buffer screens, and to prepare and plant landscaping in accordance with these regulations and the technical specifications of the City of Bartlett. In lieu of the completion of such improvements prior to final subdivision plat approval, the planning commission may accept a bond, in an amount and with surety and conditions satisfactory to it, providing for and securing to the City of Bartlett the actual construction and installation of such improvements within a period specified by the planning commission and expressed in the bond. This bonding period is a minimum of 1 year with the bond remaining in place while the work is under way (100%) and remaining in place at 50% level for 1 year after release of lots for building of houses. The bond will then be periodically reviewed and reduced to the amount of remaining improvements to install until all improvements are complete. Once all bonded improvements are complete, only then can the bond be released and reduced to $0. Until the bond is released and reduced to $0, it can be continually renewed at the appropriate bond level required by engineering. If minimum bonds are used, the reductions apply only as allowed by the City Engineer to cover outstanding liabilities. (as amended by Ord. #20-02, July 2020 ***Ch7_12-08-20)***

Section 2 - Subdivision Development Contract

At the discretion of the Board of Mayor and Aldermen, the City of Bartlett may enter into a development contract with a subdivision developer. Other provisions of these regulations notwithstanding, prior to final subdivision plat approval, a subdivision development contract between the developer and the City of Bartlett must have been approved and signed and sealed by the Mayor of the City of Bartlett, and all required deposits of funds shall have been made by the developer by competent negotiable instruments.

Section 3 -Planned Unit Residential Developments

No final subdivision plat shall be approved by the planning commission for a planned unit residential development until the applicable requirements of the Supplementary District Regulations of the Bartlett Code of Zoning Ordinances

have been complied with by the developer and necessary variances have been favorably acted on by the board of zoning appeals.

Section 4 - Survey Monuments

Permanent and semipermanent survey monumentation is an essential by-product of the land subdivision process. Such monumentation facilities resurvey of the lands contained within the subdivision and provides survey control points for future casdastral and cartographic surveys and mapping. Each subdivision developer shall provide, at his expense, all survey monumentation and documentation specified herein.

A. Permanent Monuments

1. A permanent survey monument shall be set behind the curb on the north and east side of every street and at least one monument shall be provided near each street intersection and located to provide inter-visibility with one or more monuments located on each of the intersecting streets. At least one monument shall be located at a point in the exterior boundary of the subdivision or subdivision addition. There shall be a minimum of two (2) such permanent monuments within every subdivision. In the event that concrete curbs are not installed the monuments shall be located to prevent interference with or disturbance by future installation of curbs or other subsequent improvements.

2. Permanent survey monuments shall be constructed of dense portland cement concrete, four (4) inches square, three (3) feet long, with a flat top. The top of each monument shall have an indented cross to identify the precise location of the survey point, and the top shall be set flush with the finished grade of the surrounding surface or, in asphalt paved areas, flush with the finished grade of the pavement base.

3. Where deemed necessary by the city engineer, to ensure recovery of a survey point, a subsurface mark set in concrete poured at the base of the concrete monument and plumbed to the surface mark shall be required.

B. Semi-permanent Monuments

1. All lot corners in the subdivision not set with a permanent monument shall be marked with an iron rod not less than five-eights inch (5/8") in diameter and twenty-four inches (24") long, set flush with the finished grade of the surrounding surface.

2. Upon completion of subdivision development these metal rods shall be protected by one (1) or more flagged guard stakes.

C. Unauthorized Survey Marks

Survey reference marks, benchmarks, witness marks or auxiliary corners which are unsightly or damaging to curbs, gutters, sidewalks, driveways, and street pavements shall not be permitted. Any such unauthorized marks and corners shall be removed or repaired by the developer, at his expense, prior to final subdivision plat approval.

D. Survey Documentation

The developer shall provide to the city engineer, prior to final plat approval, a detailed description of all new and recovered permanent survey monuments lying within or on the boundary of the subdivision. Each description shall include:

1. A physical description of the monuments;

2. Instructions for locating the monuments with respect to a fixed prominent landmark;

3. Survey data in addition to that shown on the final plat which shall, when available, consist of adjusted plane coordinates and elevation, survey precision and accuracy, and datum to which coordinates and elevation refer.

Section 5 - Storm Water Drainage

The developer shall construct and install, at his expense within the subdivision all channels, ditches, structures, and storage basins with sufficient hydraulic capacity to control storm water runoff and emergent ground water originating within and upstream of the subdivision. Drainage improvements also include proper building site and lot grading, and erosion and insect control. This design will meet or exceed the design requirements as set forth by the city engineer. The developer shall be responsible for any and all grounds maintenance in and around any stormwater detention or retention basins. The city will maintain any permanent structure, (i.e. concrete headwalls, pipe, or box structures) within the storm water facility.

A. Drainage Channels and Structures

1. The size and quantity of drainage channels and structures shall conform to the drainage plan approved for the subdivision. The required drainage facilities include all underground pipe, inlets, catch basins, manholes, retention and detention ponds, open-channel ditches, and porous pipe and french drains.

2. All storm drainage pipe shall be reinforced concrete pipe. The maximum size of underground storm sewers shall be sixty inches (60") diameter unless approved by the city engineer and the minimum size shall be fifteen inches (15") diameter, except when driveways or areas with no curb and gutter shall be a minimum of eighteen inches (18") in diameter.

3. All open channel drainage requiring a cross-sectional area of one-hundred (100) square feet or less shall be contained in paved ditches. Where cross sections in excess of one-hundred (100) square feet are required, the developer shall pave the ditch to the required cross section and provide an easement wide enough to contain the paved ditch in those instances where the ditch joins an existing downstream paved ditch. Where the downstream ditch is not paved, the developer may either (1) pave the ditch to the required cross section and provide the appropriate easement or, (2) improve the ditch as approved by the city engineer and provide sufficient easement and capacity for drainage, bank stabilization and for access of maintenance equipment.

4. If the stream is defined as an ARAP (Aquatic Resource Alteration Permit) stream by Tennessee Department of Environment, buffers as outlined by the stormwater ordinance are required; or the developer may provide a design acceptable to the city to alter the stream in which case TDEC must approve the design through the ARAP process and the buffer width may be varied from the widths described in the storm ordinance. Acceptable buffer widths will be determined by the city engineer when alteration is allowed. All streams, which are deemed wet weather conveyance streams by TDEC, will be improved with (pipe, concrete channels, etc.) or if approved by the city engineer, other permanent armored stabilization products may be specified providing appropriate channel stabilization. If no improvements are done to the channels of wet weather conveyance ditches, the developer will set aside greenbelt wide enough to provide for the capacity of drainage, bank stabilization and access for maintenance equipment. City engineers must review and approve these special requests.

B. Major Streets with Restricted Access

1. Where a major street is dedicated in a residential subdivision adjoining "through" or "corner" lots and the right of vehicular access to the major street from lots is dissolved, the developer shall retain responsibility for the installation of all storm drainage improvements, including curbs and gutters, required within the major street right-of-way.

C. Insect Vector Control

All drainage channels and structures shall be constructed to eliminate breeding areas for mosquitoes and other insect pests. Other improvements such as widening, deepening, relocating, clearing, protecting or otherwise improving stream beds and other water courses within the subdivision, such water courses as may be constructed by the developer outside of the subdivision, for the control of mosquitoes and other public health nuisances shall be provided by the developer in accordance with the standards and requirements of the city engineer and the Shelby County Health Department.

D. Lot and Building Site Drainage

1. The developer shall provide to each builder within the subdivision a detailed, coordinated grading plan designed to insure proper drainage of all lots and building sites. Lots and site grading by individual builders shall conform to the coordinated grading plan furnished by the subdivision developer.

2. All lots and building sites within the subdivision shall be graded to provide positive drainage away from all principal use buildings, and all accessory use buildings covering two-hundred (200) square feet or more of the lot or site. A minimum of 2.0 percent slope shall be required to provide positive drainage of front yards to adjacent streets, or to an adequate drainage system. Deviations from this requirement may be allowed for unusual topographic conditions only with prior approval of the city engineer.

E. Non-residential Development Drainage Requirements

1. There shall be no off-site surface drainage from commercial and industrial developments. Within such subdivision developments all storm water drainage shall be collected on site and conveyed by drainage structures to the public storm sewer system in accordance with an approved drainage plan.

2. Commercial and industrial developments having more than one-hundred and fifty thousand (150,000) square feet of improved area (building and parking) shall have all drainage structures designed by the retention and slow release method. The design calculations for such structures shall be submitted to the city engineer for approval prior to construction. Pre and post design is required with detention for the 2, 5, 10, 25, 100 year peak storms.

Section 6 - Street Improvements

The developer shall construct all streets, roads, and alleys at his expense to the approved alignments, grades and cross sections, including any new streets required by Article III, Section 3A that will abut or cross the proposed subdivision and any existing streets abutting the proposed subdivision. Deviations due to site peculiar conditions may be allowed only with prior approval of both the planning commission and the city engineer. This section shall not apply to certain existing streets indicated by a map adopted by the City of Bartlett allowing rural cross sections. These roadways will be allowed to remain rural in nature (no curb and gutter or sidewalk and open roadside swales), however road pavement widening improvements may be required if the existing pavement width and shoulder widths do not meet minimum width of travel way and shoulder requirements as outlined in American Association of State Highway and Transportation officials green book geometric design handbook. (Ord. #02-18, Dec. 2002)

A. Special Precautions

Where streets are constructed under or adjacent to existing electric transmission lines or over gas transmission lines, the nearest edge of the pavement shall be a minimum of fifteen (15) feet from any transmission line structure. All street grading shall be done in a manner which will not disturb the structure nor result in erosion endangering the structure. In the case of electric transmission lines, the clearance from the pavement surface to the nearest conductor shall meet the requirements of the National Electrical Safety Code.

B. Minimum Pavement Widths

Pavement widths will be a minimum of 10 foot lanes with actual widths being a function of projected volumes on the street. Widths will be based on ASHTO Green book requirements.

C. Roadway Subgrade Preparation

1. Clearing and Grubbing

Before roadway grading is started the entire right-of-way area shall be cleared of all stumps, brush, roots, all trees not intended for preservation, and all other objectionable materials. The cleared and grubbed material shall be disposed of in a legal manner, generally away from the construction site.

2. Excavation

During construction, roadbed excavations should be maintained in a smooth condition with sufficient slope to insure adequate drainage under all weather conditions. All obstructions, such as roots, stumps, boulders and other similar material, shall be removed to a depth of two (2) feet below the subgrade. Rock, when encountered, shall be scarified to a depth of twelve (12) inches below the subgrade. All loose material in the roadway shall be compacted in the manner prescribed by the city engineer.

3. Embankment

All suitable material from roadway excavations may be used in the construction of roadway embankments. Excess or unusable materials shall be legally disposed of away from the construction site. The fill material used in the construction of embankment shall be spread in layers not to exceed six (6) inches loose and shall be compacted at optimum moisture content by a sheeps foot roller or other compaction equipment approved by the city engineer. During construction, embankments shall be maintained in a smooth condition with sufficient slope to insure adequate drainage under all weather conditions.

D. Clay Gravel Base Course

After preparation of the subgrade, the roadbed shall be surfaced with an approved material conforming to the technical specifications of the City of Bartlett. Construction of the seal coat, base course and road surface will follow these guidelines:

1. Local and Minor Collector Roads Clay Gravel Base

Clay gravel base material shall be hard, durable road type clay/gravel. (See Technical Specifications.) After compaction, the clay/gravel base shall be at least six (6) inches thick on streets with rights-of-way of fifty

(50) feet or sixty (60) feet. Asphalt pavement is to be three (3) inches thick on the road sections.

2. Collector Roads Clay/Gravel Base (68', 80', 84' and 106' R.O.W.)

The clay/gravel base shall be comprised of the same materials listed above, and after compaction the clay/gravel base shall be at least eight (8) (68' and 80' ROW) and ten (10) (84-114 ROW) inches thick. Six (6) to eight (8) percent cement by weight is to be incorporated in the clay/gravel base and three (3) inches of asphalt placed on the cement treated clay/gravel base.

3. Soil Cement Base

Soil cement base shall consist of soil and portland cement uniformly mixed, moistened, compacted, finished, and cured in accordance with approved methods. After compaction, the soil cement base shall be at least six (6) inches thick on streets with rights-of-way less than sixty (60) feet, and eight (8) inches on streets with rights-of-way of sixty (60) feet or more.

E. Double Surface Seal Coat

After acceptance of the base course the roadbed shall be sealed with a double coating of asphaltic tar and pea gravel to act as a wearing surface during the construction adjoining the roadway.

F. Asphaltic Pavement

When the development surrounding the new roadway is fifty percent (50%) complete, two (2) inches of roadway surface shall be paved with asphaltic laid hot in a single course on the prepared base course. When the development is one hundred percent (100%) complete the balance of the pavement shall be installed. The asphaltic pavement shall be three (3) inches thick. The pavement surface shall conform to the approved lines, grades and cross sections.

Section 7 - Environmental Protection and Preservation

Protection and preservation of the environment particularly its natural features such as ground cover, trees, soils and watersheds are an essential element of subdivision design. The developer shall provide, at his expense, all erosion control, revegetation planting, and protection for existing vegetation.

A. Erosion Control

1. The subdivider shall submit a plan and schedule for soil erosion and sedimentation control at the time the construction plans are submitted. The subdivider shall provide necessary erosion control such as seeding for gentle slopes (0-1.5%), grass and sod for steeper slopes, with special grading and terracing in accordance with the plans approved by the city engineer. All freshly excavated and embankment areas not covered with satisfactory vegetation shall be fertilized, mulched and seeded and/or sodded as required to prevent erosion. Storm sewer inlets shall have debris guards as approved by the city engineer to trap sediment and avoid possible damage by blockage. Provisions shall be made to accommodate increased runoff caused by changed soil and surface conditions during development. Runoff shall be intercepted and safely conveyed to storm drains or natural outlets where it will not erode or flood land. Sediment basins shall be installed and maintained to collect sediment from runoff waters. Developer to provide the city with erosion plan and copy of the State of Tennessee permit for the storm water pollution prevention plan.

   If its determined by the city engineer that the necessary erosion control is not being provided by the subdivider, the city engineer shall officially notify the subdivider of the problem. If the subdivider has not begun to provide satisfactory erosion control within fifteen (15) days after the notice, the city public works department shall make the necessary improvements to eliminate the erosion problem documenting all expenses incurred. Prior to release of the bond or recording of a final plat, all expenses incurred by the public works department shall be paid in full by the subdivider.

2. Erosion control measures to be accomplished by the developer shall consist of appropriate landscaping, grading, mulching, seeding, sprigging, sodding, tree planting, and construction of erosion check dams. Specific measures required shall be as approved or directed by the planning commission.

B. Preservation of Trees and Revegetation

The specific requirements of the Tree Ordinance, Article VI, Section 23 of the Zoning Ordinance shall apply to all subdivisions. However, no trees of caliper ten (10) inches or larger measured five (5) feet above the surrounding ground surface shall be removed if at all possible, and special attention shall be given to preserving larger trees. For removal of trees greater than twelve (12) inches in diameter, the planning commission may require a plan for revegetation, in

order to recover soil stabilization, percolation or buffering lost by removal of such tree.

The developer will comply with all provisions of the Bartlett Tree Ordinance.

Section 8 - Sidewalks, Curbs, Gutters and Handicap Ramps

Unless waived by the planning commission, the developer shall install, at his expense, all sidewalks, curbs, and gutters, curb cuts and driveway aprons and handicap ramps within the subdivision and within the right-of-way of all existing streets bordering the subdivision, under conditions specified herein, such installation may be deferred for installations by others at a later time.

A. Sidewalk Location

For the safety of pedestrians and of children at play en route to school, sidewalks shall normally be required on both sides of streets. Sidewalks shall be located in the street right-of-way immediately adjacent to the right-of-way line.

B. Minimum Sidewalk Widths and Cross Section

All sidewalks shall have a thickened edge cross section with the main slab not less than four (4) inches thick. For proper drainage, all sidewalks shall have one-fourth inch (¼") per foot slope toward the adjacent street. Sidewalks shall conform to the following minimum widths:

1. Single Family Residential Sidewalks, 5 feet;

2. Multi-Family, 5 feet;

3. Commercial/Non-residential Sidewalk, 5 feet.

C. Curbs and Gutters

Curbs and gutters shall be either permanent integral type six inch (6") concrete curbs with twenty-four inch (24") concrete gutters; standard rolled type detail concrete curbs and gutters; or other construction approved by the planning commission. Only the standard six inch (6") and twenty-four inch (24") curbs and gutters shall be permitted on major streets. For major streets, waiver of the requirement to install curbs and gutters shall not be granted.

D. Handicap Ramps

In all subdivisions where sidewalks, curbs or gutters are required, handicap ramps shall be installed at all crosswalks so as to make the transition from street to sidewalk easily negotiable for physically handicapped persons in wheelchairs and for others who may have difficulty in making the step up or down from curb level to street level. This requirement is not subject to waiver.

E. Curb Cuts and Driveway Aprons

All curb cuts and the installation of driveway aprons shall be approved by the city engineer and shall be in a manner which insures positive drainage to the street. An expansion joint with filler shall be provided at each edge of the driveway apron where it abuts to curb and gutter. If roll type curbs and gutters are used, curb cuts may be waived by the planning commission.

F. Quality of Concrete

All sidewalks, curbs, gutters, handicap ramps and driveway aprons shall be constructed of high quality, durable portland cement concrete. The concrete shall be ready-mixed four thousand (4,000) pound limestone aggregate and five percent (5%) air entrained concrete. At the time of placement, the slump of the concrete as measured by standard cone shall not exceed four inches (4") if consolidation is by vibration, or not less than five inches (5") if consolidation is by other means. During placement and finishing operations the concrete shall be protected from rains, flowing water, direct sun and drying winds. All concrete shall be cured for at least seven (7) days. The twenty-eight (28) days compression strength of all concrete shall be not less than four thousand (4,000) psi.

G. Waivers for Installation of Sidewalks, Curbs and Gutters

The planning commission may upon application of the subdivision developer waive the requirements for sidewalks and/or curbs and gutters. Such waivers shall be granted only under the following conditions provided that the safety of pedestrians and children is not a factor in the case of sidewalks, or that roadway or drainage hazards are not a factor in the case of curbs and gutters. In all cases involving major streets, curbs and gutters shall not be waived.

1. Where a park, railroad or other use on one side of a street makes a sidewalk non-essential.

2. Where ninety percent (90%) of the lots in a residential subdivision exceed an area of one (1) acre, the requirement for both sidewalks and curbs and gutters may be waived.

3. Where a planned unit residential development provides for internally oriented open areas and green ways for common or public use recreational facilities and walkways, sidewalks may be waived.

H. Deferment or Waiver of Installation

At the request of the developer, the planning commission may defer or waive the installation of additional pavement width, sidewalks, curbs and gutters, curb cuts and driveway aprons, and handicap ramps under the following conditions and procedures:

1. Where individual builders assume responsibility for installation of sidewalks, curb cuts and driveway aprons, the developer shall be relieved of responsibility for such installations. The responsibility assumed by individual builders shall become a condition of the building permit and shall comply with technical specifications of the City of Bartlett and the standards pertaining to sidewalks, curb cuts and driveway aprons contained in these regulations.

2. Where a subdivision borders on short segments of existing streets, which may lack some or all of the improvements required by this section, all or a part of the required improvements may be deferred indefinitely. The qualification for such deferral shall be lack of information needed to establish final grade elevations or alignments which would conform with future upgrading of the existing streets. For those improvements deferred under this provision, the developer shall deposit funds with the City of Bartlett in an amount equal to one-hundred percent (100%) of current cost as determined by the city engineer. In consideration for such deposit of funds, the City of Bartlett will assume responsibility for the installation of such improvements concurrent with future projects for upgrading the existing streets.

3. Where

   (a) The proposed subdivision borders on an existing street on which street improvements are required; and

   (b) The tract of land to be subdivided, when it was created in its present legal form, was smaller than the minimum acreage under the exemption of Article I, Section 3; and

(c) The area within any lot created is not less than twenty thousand (20,000) square feet; and

(d) The frontage on any lot would be not less than one hundred feet (100'); and

(e) The tract of land being subdivided is more than four hundred feet (400') from the nearest installed curb and gutter existing along the frontage of any street on which the property being subdivided fronts,

all of the improvements required on the existing street by this section may be waived. Right-of-way dedication shall be required to the standard width for the class of street, as provided in these regulations.

4. Parcels of land, less than four acres in size, created by deed between March 6, 1956 and January 1, 2008 may file an application for a minor (2 lot) subdivision to be eligible for the issuance of no more than two residential building permits.

Further:

a. The property must be in a zoning district permitting residential use.
b. The resultant lots are in conformance to all requirements of the zoning ordinance and any other applicable regulations. Determination of minimum lot size is exclusive of any dedication requirement.
c. The lots shall have direct access to an existing public street, with no new streets proposed.
d. The Planning Commission may waive street improvements if all required dedication and easements are granted as well as any improvements necessary for safety considerations.
e. Any extension of utilities to the property are the responsibility of the applicant.
f. Standard subdivision drawings are required.
g. Standard subdivision contract is required.

The minor (2 lot) subdivision may be submitted as a final plat application provided that the plat complies with all the requirements for final plat submission. (As amended by Ord. #02-18, Dec. 2002, and Ord. #08-13, Jan. 2009)

Section 9 - Installation of Utilities and Sanitary Sewers

After roadway grading is completed and approved and before any base course is applied, all of the underground work, water mains, sewers, etc., and all service connections shall be installed completely and approved throughout the length of the roadway and across the flat section.

A. Water Supply System

1. Water mains properly connected with the city water supply system or with an alternate supply approved by the City of Bartlett shall be constructed to serve adequately for both domestic use and fire protection to all lots and building sites shown on the subdivision plat.

2. The sizes of water mains, the location and types of valves and hydrants, the amount of soil cover over the pipes and other features of the installation shall be as designed by the city engineer and shall conform to accepted standards of good practice for municipal water system.

3. All water supply system construction plans and specifications shall be approved by the area office of the Tennessee Department of Environment and Conservation, Environmental Health Services, prior to any construction in accordance with Tennessee Code Annotated, § 53-2002, IV-13. Copies of comments and certificates of approval from the above agency shall be forwarded to the city engineer.

B. Electrical Service

Underground electrical service shall be provided in all subdivisions with curb and gutter and sidewalks (urban subdivision), however, overhead primary service with underground building service may be allowed in subdivisions with no curb and gutter or sidewalk (rural subdivisions). Variances to this policy should only be allowed when they are submitted in accordance with Article V of the Subdivision Regulations.

C. Telephone and Cable Television Service

Underground telephone and cable television service shall be provided in all subdivisions, however, overhead primary telephone and cable television service may be allowed only in conjunction with overhead electrical service. In all cases the building service shall be underground. All installation of phone and cable pedestal to be in rear yards per Resolution 6-96.

Section 10 - Screening and Landscaping

Where required by the planning commission and these regulations, fences and vegetative screening and landscaping shall be provided along the perimeter of certain developments to protect residential districts from undesirable views, lighting, noise, and other adverse influences. Other landscaping may be required for open space reserved as a part of the storm drainage system, for recreational areas, and for erosion control and preservation of the environment and of historical landmarks.

A. Residential Development

Where residential development has lots which have double frontage on public streets (alleys excepted), there shall be continuous screening along the rear line of these lots. Visibility areas required for traffic safety as designated by the city engineer shall not be screened. All reverse lot fencing to meet the Fence Ordinance 05-08.

B. Non-residential Development

The screening and landscaping for non-residential development shall comply with the provisions of the City of Bartlett Code of Zoning Ordinances.

C. Other Landscaping

The planning commission may specify to the developer those areas within the subdivision which require landscaping. The developer shall present for planning commission approval a detailed landscaping plan and planting schedule.

Section 11 - Technical Specifications Included by Reference

The Technical Specifications of the City of Bartlett are included in all of the foregoing requirements of this article and these regulations by reference. Unless these regulations state otherwise, deviations to the technical specifications may be allowed only with the prior approval of the city engineer. In all other cases prior approval of the planning commission shall be required.

Section 12 - Performance Bond in Lieu of Completed Improvements

The subdivision developer may, subject to planning commission approval, furnish to the City of Bartlett a construction performance bond. The amount and terms of the bond shall be as determined by the city engineer and approved by the planning commission in accordance with Tennessee Code Annotated, § 13-4-303. Normally the amount and terms of the bond will be approved

concurrently with approval of the construction plan in accordance with Article II, Section 4 of these regulations.

A. Reduction of Bond upon Partial Completion

Upon completion of the major improvements, and upon final inspection and acceptance by the city engineer, the developer may reduce the amount of the performance bond or he may substitute a new bond to secure the obligation with respect to incompleted or unaccepted improvements. The residual improvement shall normally be limited to such items as erosion control, revegetation, landscaping and plantings, and to those improvements such as sidewalks, handicap ramps, curb cuts, driveway aprons, asphalt, and HOA set-up fees, etc. which are deferred pending completion of building construction in those instances where the developer is also the builder. If a minimum bond is allowed for a development, no bond adjustments will be allowed until all work is complete, all fees are paid, and the final plat is recorded. Only then can the bond be adjusted to reflect the remaining outstanding items in the subdivision ie. paving, sidewalks, streetlights, HOA completion etc. (as amended by Ord. #20-02, July 2020 ***Ch7_12-08-20)***

B. Enforcement of Bonds

Failure of the developer to comply with any or all parts of these regulations subsequent to final subdivision plat approval shall be grounds for issuance of a stop work order by the city engineer and enforcement of the performance bond by the City of Bartlett.

ARTICLE V.

VARIANCE, APPEALS AND AMENDMENTS

Section 1 - Variances

Variances to the general requirements, design standards, and extent of improvements required by these regulations may be granted or imposed by the planning commission. All requests for variances shall be submitted in writing. The planning commission may grant or impose variances under the following conditions:

A. Hardship

Where it can be shown that strict adherence to the provisions of these regulations would cause unnecessary hardship, a variance may be granted, except that, in no case shall this be construed to permit subdivision of land which is unsuitable or otherwise inadequate for the intended use, nor to permit waiver of any requirements which are necessary to the protection of life or property.

B. Site Peculiar Conditions

Where the planning commission determines that the topography or other site peculiar conditions warrant, and departure from these regulations would not destroy their intent, a variance may be granted or required. In this regard, the planning commission may impose additional requirements and higher standards to cope with site peculiar conditions. Any variance thus authorized shall be stated in writing in the minutes of the planning commission with the reasons justifying the variance.

Section 2 - Appeals

For matters falling within the scope of the regulating powers granted to the planning commission by Tennessee Code Annotated, §§ 13-4-302 and 13-4-303, any person or persons, or any board, taxpayer, department, board or bureau of the city aggrieved by any decision, finding or interpretation of the planning commission may seek review by a court of record of such decision, finding or interpretation, in the manner provided by the laws of the State of Tennessee. Decisions, findings and interpretations of the planning commission with regard to the standards and extent of improvements required for subdivision approval shall in all instances be final administrative decisions. Other appeals shall be as follows:

A. Board of Mayor and Aldermen

Matters submitted to the planning commission pertaining to the widening, narrowing, relocation, vacation, change in use, acceptance, acquisition, sale or lease of any street or public way, place or property may upon disapproval by the planning commission be appealed to the board of mayor and aldermen. In accordance with Tennessee Code Annotated, § 13-4-104, the planning commission's disapproval in such matters may be overruled by the board of mayor and aldermen by a majority vote of its membership.

B. Board of Zoning Appeals

Matters pertaining to the planning commission's interpretation of the City of Bartlett Code of Zoning Ordinance may be appealed to the board of zoning appeals in accordance with the provisions of the zoning ordinances.

Section 3 - Amendments

The procedures, policies, design standards, requirements and restrictions set forth in these regulations may from time to time be amended, supplemented, changed, or rescinded by the planning commission. Before adoption of any amendment a public hearing thereon shall be held by the planning commission in accordance with Tennessee Code Annotated, § 13-4-303. At least fifteen (15) days notice of the time and place of such hearing shall be published in a newspaper of general circulation in the city.

ARTICLE VI.

LEGAL STATUS PROVISIONS

Section 1 - Powers of the Planning Commission

These regulations are in accordance with the provisions of Tennessee Code Annotated, chapter 4, title 13, which grants to the planning commission the power to regulate the subdivision of land within the City of Bartlett. In accordance with Tennessee Code Annotated, § 13-4-103, the planning commission, its members and employees, in the performance of its work, may enter upon any land and make examinations and surveys and place and maintain necessary monuments and marks thereon. The code further provides that, in general, the planning commission shall have powers as may be necessary to enable it to perform its purposes and to promote municipal planning.

Section 2 - Enforcement of Subdivision Regulations

The enforcement of these regulations is provided for by state law in the authority granted by public acts of the State of Tennessee.

A. Submission of Subdivision Plat for Approval

No plat of a subdivision of land into two (2) or more lots or tracts located within the City of Bartlett shall be admitted to the land records of Shelby County or received or recorded by the county register of deeds until such plat shall have been submitted to and approved by the planning commission and such approval entered in writing on the plat by the secretary of the commission as provided in Tennessee Code Annotated, § 13-4-302.

B. Acceptance of and Improvements of Unapproved Streets

No board, public official, or authority shall accept, lay out, open, improve, grade, pave or light any street or lay or authorize water mains or sewers or connection to be laid in any street within the City of Bartlett, unless such shall have otherwise received the legal status of a public street prior to the adoption of these regulations, or unless such street corresponds in its location and lines to a street shown on a subdivision plat approved by the planning commission as provided in Tennessee Code Annotated, § 13-4-307; however, the board of mayor and aldermen may locate and construct or may accept any other street, provided that the ordinance or other measure for such location and construction or for such acceptance be first submitted to the planning commission for its approval, and if disapproved by the commission, be passed by a majority of the entire

membership of the board of mayor and aldermen; and a street approved by the planning commission or constructed or accepted by said majority vote after disapproval by the commission, shall have the status of an approved street as fully as though it had been originally shown on a subdivision plat approved by the commission or on a plat made and adopted by the commission.

C. Issuance of Building Permits

No building permit shall be issued and no building shall be erected on any lot within the City of Bartlett, unless the street giving access to the lot upon which said building is proposed to be placed shall have been accepted or opened as or shall have otherwise received the legal status of a public street prior to the adoption of these regulations or unless such street corresponds in its location and lines with a street shown on a subdivision plat approved by the planning commission or on a street plat made and adopted by the commission, or with a street located or accepted by the board of mayor and aldermen as provided in Tennessee Code Annotated, § 13-4-308. A building permit may be issued on a lot shown on a subdivision plat, approved by the planning commission, provided that the roadbed base has been applied and the subdivision development is substantially complete.

Section 3 - Complaints Regarding Violations

Whenever a violation of these regulations occurs, or is alleged to have occurred, any person may file a written complaint stating fully the causes and basis thereof. Such complaint shall be filed with the city engineer. He shall record properly such complaint, investigate, take necessary action within his authority or refer the complaint to the city attorney or other official designated by the board of mayor and aldermen. A report of all violations of these regulations and action taken shall be included in the minutes of a regular meeting of the planning commission.

Section 4 - Penalties for Violations

The penalties for the filing or recording of a plat, transfer of sale of land, and erection of a building, in violation of these regulations, are provided for by state law in the authority granted by Public Acts of the State of Tennessee.

A. Recording of Unapproved Subdivision Plats

No county register shall receive, file, or record a plat of a subdivision within the City of Bartlett without the approval of the planning commission as required in Tennessee Code Annotated, § 13-4-302, and any county register so doing shall

be deemed guilty of a misdemeanor, punishable as other misdemeanors as provided by law.

B. Transfer or Sale of Land Without Prior Subdivision

Approval section Tennessee Code Annotated, § 13-4-306, provides that whoever being the owner or agent of the owner of any land, transfers or sells or agrees to sell or negotiates to sell such land by reference to or exhibition of or by other use of a plat of such subdivision or such land without having submitted a plat of such subdivision to the planning commission and obtained its approval as required before such plat be recorded in the office of the Shelby County Register, shall be deemed guilty of a misdemeanor punishable as other misdemeanors as provided by law; and the description by Metes and Bounds in the instrument of transfer or other document used in the process of selling or transferring shall not exempt the transaction from such penalties. The City of Bartlett, through its city attorney or other official designated by the board of mayor and aldermen may enjoin such transfer or sale or agreement by action or injunction.

C. Unlawful Structures

Any building erected or to be erected in violation of these regulations shall be deemed an unlawful structure, and the building inspector or the city attorney of the City of Bartlett or other official designated by the board of mayor and aldermen may bring action to enjoin such erection or cause it to be vacated or removed as provided in Tennessee Code Annotated, § 13-4-308.

Section 5 - Provisions of Regulations Declared to be Minimum Requirements

In their interpretation and application, the provisions of these regulations shall be held to be minimum requirements, adopted for the public interest and orderly development of the City of Bartlett. Wherever the requirements of these regulations are at variance with the requirements of any other restrictions, the most restrictive, or that imposing the higher standards, shall govern.

ARTICLE VII.

SEVERABILITY

Should any section or provision of these subdivision regulations be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the regulations as a whole, or any part thereof other than the part so declared to be unconstitutional or invalid.

ARTICLE VIII.

ADOPTION AND EFFECTIVE DATE

Section 1 - Public Hearing

Before adoption, amendments, revision or rescission of all or part of these subdivision regulations a public hearing as required by Tennessee Code Annotated, § 13-4-303, was afforded any interested person or persons.

Section 2 - Effective Date

The attachment of the planning commission's subdivision jurisdiction and these subdivision regulations shall be in full force and effect from and after their adoption and effective date. The effective date of any amendment, revision or rescission of these subdivision regulations shall be the date such amendment, revision or rescission shall have been adopted by the planning commission.

Adopted June 8, 1967
Effective June 8, 1967
Amended September 13, 1976
Amended July 11, 1977
Amended June 5, 1978
Amended June 1, 1981
Amended September 5, 1989
Amended December 3, 1990
Amended June 3, 1991
Amended May 4, 1992
Amended September 10, 2002
Amended October 10, 2002

APPENDIX 1 TO ARTICLE II

CONSTRUCTION PLAN CERTIFICATES

Certificate of Approval of Suitability of Soils for Septic Tanks

I, (printed name of signer)_____, do hereby certify that the soils on and below the surface of the land shown on this Construction Plan are suitable for the use of septic tanks. This certification is not to be construed as a septic tank installation permit. Septic tank installation shall require a site plan and a permit approved by the Shelby County Health Department. After the suitability of any area to be used for subsurface sewerage disposal has been approved, no change shall be made to this area unless the Shelby County Health Department is notified and a re-evaluation of the area's suitability is made prior to the initiation of construction.

_____ _____

Date Shelby County Health Department

Certificate of Approval of Water and Sewerage Systems

I, (printed name of signer)_____, do hereby certify that the plans shown on this Construction Plan regarding water supply and/or sanitary sewers meet the requirements of the Tennessee Department of Environment and Conservation and are hereby approved as shown.

_____ _____

Date Department of Environment
and Conservation
State of Tennessee

Certificate of Accuracy of Engineering and Design

I, (printed name of signer), a professional Civil Engineer, do hereby certify that the plans shown and described on this construction plan regarding engineering and designs governing the construction of this subdivision are true and correct, and conform to the requirements set forth in the Subdivision Regulations and Technical Specifications of the City of Bartlett.

_____ _____

Date Professional Civil Engineer
State of Tennessee Certificate
No. _____

Certificate of Approval of Water and Sewer Lines

I, (printed name of signer), do hereby certify that the plans shown on this Construction Plan regarding water and sewer layout meet the requirements of the City of Bartlett and the Planning Commission.

_____ _____

Date Owner and Developer

Certificate of Approval of Street and Drainage Improvements

I, (printed name of signer), do hereby certify that the plans shown on this Construction Plan regarding street and drainage improvements fully conform to the requirements of the Subdivision Regulations and Technical Specifications of the City of Bartlett, and are hereby approved. This approval shall not constitute waiver of any requirement which the designer has failed to show on the Construction Plan nor negate completion of such requirement in accordance with the Subdivision Regulations and the Technical Specifications of the City of Bartlett.

_____ _____

Date City Engineer, City of Bartlett

Certificate of Quality of Construction

I, _____, do hereby certify that I will construct or have constructed the improvements shown on the Construction Plan and guarantee that they meet or will meet all requirements set forth in the Subdivision Regulations and Technical Specifications of the City of Bartlett subject to the approval of the City Engineer, the State of Tennessee Department of Environment and Conservation, the Shelby County Health Department, the Planning Commission, and any other government agency as may be required by statute or regulations.

_____ _____

Date Owner or Developer

Certificate of Compliance with Requirements of the Environmental Protection Agency

(If required by Federal statute and/or regulations to file an Environmental Impact Statement for the proposed subdivision, the developer shall include the certificate on the Construction Plan.)

I, _____, do hereby certify that in accordance with Federal statute and/or regulations an Environmental Impact Statement pertaining to this subdivision and Construction Plan has been filed with and approved by the United States Environmental Protection Agency, and a copy of the approved statement has been furnished to the City Engineer and to the Planning Commission.

_____ _____

Date Owner or Developer

Certificate of Approval by Flood Administrator

I, _____, do hereby certify that the plans shown on this Construction Plan conform to the requirements of the Flood Plain Ordinance of the City of Bartlett, and are hereby approved.

_____ _____

Date Flood Administrator, City of Bartlett

APPENDIX 2 TO ARTICLE II

FINAL PLAT CERTIFICATES

Certificate of Survey

I, _____, do hereby certify that I am a registered (Professional Civil Engineer) (Land Surveyor), and that I have surveyed the lands, embraced within the plat or map designated as _____, a subdivision all lying within the corporate limits of the City of Bartlett, Tennessee; said plat or map is a true and correct plat or map of the lands embraced therein, showing the subdivision thereof in accordance with the Subdivision Regulations of the City of Bartlett, Tennessee; I further certify that the survey of the lands embraced within said plat of map has been correctly monumented in accordance with the subdivision regulation of the City of Bartlett, Tennessee.

In witness whereof, I, the said _____, (Professional Civil Engineer) (Land Surveyor), hereunto set out hand and affix my seal this _____ Day of _____.

(Professional Civil Engineer)
(Land Survey) State of Tennessee
Certificate No. _____

(SEAL)

Certificate of Adequacy of Storm Drainage

I, _____(printed name of signer)_____, do hereby certify that I am a registered Professional Civil Engineer, and that I have designed all storm water drainage for the _____(printed name of subdivision)____ Subdivision to assure that neither said subdivision nor adjoining property will be damaged or the character of land adjoining property will be damaged or the character of land use affected by the velocity and volume of water entering or leaving same.

In witness whereof, I, the said _____ Professional Civil Engineer, hereunto set out hand and affix my seal this ___ day of _____.

Professional Civil Engineer
State of Tennessee Certificate No. ____

(SEAL)

Board of Mayor and Aldermen Certificate

I, _____(Mayor)_____, do hereby certify that all required improvements have been installed or that a performance bond or other collateral in sufficient amount to assure completion of all required improvements has been posted for the subdivision shown on this plat and are hereby approved by the City of Bartlett, Tennessee.

_____ _____

Date Mayor, City of Bartlett

Planning Commission Certificate

I, _____(printed name of signer)_____, do hereby certify that the City of Bartlett Planning Commission has approved this plat of subdivision for recording.

_____ _____

Date Secretary, Bartlett Planning Commission
(Director of Planning)

Owner's Certificate

I, _____(printed name of signer)_____, the undersigned owner of the property shown hereon, hereby adopt this as my plan of subdivision and dedicate the streets as shown to the public use forever, and hereby certify that I am the owner in fee simple, duly authorized so to act, and that said property is unencumbered by any taxes that have become due and payable.

_____

(printed name), Owner

Notary Certificate

State of Tennessee
County of Shelby

Before me, the undersigned, a Notary Public in and for the State and County aforesaid, duly commissioned and qualified, personally appeared (printed name of owner) be (title) of (bank) and he as such (title) executed the foregoing instrument for the purpose therein contained by signing his name as representative of the mortgagee.

In witness whereof, I have hereunto set my hand and affixed my seal this ____ day of _____.

Notary Public _____

My Commission expires: _____

Mortgagee's Certificate

We the undersigned, (printed name of mortgagee), Mortgagee of the property shown hereon, hereby adopt this plat as our plan of subdivision and dedicate the streets, rights-of-way, easements, and rights of access as shown to the public use forever, and hereby certify that we are the mortgagee duly authorized so to act and that said property is unencumbered by any taxes which have become due and payable.

_____
(printed name of mortgagee)

ORDINANCE 07-06

AN ORDINANCE ADOPTING AND ENACTING A CODIFICATION AND REVISION OF CERTAIN ORDINANCES OF THE CITY OF BARTLETT TENNESSEE.

WHEREAS some of the ordinances of the City of Bartlett are obsolete; and

WHEREAS some of the other ordinances of the city are inconsistent with each other or are otherwise inadequate; and

WHEREAS the Board of Mayor and Aldermen of the City of Bartlett, Tennessee, has caused some of the ordinances of a general, continuing, and permanent application or of a penal nature to be codified and revised and the same are embodied in a code of ordinances known as the "Bartlett Municipal Code."

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN OF THE CITY OF BARTLETT, TENNESSEE, THAT:

Section 1. Ordinances codified. The ordinances of the city of a general, continuing, and permanent application or of a penal nature, as codified and revised in the following "titles," namely "titles" 1 to 20, with the exception of Title 3, Municipal Court, and Title 15, Motor Vehicles, Traffic and Parking, which will remain in effect pending amendment and subsequent codification, are ordained and adopted as the "Bartlett Municipal Code," hereinafter referred to as the "municipal code."

Section 2. Ordinances repealed. With the exception of Title 3, Municipal Court, and Title 15, Motor Vehicles, Traffic and Parking, which will remain in effect pending amendment and subsequent codification, all ordinances of a general, continuing, and permanent application or of a penal nature not contained in the municipal code are hereby repealed from and after the effective date of said code, except as hereinafter provided in Section 3 below.

Section 3. Ordinances saved from repeal. In addition to Title 3, Municipal Court, and Title 15, Motor Vehicles, Traffic and Parking, which will remain in affect pending amendment and subsequent codification, the repeal provided for in Section 2 of this ordinance shall not affect: Any
offense or act committed or done, or any penalty or forfeiture incurred, or any contract or right established or accruing before the effective date of the municipal code; any ordinance or resolution promising or requiring the payment of money by or to the city or authorizing the issuance of any bonds or other evidence of said city's indebtedness; any appropriation ordinance or ordinance providing for the levy of taxes or any budget ordinance; any contract or obligation assumed by or in favor of said city; any ordinance establishing a social security system or providing coverage under that system; any administrative ordinances or resolutions not in conflict or inconsistent with the

provisions of such code; the portion of any ordinance not in conflict with such code which regulates speed, direction of travel, passing, stopping, yielding, standing, or parking on any specifically named public street or way; any right or franchise granted by the city; any ordinance dedicating, naming, establishing, locating, relocating, opening, paving, widening, vacating, etc., any street or public way; any ordinance establishing and prescribing the grade of any street; any ordinance providing for local improvements and special assessments therefor; any ordinance dedicating or accepting any plat or subdivision; any prosecution, suit, or other proceeding pending or any judgment rendered on or prior to the effective date of said code; any zoning ordinance or amendment thereto or amendment to the zoning map; any ordinance annexing territory to the city; nor shall such repeal affect any ordinance passed after Ordinance #06-02, which passed final reading on March 28, 2006.

Section 4. Continuation of existing provisions. Insofar as the provisions of the municipal code are the same as those of ordinances existing and in force on its effective date, said provisions shall be considered to be continuations thereof and not as new enactments.

Section 5. Penalty clause. Unless otherwise specified in a title, chapter or section of the municipal code, including the codes and ordinances adopted by reference, whenever in the municipal code any act is prohibited or is made or declared to be a civil offense, or whenever in the municipal code the doing of any act is required or the failure to do any act is declared to be a civil offense, the violation of any such provision of the municipal code shall be punished by a civil penalty of not more than fifty dollars ($50.00) and costs for each separate violation; provided, however, that the imposition of a civil penalty under the provisions of this municipal code shall not prevent the revocation or suspension of any permit or license or the taking of other punitive or remedial action where called for or permitted under the provisions of the municipal code or other applicable law. In any place in the municipal code the term "it shall be a misdemeanor" or "it shall be an offense" or "it shall be unlawful" or similar terms appears in the context of a penalty provision of this municipal code, it shall mean "it shall be a civil offense." Anytime the word "fine" or similar term appears in the context of a penalty provision of this municipal code, it shall mean "a civil penalty."[1]

Each day any violation of the municipal code continues shall constitute a separate civil offense.

Section 6. Severability clause. Each section, subsection, paragraph, sentence, and clause of the municipal code, including the codes and ordinances adopted by reference, is hereby declared to be separable and severable. The invalidity of any section, subsection, paragraph, sentence, or clause in the municipal code shall not affect

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[1]State law reference

For authority to allow deferred payment of fines, or payment by installments, see Tennessee Code Annotated, § 40-24-101 et seq.

the validity of any other portion of said code, and only any portion declared to be invalid by a court of competent jurisdiction shall be deleted therefrom.

Section 7. Reproduction and amendment of code. The municipal code shall be reproduced in loose-leaf form. The board of mayor and aldermen, by motion or resolution, shall fix, and change from time to time as considered necessary, the prices to be charged for copies of the municipal code and revisions thereto. After adoption of the municipal code, each ordinance affecting the code shall be adopted as amending, adding, or deleting, by numbers, specific chapters or sections of said code. Periodically thereafter all affected pages of the municipal code shall be revised to reflect such amended, added, or deleted material and shall be distributed to city officers and employees having copies of said code and to other persons who have requested and paid for current revisions. Notes shall be inserted at the end of amended or new sections, referring to the numbers of ordinances making the amendments or adding the new provisions, and such references shall be cumulative if a section is amended more than once in order that the current copy of the municipal code will contain references to all ordinances responsible for current provisions. One copy of the municipal code as originally adopted and one copy of each amending ordinance thereafter adopted shall be furnished to the Municipal Technical Advisory Service immediately upon final passage and adoption.

Section 8. Construction of conflicting provisions. Where any provision of the municipal code is in conflict with any other provision in said code, the provision which establishes the higher standard for the promotion and protection of the public health, safety, and welfare shall prevail.

Section 9. Code available for public use. A copy of the municipal code shall be kept available in the city clerk's office for public use and inspection at all reasonable times.

Section 10. Date of effect. This ordinance shall take effect from and after its final passage, the public welfare requiring it, and the municipal code, including all the codes and ordinances therein adopted by reference, shall be effective on and after that date.

First Reading: April 10, 2007
Second Reading: April 24, 2007
Third Reading: May 22, 2007

Rick Faith, Register to the Board of Mayor and Aldermen

A. Keith McDonald
Mayor

ATTEST:

Stefanie McGee
City Clerk

ORDINANCE 08-01

AN ORDINANCE ADOPTING AND ENACTING A CODIFICATION AND REVISION OF TITLES 3 AND 15 OF THE CODE OF ORDINANCES OF THE CITY OF BARTLETT, TENNESSEE.

WHEREAS some of the provisions of Titles 3 and 15 of the Code of Ordinances of the City of Bartlett are obsolete or otherwise inadequate; and

WHEREAS the Board of Mayor and Aldermen of the City of Bartlett, Tennessee, has caused some of the ordinances of a general, continuing, and permanent application or of a penal nature to be codified and revised and the same are embodied in a code of ordinances known as the "Bartlett Municipal Code."

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN OF THE CITY OF BARTLETT, TENNESSEE, THAT:

Section 1. Ordinances codified. The ordinances of the city of a general, continuing, and permanent application or of a penal nature, as codified and revised in the following "titles," namely "title" 3, Municipal Court, and "title" 15, Motor Vehicles, Traffic and Parking, a copy of which is attached hereto, are ordained and adopted as "titles" of the "Bartlett Municipal Code," hereinafter referred to as the "municipal code."

Section 2. Ordinances repealed. All provisions in the current "titles" 3 and 15 not contained in the codified and revised "titles" are hereby repealed from and after the effective date of said code revisions, except as hereinafter provided in Section 3 below.

Section 3. Ordinances saved from repeal. The repeal provided for in Section 2 of "titles" 3 and 15 shall not affect: Any offense or act committed or done, or any penalty or forfeiture incurred, or any contract or right established or accruing before the effective date of the revised and codified "titles" 3 and 15; any administrative ordinances or resolutions not in conflict or inconsistent with the provisions of such code; or any prosecution, suit, or other proceeding pending or any judgment rendered on or prior to the effective date of the revised and codified "titles" 3 and 15.

Section 4. Continuation of existing provisions. Insofar as the provisions of the revised and codified "titles" 3 and 15 are the same as those of ordinances existing and in force on its effective date, said provisions shall be considered to be continuations thereof and not as new enactments.

Section 5. Penalty clause. Unless otherwise specified in a title, chapter or section of the municipal code, including the codes and ordinances adopted by reference, whenever in the municipal code any act is prohibited or is made or declared to be a civil offense, or whenever in the municipal code the doing of any act is required or the failure to do any act is declared to be

a civil offense, the violation of any such provision of the municipal code shall be punished by a civil penalty of not more than fifty dollars ($50.00) and costs for each separate violation; provided, however, that the imposition of a civil penalty under the provisions of this municipal code shall not prevent the revocation or suspension of any permit or license or the taking of other punitive or remedial action where called for or permitted under the provisions of the municipal code or other applicable law. In any place in the municipal code the term "it shall be a misdemeanor" or "it shall be an offense" or "it shall be unlawful" or similar terms appears in the context of a penalty provision of this municipal code, it shall mean "it shall be a civil offense." Anytime the word "fine" or similar term appears in the context of a penalty provision of this municipal code, it shall mean "a civil penalty."[1]

Each day any violation of the municipal code continues shall constitute a separate civil offense.

Section 6. Severability clause. Each section, subsection, paragraph, sentence, and clause of the municipal code, including the codes and ordinances adopted by reference, is hereby declared to be separable and severable. The invalidity of any section, subsection, paragraph, sentence, or clause in the municipal code shall not affect the validity of any other portion of said code, and only any portion declared to be invalid by a court of competent jurisdiction shall be deleted therefrom.

Section 7. Reproduction and amendment of code. The municipal code shall be reproduced in loose-leaf form. The board of mayor and aldermen, by motion or resolution, shall fix, and change from time to time as considered necessary, the prices to be charged for copies of the municipal code and revisions thereto. After adoption of the revisions to "titles" 3 and 15, each ordinance affecting said "titles" shall be adopted as amending, adding, or deleting, by numbers, specific chapters or sections of said "titles." Periodically thereafter all affected pages of said "titles" shall be revised to reflect such amended, added, or deleted material and shall be distributed to city officers and employees having copies of said "titles" and to other persons who have requested and paid for current revisions. Notes shall be inserted at the end of amended or new sections, referring to the numbers of ordinances making the amendments or adding the new provisions, and such references shall be cumulative if a section is amended more than once in order that the current copy of the municipal code will contain references to all ordinances responsible for current provisions. One copy of the municipal code as originally adopted and one copy of each amending ordinance thereafter adopted shall be furnished to the Municipal Technical Advisory Service immediately upon final passage and adoption.

Section 8. Construction of conflicting provisions. Where any provision of the municipal code is in conflict with any other provision in said code, the provision which

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[1]State law reference

For authority to allow deferred payment of fines, or payment by installments, see Tennessee Code Annotated, § 40-24-101 et seq.

establishes the higher standard for the promotion and protection of the public health, safety, and welfare shall prevail.

Section 9. Code available for public use. A copy of the municipal code shall be kept available in the City Clerk's office for public use and inspection at all reasonable times.

Section 10. Date of effect. This ordinance shall take effect from and after its final passage, the public welfare requiring it, and the municipal code, including all the codes and ordinances therein adopted by reference, shall be effective on and after that date.

First Reading: January 8, 2008
Second Reading: January 22, 2008
Third Reading: February 12, 2008

Rick Faith, Register to the
Board of Mayor and Aldermen

A. Keith McDonald
Mayor

ATTEST:

Stefanie McGee
City Clerk