

TITLE 14

ZONING AND LAND USE CONTROL

CHAPTER

1. MUNICIPAL PLANNING COMMISSION.
2. ZONING ORDINANCE.
3. FLOOD DAMAGE PREVENTION ORDINANCE.
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CHAPTER 1

MUNICIPAL PLANNING COMMISSION

SECTION

- 14-101. Creation and membership.
- 14-102. Organization, powers, duties, etc.

14-101. Creation and membership. Pursuant to the provisions of Tennessee Code Annotated, § 13-4-101 there is hereby created a municipal planning commission, hereinafter referred to as the planning commission. The planning commission shall consist of seven (7) members; two (2) of these shall be the mayor and an alderman selected by the board of mayor and aldermen; the other five (5) members shall be appointed by the mayor. All members of the planning commission shall serve as such without compensation. Except for the initial appointments, the terms of the five (5) members appointed by the mayor shall be for three (3) years each. The three (3) members first appointed shall be appointed for terms of one (1), two (2), and three (3) years respectively so that the term of one (1) member expires each year. The terms of the mayor and the member selected by the board of mayor and aldermen shall run concurrently with their terms of office. Any vacancy in an appointive membership shall be filled for the unexpired term by the mayor. (1984 Code, § 11-101, as amended by Ord. #87-88-05, April 1988)

14-102. Organization, powers, duties, etc. The planning commission shall be organized and shall carry out its powers, functions, and duties in accordance with all applicable provisions of Tennessee Code Annotated, title 13. (1984 Code, § 11-102)

CHAPTER 2

ZONING ORDINANCE

SECTION

- 14-201. Authority, short title, and purpose.
- 14-202. Definitions.
- 14-203. Application.
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- 14-209. Enforcement.
- 14-210. Board of zoning appeals.
- 14-211. Amendments.
- 14-212. Legal status provisions.

14-201. Authority, short title, and purpose. (1) Authority. This ordinance is adopted under the authority granted by Tennessee Code Annotated, §§ 13-7-201 through 13-7-211, as amended.

(2) Short title. This ordinance shall be known as the "Zoning Ordinance of the Town of Huntsville, Tennessee." The map herein referred to and entitled "Zoning Map of the Town of Huntsville, Tennessee" and all explanatory material thereon are hereby made a part of this ordinance.

(3) Purpose. The zoning regulations and districts as herein set forth have been made in accordance with a comprehensive plan of the town for the purpose of promoting the health, safety, morals, and welfare of the community and its residents. They are designed to provide for the safe, efficient, and harmonious development of the town; to encourage appropriate industrial, commercial, and residential activities; to promote the safe and efficient movement of vehicular and pedestrian traffic; to provide for adequate air, light, and open space; to lessen the potential for property damage and loss of life due to fire, flooding, and other disasters; and to improve the aesthetics of the community. (Ord. #___, Feb. 1998)

14-202. Definitions. Introduction. Except as specifically defined herein, all words used in the ordinance have their customary dictionary definition. For the purpose of this ordinance, words used in the present tense include the future tense, words used in the singular include the plural, and words used in the plural include the singular. The word "shall" is always mandatory.

(1) "Billboard." A sign not located on the property that it advertises or a sign advertising generally ubiquitous goods or services.

(2) "Bed and breakfast inn." A private home, inn, or other unique residential facility having not more than eight (8) overnight guest rooms, providing not more than one (1) daily meal for guests only, and housing the owner or innkeeper.

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

(4) "Building." A structure having a roof that is supported by columns or walls and is intended for the shelter, housing, or enclosure of persons, animals, chattel, or property of any kind.

(a) "Accessory building." A building customarily incidental to the principal building and located on the same lot as the principal building.

(b) "Principal building." The building in which the main or principal use of the property is conducted.

(5) "Building height." The vertical distance from the average sidewalk grade, street grade, or finished grade at the building line, whichever is the highest, to the highest point of the building.

(6) "Building setback line." The line delineating the minimum allowable distance between a property line and a building on a lot, within which no building or structure shall be placed except as otherwise provided.

(a) "Front building setback line." A line delineating the minimum allowable distance between a street right-of-way and a building on a lot.

(b) "Rear building setback line." A line delineating the minimum allowable distance between the rear property line and a building on a lot.

(c) "Side building setback line." A line delineating the minimum allowable distance between the side property line and a building on a lot. The side building setback line extends from the front building setback line to the rear building setback line.

(7) "Customary general farming." The cultivation of land for agriculture and the use of land for the raising and breeding of domestic animals.

(8) "Customary home occupation." An occupation performed by a resident of a dwelling as an accessory use provided that the space used is incidental to the dwelling and that no article is sold or offered for sale except that which is produced at the dwelling.

(9) "Day care center." An establishment operated by a person, society, agency, corporation, institution, or religious organization which receives six or more children or adults for group care for less than twenty-four hours per day without transfer or custody.

(10) "Development." Any man-made change to real estate, including but not limited to buildings, structures, mining, dredging, filling, grading, paving, excavation, or drilling operations.

- (11) "Direct lighting." Lighting used to illuminate a sign which is directed to the sign from an external source.
- (12) "Dwelling unit." A building or portion of a building designed and constructed for occupancy by one family.
- (13) "Family." One or more persons occupying a dwelling unit and living together as a single housekeeping unit.
- (14) "Indirect lighting." An internal lighting source used to illuminate a translucent sign face.
- (15) "Lot." A parcel of property with boundaries.
- (16) "Lot line" or "property line." The boundary dividing a lot from adjacent lots, properties, or public rights-of-way.
- (a) "Front lot line." The lot line(s) separating a lot from street right(s)-of-way.
- (b) "Side lot line." Any lot line not designated as a front or rear lot line.
- (c) "Rear lot line." The lot line(s) opposite and most distant from the front lot line(s).
- (17) "Lot of record." A lot whose boundaries have been filed as a legal record.
- (18) "Marquee." A permanent roof-like structure projecting beyond a building wall at an entrance to a building or extending along and projecting beyond the building's wall.
- (19) "Mobile home." A detached residential dwelling unit built on a chassis and/or designed for transport to the site where it is to be occupied.
- (20) "Mobile home park." A lot, parcel, or tract of land under single ownership which has been designed and improved for the placement of mobile homes for dwelling purposes.
- (21) "Nonconforming building" or "structure." A building or structure which does not conform to the zoning requirements for the district in which it is located.
- (22) "Nonconforming use." A use of a building or land which does not conform to the zoning requirements for the district in which it is located.
- (23) "Recreational vehicle" or "travel trailer." A vehicular type unit primarily designed as temporary living quarters for recreational, camping, or travel use, which either has its own motive of power or is mounted on or drawn by another vehicle.
- (24) "Recreational vehicle" or "travel trailer park." A plot of land upon which two or more recreational vehicles are located and used as temporary living quarters for periods of thirty days or less.
- (25) "Sign." Any physical surface, writing, pictorial representation, symbol, emblem, or structure used to advertise, announce, or portray information.
- (a) "Accessory sign." A small, incidental, on-premise sign which provides necessary information.

(b) "Banner sign." A sign intended to be hung, with or without frames, constructed from paper, plastic, or any type of fabric.

(c) "Cluster sign." Two or more signs having a common support structure.

(d) "Construction sign." A temporary sign giving the name(s) of contractors, architects, or lending institutions responsible for construction on the site where the sign is located.

(e) "Directional sign" (off-premise). A small ground sign used to indicate the direction to a business, industry, or other activity.

(f) "Directional sign" (on-premise). An accessory sign used to indicate ingress or egress or other movement of traffic on private property.

(g) "Electronic message sign." A sign on which an electronic message, such as time and temperature, is displayed.

(h) "Ground sign." A sign supported by a structure or supports attached to the ground and independent from any building.

(i) "Marquee sign." A sign attached to and made part of a marquee. A marquee sign shall be considered to be a wall sign.

(j) "Political campaign sign." A temporary sign advertising a candidate for any political office or an issue to be settled by referendum.

(k) "Portable sign." Any sign not supported by, or attached to, a permanent structure or building.

(l) "Projecting sign." A sign affixed to a wall or building whose leading edge extends beyond the building or wall.

(m) "Real estate sign." A temporary sign which advertises the sale, lease, or rent of the property on which the sign is located.

(n) "Roof sign." A sign erected or constructed on the roof of a building.

(o) "Sign area." The physical surface used to display a sign or in the case of wall signs, the area enclosed by a continuous line connecting the outermost edges of a sign.

(p) "Wall sign." A sign painted upon or attached to, and parallel to the external face of a building or wall.

(26) "Story." A horizontal or level portion of a building suitable for occupancy or significant storage.

(27) "Story." That portion of a building located between a floor and the ceiling above it, provided more than half of the story is above ground, as determined by averaging the height of the ceiling from the average ground level at the front and rear of the building.

(28) "Structure." Something constructed or built which is located on the ground or is attached to a building or another structure.

(29) "Use." The activity conducted on property or in a building.

(a) "Accessory use." A use incidental and subordinate to the main or principal use.

(b) "Principal use." The main or principal use of the property.

(30) "Yard." An open space on the same lot with a principal building which is open, unoccupied, and unobstructed by buildings from the ground to the sky.

(a) "Front yard." The yard extending across the entire width of the lot between the front lot line and the nearest part of the principal building, including covered porches.

(b) "Rear yard." The yard extending across the entire width of a lot between the rear lot line and the nearest part of the principal building, including covered porches.

(c) "Side yard." The yard on either side of the principal building between the front and rear yards. (Ord. #____, Feb. 1998)

14-203. Application. (1) Zoning affects every building and use. No building, structure, or land shall hereafter be used, moved, altered, or erected unless it conforms to the requirements of these regulations for the district it is to be located.

(2) Street frontage. No building permit shall be issued and no building constructed on a lot which does not front on a public street for at least twenty-five (25) feet.

(3) One principal building on a lot. Only one principal building and its customary accessory buildings may be erected on any lot except as otherwise provided in this ordinance.

(4) Reduction of lot size. No lot shall be reduced in size or area so that the yard, density, or other requirements of this ordinance are not maintained.

(5) Yard and open space. No part of a yard or open space required for any building shall be included as a part of a yard or open space for another building.

(6) Corner lots. Corner lots shall meet the applicable front building setback requirements for each road frontage.

(7) Annexations. All territory which may hereafter be annexed to the Town of Huntsville shall be zoned as R-1 until otherwise classified.

(8) Continuance of nonconforming uses. In accordance with Tennessee Code Annotated, § 13-7-208, any lawful use of any building or land existing at the time of the enactment of this ordinance, or prior to an amendment to this ordinance, may continue although it does not conform to the provisions of this ordinance except that:

(a) Any nonconforming commercial, industrial, or other business establishment may continue to operate provided no change in the use of the land is undertaken. Such establishments shall be allowed to expand, construct additional facilities, or reconstruct facilities on the property owned by the establishment provided that there is a reasonable amount of space to avoid nuisances to adjacent property owners and no change in

the use of the land is undertaken. However, the expansion of said establishments through the acquisition of additional land is prohibited.

(b) No nonconforming use may be reestablished once it has been discontinued for twelve (12) months.

(c) Except for single and two-family dwellings, no nonconforming building may be rebuilt or repaired if it has been damaged beyond seventy-five (75) percent of its appraised value for tax purposes, as determined by the building official. (Ord. #___, Feb. 1998)

14-204. General provisions. (1) Site plan requirement. Site plans are required for all new construction except agricultural, single and two-family dwellings, and signs. Three (3) copies of the site plan shall be submitted to the zoning/building official seven (7) days prior to the meeting at which it is to be reviewed. All site plans shall contain:

(a) The locations and dimensions of all property lines;

(b) The locations, dimensions, and uses of existing and proposed buildings;

(c) The locations and dimensions of existing and proposed utilities and fire hydrants;

(d) The dimensions and designs of proposed ingress/egress, parking, driveways, walkways, and landscaping; and

(e) A drainage plan showing all drainage facilities and calculations.

The approval of a site plan shall lapse six (6) months after the date of its approval unless a building permit has been issued and subsequent progress has been made toward the completion of the project.

(2) Off-street automobile parking. Off-street automobile parking is required for all uses in all zoning districts.

(a) Parking space requirements. The minimum number of parking spaces shall consist of one space for each employee on duty during peak work shift and the following requirements. Buildings containing more than one use shall meet the minimum requirements for each use.

(i) Automobile service and repair facilities. Four (4) spaces for each bay or similar facility.

(ii) Bed and breakfast inns. One (1) space for each guest room.

(iii) Boarding and rooming houses. One (1) space for each designed for occupancy.

(iv) Bowling alleys. Four (4) spaces for each alley.

(v) Churches. One (1) space for each four (4) seats in the chapel.

(vi) Clubs and lodges. One (1) space for each three hundred (300) square feet of floor spaces.

- (vii) Dwellings. Two (2) spaces for each unit.
- (viii) Eating and drinking establishments. One (1) space for each fifty (50) square feet of space devoted to patron use.
- (ix) Funeral parlors. One (1) space for each four (4) seats in the chapel.
- (x) Hospitals and nursing homes. One (1) space for each four (4) beds.
- (xi) Hotels and motels. One (1) space for each guest room or accommodation.
- (xii) Industrial. One (1) space for each employee during peak work shift.
- (xiii) Offices. (A) General. One (1) space for each four hundred (400) square of floor space.
 (B) Medical. One (1) space for each two hundred (200) square feet of floor space.
- (xiv) Recreation establishments (indoor or outdoor). One (1) space for each four (4) customers, based on maximum service capacity.
- (xv) Retail. One (1) space for each two hundred (200) square feet of total floor area.
- (xvi) Schools. (A) Elementary and junior high. One (1) space for each classroom.
 (B) High school. Five (5) spaces for each classroom.
- (xvii) Wholesale. One (1) space for each employee during peak work shift.

(b) Remote parking. If the parking space requirements cannot be provided on the same lot as the principal building, off-street parking may be provided on another lot provided the lot is under the same ownership and is within three hundred (300) feet of the main entrance to the principal building.

(c) Parking lot design. The following design requirements shall apply to all parking facilities except those associated with single and two-family dwellings. In no case shall parking be designed so that any vehicle is required to back into a public street.

- (i) Stall dimensions. 10 feet wide, 20 feet deep.
- (ii) Aisle width.

<u>Aisle</u>	<u>90⁰</u>	<u>75⁰</u>	<u>60⁰</u>	<u>45⁰</u>
One way	NA	18'	16'	14'
Two way	22'	20'	20'	20'
- (iii) Driveway width. 11' minimum, 15' maximum per lane.
- (iv) Distance between driveways on same property. 40 feet.

(v) Distance between driveways and side property lines. 20 feet.

(d) Off-street loading and unloading space. Off-street loading and unloading space shall be provided for every commercial and industrial use. Retail, service, and similar uses shall have at least one (1) 12' x 25' space for each three thousand (3,000) square feet of floor space. Wholesale, industrial, and similar uses shall have at least one (1) 12' x 50' space for each ten thousand (10,000) square feet of floor space.

(e) Vision clearance. No plants or structures shall be placed on any lot which will obstruct the vision of pedestrian traffic.

(3) Signs. (a) General provisions. The following regulations shall apply to all zoning districts.

(i) Permits are required for all permanent signs constructed, installed, replaced, relocated, or expanded within the corporate limits of Huntsville.

(ii) Applicants shall provide the zoning/building official with a sign plan and specifications identifying the location, type, and design of proposed and existing signs.

(iii) No sign shall be placed within five (5) feet of any road right-of-way.

(iv) No ground signs shall be erected where the distance between the ground and the sign face is between three (3) and nine (9) feet unless the sign face does not protrude from the sign support or landscaping or other barriers are constructed to prevent people from going underneath the sign.

(v) Billboards, signs using rotating or flashing lights, and portable signs, and roof signs are expressly not permitted.

(vi) Banners, flags, and similar temporary signs are not allowed except to advertise special events and grand opening ceremonies for a period not to exceed sixty (60) days preceding the event and must be removed within seven (7) days following the event.

(vii) On premise directional signs and other small accessory signs may be approved by the planning commission provided they are proposed in conjunction with a comprehensive site plan for a development.

(viii) Traffic control and regulatory signs are allowed, as deemed necessary by the governing body or the Department of Transportation.

(ix) Address signs are allowed provided they do not exceed three (3) square feet in area.

(x) Memorial plaques, cornerstones, historical tablets, and similar signs are allowed provided they do not interfere with traffic or pedestrian visibility.

(xi) Cluster signs are allowed provided they meet the area, height, and other requirements for the zoning district in which they are located.

(xii) Construction signs are allowed during project construction provided they are not more than thirty-two (32) square feet in area and not more than eight (8) feet in height.

(xiii) Political campaign signs are allowed on private property provided they are removed within seven (7) after the results of an election are certified.

(b) Residential districts. Signs in the residential district are governed by § 14-206(1)(e)(i) and the following regulations:

(i) Non-residential uses permitted in the residential district are limited to one (1) sign per road frontage, not to exceed thirty-two (32) square feet in area and ten (10) feet in height.

(ii) Subdivisions and multi-family developments are limited to one (1) sign per entrance, not to exceed thirty-two (32) square feet in area and ten (10) feet in height.

(c) Commercial districts. Signs in the commercial districts are governed by § 14-206(1)(e)(i) and the following regulations.

(i) The maximum number of signs per development is two (2), but not two (2) of the same type. Developments fronting on more than one (1) street may have one (1) additional sign for each additional road frontage.

(ii) The maximum height of any ground sign is twenty-five (25) feet.

(iii) In the C-1 district, the maximum sign area of any ground sign is sixty-four (64) square feet. Developments with more than one (1) tenant may have an additional sixteen (16) square feet of sign area for each tenant over one (1), provided the total sign area does not exceed ninety-six (96) square feet.

(iv) In the C-2 district, the maximum sign area of any ground sign is ninety-six (96) square feet. Developers with more than one (1) tenant may have an additional sixteen (16) square feet of sign area for each tenant over one (1), provided the total sign area does not exceed one hundred sixty (160) square feet.

(v) No wall sign shall cover more than twenty-five (25) percent of the wall area on which it is to be located.

(vi) Subdivisions and multi-family developments are limited to one (1) sign per entrance, not to exceed thirty-two (32) square feet in area and ten (10) feet in height.

(d) Industrial district. Signs in the M-1 district shall meet the requirements of the C-2 district. Additionally, accessory buildings may have one wall sign not to exceed thirty-two (32) square feet in area.

(4) Stormwater drainage. Improvements to any site shall not increase the volume or speed of water runoff from the site, based on a ten year storm.

(5) Multi-family developments. Multi-family developments shall comply with the appropriate district and other regulations of this ordinance and the standards established below.

(a) Building location. Where a development contains more than one building, no building shall be located closer than twenty-five (25) feet to any outer property line nor closer than twenty (20) feet to any other building.

(b) Density requirements. All multi-family developments shall meet the density and setback requirements for the district in which they are to be located.

(c) Pedestrian walkways. Paved pedestrian walkways, at least four (4) feet wide, shall be provided unless specifically not required by the planning commission.

(d) Landscaping. All areas not needed for buildings, parking, or other improvements shall have, at minimum, a residential grade grass cover. Additionally, at least two trees or shrubs shall be provided on the site for each unit.

(e) Fire hydrants. Fire hydrants shall be provided so that all buildings are located within five hundred (500) feet of a hydrant.

(f) Trash receptacles. Unless door-to-door garbage collection is provided, dumpster containers for garbage collection shall be conveniently located. All containers shall be enclosed and screened from view by a wood fence or similar facility and shall not be located in any required yard or open space areas.

(g) Mail boxes. Group mail boxes shall be provided near the main entrance of the development. Sufficient space for two (2) automobiles to park while using the boxes shall be provided.

(h) Development standards. All driveways and parking areas shall be designed and constructed to the standards of the subdivision regulations.

(i) Water and sewer. Water and sewer systems shall be approved by the appropriate utility district or department and the Tennessee Department of Environment and Conservation prior to approval of the plat.

(j) Common property. Commonly owned property such as drives, open space, and recreational facilities, shall be held by a legally established association. The legal documents regarding the ownership and maintenance of the commonly held property shall be submitted to the planning commission with the site plan. Commonly held drives shall meet the design and construction requirements of the subdivision regulations.

(6) Mobile home parks. Mobile home parks shall meet the requirements of § 14-204(5), other applicable requirements, and the following criteria.

(a) All mobile home parks shall contain at least ten (10) fully operational mobile home spaces at the time of first occupancy.

(b) Mobile homes, including porches and additions, shall be located no closer than thirty (30) feet to another mobile home, building, drive, or outer property line.

(7) Commercial, public, and semi-public developments. Commercial, public, and semi-public developments shall comply with the appropriate district and other regulations of this ordinance and the standards established below.

(a) Building location. Where a development contains more than one building, no building shall be located closer than twenty-five (25) feet to any outer property line nor closer than twenty (20) feet to any other building.

(b) Density requirements. All commercial, public, and semi-public developments shall meet the density and setback requirements for the district in which they are to be located.

(c) Pedestrian walkways. Paved pedestrian walkways, at least four (4) feet wide, shall be provided unless specifically not required by the planning commission.

(d) Landscaping. All areas not needed for buildings, parking, or other improvements shall have, at minimum, a residential grade grass cover.

(e) Fire hydrants. Fire hydrants shall be provided so that all buildings are located within five hundred (500) feet of a hydrant.

(f) Trash receptacles. Unless door-to-door garbage collection is provided, dumpster containers for garbage collection shall be conveniently located. All containers shall be enclosed and screened from view by a wood fence or similar facility and shall not be located in any required yard or open space areas.

(g) Water and sewer. Water and sewer systems shall be approved by the appropriate utility district or department and the Tennessee Department of Environment and Conservation prior to approval of the plat.

(h) Common property. Commonly owned property such as drives, open space, and recreational facilities, shall be held by a legally established association. The legal documents regarding the ownership and maintenance of the commonly held property shall be submitted to the planning commission with the site plan. Commonly held drives shall meet the design and construction requirements of the subdivision regulations.

(8) Industrial developments. Industrial developments shall comply with the appropriate district and other regulations of this ordinance and the standards established below.

(a) Building location. Where a development contains more than one building, no building shall be located closer than twenty-five (25) feet to any outer property line nor closer than twenty (20) feet to any other building.

(b) Density requirements. All industrial developments shall meet the density and setback requirements for the district in which they are to be located.

(c) Landscaping. All areas not needed for buildings, parking, or other improvements shall have, at minimum, a residential grade grass cover.

(d) Fire hydrants. Fire hydrants shall be provided so that all buildings are located within five hundred (500) feet of a hydrant.

(e) Outdoor storage. Outdoor storage shall not be located in any required yard or open space areas.

(f) Trash receptacles. Trash containers shall not be located in any required yard or open space areas.

(g) Water and sewer. Water and sewer systems shall be approved by the appropriate utility district or department and the Tennessee Department of Environment and Conservation prior to approval of the plat.

(h) Common property. Commonly owned property such as drives, open space, and recreational facilities, shall be held by a legally established association. The legal documents regarding the ownership and maintenance of the commonly held property shall be submitted to the planning commission with the site plan. Commonly held drives shall meet the design and construction requirements of the subdivision regulations. (Ord. #___, Feb. 1998)

14-205. Establishment of districts. (1) Classification of districts. For the purpose of this ordinance, the Town of Huntsville, Tennessee is hereby divided into four districts, as follows:

- (a) R-1 District - Residential
- (b) C-1 District - Neighborhood Commercial
- (c) C-2 District - Highway Commercial
- (d) M-1 District - Industrial

(2) Boundaries of districts. The boundaries of the zoning districts are depicted on the "Zoning Map of the Town of Huntsville, Tennessee." Unless otherwise indicated on the zoning map, the boundaries are lot lines, center lines of streets, alleys, or the corporate limit lines as they existed at the time of adoption. Questions regarding the exact locations of the district lines shall be determined by the board of zoning appeals. (Ord. #___, Feb. 1998)

14-206. Provisions governing use districts. (1) R-1 Residential district. It is the intent of this district to establish residential areas that have received, or are likely to receive, residential land use activities. The requirements of this district are designed to encourage residential activities and to prevent incompatible activities which may adversely affect the residential character of the district. To achieve the intent of this district, as shown on the "Zoning Map of the Town of Huntsville, Tennessee," the following uses are permitted:

- (a) Single, two, and multi-family dwellings.
- (b) Mobile homes and mobile home parks.
- (c) Bed and breakfast inns.
- (d) Customary general farming.
- (e) Customary home occupations provided that:
 - (i) There is no external evidence of the occupation other than an announcement sign not exceeding four (4) square feet in area;
 - (ii) That no more than one (1) person who is not a resident of the dwelling is employed; and
 - (iii) No more than thirty-three (33) percent of the dwelling's floor space is used or that such use is confined to an accessory building not exceeding five hundred (500) square feet in area.
- (f) Customary accessory buildings provided they are located in rear yards and not closer than ten (10) feet to any property line.
- (g) Public and semi-public buildings and uses such as public schools, parks, utility substations, libraries, churches, golf courses, fraternal organizations and clubs that are not operated for profit, funeral homes, and similar uses provided that:
 - (i) No building is located closer than thirty (30) feet to any property line;
 - (ii) Such uses shall be accessed by major or minor collector streets; and
 - (iii) A natural or planted buffer shall be provided along side and rear property lines.

(2) C-1 Neighborhood commercial district. It is the intent of this district to establish an area for business activities which are conveniently located to serve neighboring residential areas. The requirements of this district are designed to encourage the clustering of similar low order goods and services and to make such goods and services convenient to the public without adversely affecting neighboring residential properties. To achieve the intent of this district, as shown on the "Zoning Map of the Town of Huntsville, Tennessee," the following uses are permitted:

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

(b) Barber and beauty shops, laundromats, shoe repair shops, tailor shops, indoor recreation establishments, grocery and drug stores, restaurants, day care centers, video rental stores, banks, and similar retail and service establishments.

(c) Gasoline service stations provided all structures, buildings, and underground tanks are located at least thirty (30) feet from all property lines.

(d) Customary accessory buildings provided they are located in rear yards and not closer than ten (10) feet to any property line.

(3) C-2 Highway commercial district. It is the intent of this district to establish areas for business activities which require high visibility and accessibility. The requirements of this district are designed to encourage the location of commercial establishments in high traffic areas for maximum convenience to both local residents and regional travelers. To achieve the intent of this district, as shown on the "Zoning Map of the Town of Huntsville, Tennessee," the following uses are permitted:

(a) Any nonresidential use allowed in the C-1 district.

(b) Stores and shops conducting retail trade.

(c) Personal and professional services.

(d) Recreational vehicle or travel trailer parks.

(e) Hotels, motels, lodges, clubs, and similar activities.

(f) Outdoor recreation facilities.

(g) Residential uses are allowed provided they are located within and are accessory to, the use of the principal building.

(h) Customary accessory buildings provided they are located in side or rear yards and not closer than ten (10) feet to any property line.

(4) M-1 Industrial district. It is the intent of this district to establish areas for industrial and similar activities so they will have high visibility and accessibility yet not adversely affect other types of activities. The requirements of this district are designed to encourage the clustering of compatible industrial activities and to prevent activities which are incompatible. To achieve the intent of this district, as shown on the "Zoning Map of the Town of Huntsville, Tennessee," the following uses are permitted:

(a) Any nonresidential use allowed in the C-2 district.

(b) Wholesale businesses, warehouses, and storage yards and facilities.

(c) Automobile, truck, equipment, and mobile home sales and repair.

(d) Any industry which does not cause injurious or obnoxious noise, fire hazards, or other objectionable conditions, as determined by the board of zoning appeals.

(e) Customary accessory buildings provided they are located in side or rear yards and not closer than ten (10) feet to any property line.
(Ord. #___, Feb. 1998)

14-207. Area, yard, and height requirements. (1) Purpose. For the purpose of this ordinance, area, yard, and height requirements for the district classifications are established as follows:

(2) Minimum requirements.

	<u>District</u>	<u>Lot Size*</u>	<u>Front Yard</u>	<u>Rear Yard</u>	<u>Side Yard</u>	<u>Maximum Height</u>
1.	R-1	7,500**	30'	25'	10'***	35'
2.	C-1	7,500**	30'	25'	10'***	35'
3.	C-2	--	40'	30'	20'	35'
4.	M-1	--	40'	30'	20'	35'

*Lots without public sewer must meet the minimum lot size requirements of the Tennessee Department of Health and Environment.

**Plus 3,000 square feet for each additional dwelling unit.

***Plus 5' for each additional story. (Ord. #___, Feb. 1998)

14-208. Exceptions and modifications. (1) Lot of record. Where the owner of a lot consisting of one or more adjacent lots of official record at the time of the adoption of the zoning ordinance does not own sufficient land to enable him to conform to the yard or other requirements of the zoning ordinance, an application may be submitted to the board of zoning appeals for a variance from the terms of the zoning ordinance. Such lot may be used as a building site, provided, however, that the yard and other requirements of the district are complied with as closely as in the opinion of the board of zoning appeals is possible.

No lot which is now or hereafter built upon shall be so reduced in area that the yards and open space will be smaller than prescribed by the zoning ordinance, and no yard, court, or open space provided around any building for the purpose of complying with the provisions hereof, shall again be considered as a yard, court, or other open space for another building.

(2) Front yards. The front yard requirements of this ordinance shall not apply to any lot where the average depth of developed lots on the same side of the street and within one hundred (100) feet of the lot are less than the requirement for that district. In such case, the minimum front yard shall be the average of the depths of the front yards.

(3) Height limits. The height limitations of this ordinance shall not apply to church steeples, radio towers, flag poles, transmission towers, masts, and similar structures not intended for human occupancy. (Ord. #___, Feb. 1998)

14-209. Enforcement. (1) Enforcing officer. The provisions of this ordinance shall be enforced by the zoning/building official. The official shall have the right to enter any premises necessary to carry out his duties in the enforcement of this ordinance.

(2) Building permit required. A building permit is required prior to the excavation, site preparation, alteration, construction, or moving of any structure, building, or parking lot.

(3) Issuance of building permit. Except for single and two-family dwellings, agricultural buildings, and signs, a building permit shall not be issued by the zoning/building official unless a site plan containing the information required by § 14-204(1) has been approved by the planning commission and the proposed construction meets the requirements of any applicable building or fire codes. The zoning/building official may issue permits for single and two-family dwellings, agricultural buildings, and signs provided the zoning/building official determines that all requirements of this ordinance are met. In the event a building permit is denied, the reason(s) for denial shall be entered in writing on the application.

(4) Certificate of occupancy. Upon the completion of any construction or other activity requiring a building permit, an application shall be made to the zoning/building official for a certificate of occupancy. The certificate shall be issued if the zoning/building official determines that the provisions of this ordinance, applicable building and/or fire codes, and conditions of the permit are satisfied. No building or land shall hereafter be occupied unless a certificate of occupancy has been issued. In the event a certificate of occupancy is denied, the reason(s) for denial shall be entered in writing on the application.

(5) Penalties. Any persons violating any provision of this ordinance shall be guilty of a misdemeanor, and upon conviction shall be fined in accordance with state law for each offense. Each day such violation continues shall constitute a separate offense.

(6) Remedies. In the event the occupation, excavation, site preparation, alteration, construction, or moving of any structure, building or parking lot is initiated in violation of this ordinance, the zoning/building official or any other appropriate authority or affected property owner may institute injunction, mandamus, or other appropriate action to prevent the occupancy or use of such building or property. (Ord. #___, Feb. 1998)

14-210. Board of zoning appeals. (1) Creation and appointment. A board of zoning appeals is hereby established in accordance with Tennessee Code Annotated, § 13-7-205. The Huntsville Municipal Planning Commission is hereby designated as the board of zoning appeals. The terms of the members of the board of zoning appeals shall be concurrent with the terms of the members of the Huntsville Municipal Planning Commission.

(2) Procedure. Meetings of the board of zoning appeals shall be held at the call of the chairman or by a majority of the membership or at such other

times as the board may determine. All meetings shall be open to the public. The chairman, or in his absence, the acting chairman, shall direct the meetings and may administer oaths and compel the attendance of witnesses. The board shall keep minutes of its meetings. Said minutes shall be a public record and shall record the actions of the board and the individual votes of the members.

(3) Appeals: how taken. An appeal to the board of zoning appeals may be made by any aggrieved person, firm, or corporation or by any governmental officer, department, board, or agency affected by any decision of the zoning/building official regarding the enforcement of this ordinance. The zoning/building official shall provide the board with all appropriate papers and information pertaining to the appeal. The board shall hear and decide an appeal within a reasonable time. A public notice of the time, date, and place of the hearing shall be provided.

(4) Powers. The board of zoning appeals shall have the following powers:

(a) Administrative review. To hear and decide appeals where it is alleged by the appellant that there is error in any order, requirement, decision, or refusal made by the zoning/building official or any other administrative official in carrying out of the enforcement of any provision of this ordinance.

(b) Special exceptions. To hear and decide special exceptions as set forth in this ordinance.

(c) Variances. To hear and decide applications for variances from the terms of this ordinance where by reason of exceptional narrowness, shallowness, or shape of a piece of property at the time of enactment of the zoning regulations or by reason of exceptional topographical conditions or other extraordinary or exceptional situation or condition of a such piece of property, the strict application of this ordinance would result in peculiar and exceptional practical difficulties or exceptional or undue hardship upon the owner of such property, provided that such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of this ordinance. (Ord. #___, Feb. 1998)

14-211. Amendments. (1) Procedure. The board of mayor and aldermen may amend this ordinance, including the zoning map, provided that any proposed amendment is first submitted to the planning commission for review and possible certification. If the commission does not certify the amendment, a favorable vote of the majority of the board's membership is required before the amendment can become effective.

(2) Public hearing. A public hearing is required prior to the adoption of any ordinance to amend the zoning ordinance or map. A public hearing notice stating the time, place, and date of the hearing shall be placed in a local newspaper at least fifteen (15) days prior to the hearing. (Ord. #___, Feb. 1998)

14-212. Legal status provisions. (1) Conflict with other ordinances. Should there be conflict between sections of this ordinance or between this and another ordinance, the more restrictive regulations shall apply.

(2) Validity. If any section, clause, provision or portion of this ordinance shall be held to be invalid by a court of competent jurisdiction, such holding shall not affect any other section, clause, provision, or portion of this ordinance which is not in itself invalid or unconstitutional. (Ord. #____, Feb. 1998)

CHAPTER 3

FLOOD DAMAGE PREVENTION

SECTION

14-301. Statutory authorization, findings of fact, purpose and objectives.

14-302. Definitions.

14-303. General provisions.

14-304. Administration.

14-305. Provisions for flood hazard reduction.

14-306. Variance procedures.

14-307. Legal status provisions.

14-308. [Deleted.]

14-301. Statutory authorization, findings of fact, purpose and objectives. (1) Statutory authorization. The Legislature of the State of Tennessee has in §§ 13-7-201 through 13-7-210, 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 Town of Huntsville, Tennessee, Mayor and Board of Aldermen, do ordain as follows:

(2) Findings of fact. (a) The Town of Huntsville, Tennessee, Mayor and its Legislative Body wishes to maintain eligibility in the National Flood Insurance Program (NFIP) and in order to do so must meet the NFIP regulations found in title 44 of the Code of Federal Regulations (CFR), ch. 1, section 60.3.

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

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

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

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

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

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

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

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

(4) **Objectives.** The objectives of this chapter are:

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

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

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

(d) To minimize prolonged business interruptions;

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

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

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

(h) To maintain eligibility for participation in the NFIP. (Ord. #88-89-01, July 1988, as replaced by Ord. #10-01-02, March 2010)

14-302. Definitions. Unless specifically defined below, words or phrases used in this chapter shall be interpreted as to give them the meaning they have in common usage and to give this chapter its most reasonable application given its stated purpose and objectives.

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

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

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

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

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

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

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

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

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

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

(6) "Area of special flood hazard" See "special flood hazard area."

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

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

(9) "Building" See "structure."

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

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

(12) "Emergency flood insurance program" or "emergency program" means the program as implemented on an emergency basis in accordance with section 1336 of the Act. It is intended as a program to provide a first layer

amount of insurance on all insurable structures before the effective date of the initial FIRM.

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

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

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

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

(17) "Existing structures" See "existing construction."

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

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

(a) The overflow of inland or tidal waters.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(33) "Freeboard" means a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. "Freeboard" tends to compensate for the many unknown factors that could contribute to flood heights

greater than the height calculated for a selected size flood and floodway conditions, such as wave action, blockage of bridge or culvert openings, and the hydrological effect of urbanization of the watershed.

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

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

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

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

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

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

(d) Individually listed on the Town of Huntsville, Tennessee inventory of historic places and determined as eligible by communities with historic preservation programs that have been certified either:

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

(ii) Directly by the Secretary of the Interior.

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

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

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

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

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

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

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

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

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

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

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

(48) "100-year flood" See "base flood."

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

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

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

(a) Built on a single chassis;

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

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

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

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

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

(54) "Special flood hazard area" is the land in the floodplain within a community subject to a one percent (1%) or greater chance of flooding in any given year. The area may be designated as Zone A on the FHBM. After detailed 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.

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

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

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

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

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

(60) "Substantial improvement" means:

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

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

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

(b) The term does not, however, include either:

(i) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been 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

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

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

(62) "Variance" is a grant of relief from the requirements of this chapter.

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

(64) "Water surface elevation" means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, the North American Vertical Datum (NAVD) of 1988, or other datum, where specified, of floods of various

magnitudes and frequencies in the floodplains of riverine areas. (Ord. #88-89-01, July 1988, as replaced by Ord. #10-01-02, March 2010)

14-303. General provisions. (1) Application. This chapter shall apply to all areas within the incorporated area of the Town of Huntsville, Tennessee.

(2) Basis for establishing the areas of special flood hazard. The areas of special flood hazard identified on the Town of Huntsville, Tennessee, as identified by FEMA, and in its Flood Insurance Study (FIS) and Flood Insurance Rate Map (FIRM), Community Panel Numbers 47013C0195C, and 47013C0215C, dated September 28, 2007, along with all supporting technical data, are adopted by reference and declared to be a part of this chapter.

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

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

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

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

- (a) Considered as minimum requirements;
- (b) Liberally construed in favor of the governing body; and
- (c) Deemed neither to limit nor repeal any other powers granted under Tennessee statutes.

(7) Warning and disclaimer of liability. The degree of flood protection required by this chapter 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 chapter shall not create liability on the part of the Town of Huntsville, Tennessee or by any officer or employee thereof for any flood damages that result from reliance on this chapter or any administrative decision lawfully made hereunder.

(8) Penalties for violation. Violation of the provisions of this chapter or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance shall constitute a misdemeanor punishable as other misdemeanors as provided by law. Any person who violates this chapter or fails to comply with any of its requirements shall, upon adjudication therefore, be fined as prescribed by Tennessee statutes, and in addition, shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate

offense. Nothing herein contained shall prevent the Town of Huntsville, Tennessee from taking such other lawful actions to prevent or remedy any violation. (Ord. #88-89-01, July 1988, as replaced by Ord. #10-01-02, March 2010)

14-304. Administration. (1) Designation of ordinance administrator. The building inspector is hereby appointed as the administrator to implement the provisions of the ordinance comprising this chapter.

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

(a) Application stage. (i) Elevation in relation to mean sea level of the proposed lowest floor, including basement, of all buildings where base flood elevations are available, or to certain height above the highest adjacent grade when applicable under this chapter.

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

(iii) A FEMA Floodproofing Certificate from a Tennessee registered professional engineer or architect that the proposed non-residential flood proofed building will meet the floodproofing criteria in § 14-305(1) and (2).

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

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

Within approximate A Zones, where base flood elevation data is not available, the elevation of the lowest floor shall be determined as the measurement of the lowest floor of the building relative to the highest adjacent grade. The administrator shall record the elevation of the lowest floor on the development permit. When floodproofing is utilized for a non-

residential building, said certification shall be prepared by, or under the direct supervision of, a Tennessee registered professional engineer or architect and certified by same.

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

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

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

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

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

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

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

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

(f) Record the elevation, in relation to mean sea level or the highest adjacent grade, where applicable, of the lowest floor (including basement) of all new and substantially improved buildings, in accordance with § 14-304(2).

(g) Record the actual elevation, in relation to mean sea level or the highest adjacent grade, where applicable to which the new and substantially improved buildings have been floodproofed, in accordance with § 14-304(2).

(h) When floodproofing is utilized for a nonresidential structure, obtain certification of design criteria from a Tennessee registered professional engineer or architect, in accordance with § 14-304(2).

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

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

(k) Maintain all records pertaining to the provisions of this chapter in the office of the administrator and shall be open for public inspection. Permits issued under the provisions of this chapter shall be maintained in a separate file or marked for expedited retrieval within combined files. (Ord. #88-89-01, July 1988, as replaced by Ord. #10-01-02, March 2010)

14-305. Provisions for flood hazard reduction. (1) General standards. In all areas of special flood hazard, the following provisions are required:

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

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

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

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

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

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

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

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

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

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

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

(l) All subdivision proposals and other proposed new development proposals shall meet the standards of § 14-305(2);

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

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

(2) Specific standards. In all areas of special flood hazard, the following provisions, in addition to those set forth in § 14-305(1) are required:

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

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

to a level of at least three feet (3') above the highest adjacent grade (as defined in § 14-302). Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with the standards of this section: "Enclosures."

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

In approximate A Zones, where base flood elevations have not been established and where alternative data is not available, new construction and substantial improvement of any commercial, industrial, or non-residential building, shall have the lowest floor, including basement, elevated or flood proofed to no lower than three feet (3') above the highest adjacent grade (as defined in § 14-302). Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with the standards of this section: "Enclosures."

Non-residential buildings located in all A Zones may be floodproofed, in lieu of being elevated, provided that all areas of the building below the required elevation are watertight, with walls substantially impermeable to the passage of water, and are built with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. A Tennessee registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions above, and shall provide such certification to the administrator as set forth in § 14-304(2).

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

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

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

(B) The bottom of all openings shall be no longer than one foot (1') above the finished grade;

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

(ii) The enclosed area shall be the minimum necessary to allow for parking of vehicles, storage or building access.

(iii) The interior portion of such enclosed area shall not be finished or partitioned into separate rooms in such a way as to impede the movement of floodwaters and all such partitions shall comply with the provisions of § 14-305(2).

(d) Standards for manufactured homes and recreational vehicles. (i) All manufactured homes placed, or substantially improved, on:

(A) Individual lots or parcels;

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

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

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

(A) In AE Zones, with base flood elevations, the lowest floor of the manufactured home is elevated on a permanent foundation to no lower than one foot (1') above the level of the base flood elevation; or

(B) In approximate A Zones, without base flood elevations, the manufactured home chassis is elevated and supported by reinforced piers (or other foundation elements of at least equivalent strength) that are at least three feet (3') in height above the highest adjacent grade (as defined in § 14-302).

(iii) Any manufactured home, which has incurred "substantial damage" as the result of a flood, must meet the standards of § 14-305(1) and (2).

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

(v) All recreational vehicles placed in an identified special flood hazard area must either:

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

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

(C) The recreational vehicle must meet all the requirements for new construction.

(e) Standards for subdivisions and other proposed new development proposals. Subdivisions and other proposed new developments, including manufactured home parks, shall be reviewed to determine whether such proposals will be reasonably safe from flooding.

(i) All subdivision and other proposed new development proposals shall be consistent with the need to minimize flood damage.

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

(iii) All subdivision and other proposed new development proposals shall have adequate drainage provided to reduce exposure to flood hazards.

(iv) In all approximate A Zones require that all new subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than fifty (50) lots or five (5) acres, whichever is the lesser, include within such proposals base flood elevation data (see § 14-305(5)).

(3) Standards for special flood hazard areas with established base flood elevations and with floodways designated. Located within the special flood hazard areas established in § 14-303(2), are areas designated as floodways. A floodway may be an extremely hazardous area due to the velocity of floodwaters, debris or erosion potential. In addition, the area must remain free of encroachment in order to allow for the discharge of the base flood without increased flood heights and velocities. Therefore, the following provisions shall apply:

(a) Encroachments are prohibited, including earthen fill material, new construction, substantial improvements or other development within the regulatory floodway. Development may be permitted however, provided it is demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practices that the cumulative effect of the proposed encroachments or new development shall not result in any increase in the water surface elevation of the base flood elevation, velocities, or floodway widths during

the occurrence of a base flood discharge at any point within the community. A Tennessee registered professional engineer must provide supporting technical data, using the same methodologies as in the effective Flood Insurance Study for the Town of Huntsville, Tennessee and certification thereof.

(b) New construction and substantial improvements of buildings, where permitted, shall comply with all applicable flood hazard reduction provisions of § 14-305(1) and (2).

(4) Standards for areas of special flood hazard Zones AE with established base flood elevations but without floodways designated. Located within the special flood hazard areas established in § 14-303(2), where streams exist with base flood data provided but where no floodways have been designated (Zones AE), the following provisions apply:

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

(b) New construction and substantial improvements of buildings, where permitted, shall comply with all applicable flood hazard reduction provisions of § 14-305(1) and (2).

(5) Standards for streams without established base flood elevations and floodways (A Zones). Located within the special flood hazard areas established in § 14-303(2), where streams exist, but no base flood data has been provided and where a floodway has not been delineated, the following provisions shall apply:

(a) The administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from any federal, state, or other sources, including data developed as a result of these regulations (see (b) below), as criteria for requiring that new construction, substantial improvements, or other development in approximate A Zones meet the requirements of § 14-305(1) and (2).

(b) Require that all new subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than fifty (50) lots or five (5) acres, whichever is the lesser, include within such proposals base flood elevation data.

(c) Within approximate A Zones, where base flood elevations have not been established and where such data is not available from other sources, require the lowest floor of a building to be elevated or

floodproofed to a level of at least three feet (3') above the highest adjacent grade (as defined in § 14-302). All applicable data including elevations or floodproofing certifications shall be recorded as set forth in § 14-304(2). Openings sufficient to facilitate automatic equalization of hydrostatic flood forces on exterior walls shall be provided in accordance with the standards of § 14-305(2).

(d) Within approximate A Zones, where base flood elevations have not been established and where such data is not available from other sources, no encroachments, including structures or fill material, shall be located within an area equal to the width of the stream or twenty feet (20'), whichever is greater, measured from the top of the stream bank, unless certification by a Tennessee registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot (1') at any point within the Town of Huntsville, Tennessee. The engineering certification should be supported by technical data that conforms to standard hydraulic engineering principles.

(e) New construction and substantial improvements of buildings, where permitted, shall comply with all applicable flood hazard reduction provisions of § 14-305(1) and (2). Within approximate A Zones, require that those subsections of § 14-305(2) dealing with the alteration or relocation of a watercourse, assuring watercourse carrying capacities are maintained and manufactured homes provisions are complied with as required.

(6) Standards for areas of shallow flooding (AO and AH Zones). Located within the special flood hazard areas established in § 14-303(2), are areas designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one foot to three feet (1'-3') where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate; therefore, the following provisions, in addition to those set forth in § 14-305(1) and (2) apply:

(a) All new construction and substantial improvements of residential and non-residential buildings shall have the lowest floor, including basement, elevated to at least one foot (1') above as many feet as the depth number specified on the FIRMS, in feet, above the highest adjacent grade. If no flood depth number is specified on the FIRM, the lowest floor, including basement, shall be elevated to at least three feet (3') above the highest adjacent grade. Openings sufficient to facilitate automatic equalization of hydrostatic flood forces on exterior walls shall be provided in accordance with standards of § 14-305(2).

(b) All new construction and substantial improvements of non-residential buildings may be floodproofed in lieu of elevation. The structure together with attendant utility and sanitary facilities must be

floodproofed and designed watertight to be completely floodproofed to at least one foot (1') above the flood depth number specified on the FIRM, with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. If no depth number is specified on the FIRM, the structure shall be floodproofed to at least three feet (3') above the highest adjacent grade. A Tennessee registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this chapter and shall provide such certification to the administrator as set forth above and as required in accordance with § 14-304(2).

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

(7) Standards for areas protected by flood protection system (A99 Zones). Located within the areas of special flood hazard established in § 14-303(2) are areas of the 100-year floodplain protected by a flood protection system but where base flood elevations have not been determined. Within these areas (A99 Zones) all provisions of §§ 14-304 and 14-305 shall apply.

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

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

(b) When a new flood hazard risk zone, and base flood elevation and floodway data is available, new construction and substantial improvements shall meet the standards established in accordance with §§ 14-304 and 14-305. (Ord. #88-89-01, July 1988, as replaced by Ord. #10-01-02, March 2010)

14-306. Variance procedures. (1) Municipal board of zoning appeals.

(a) Authority. The Town of Huntsville, Tennessee Municipal Board of Zoning Appeals shall hear and decide appeals and requests for variances from the requirements of this chapter.

(b) Procedure. Meetings of the municipal board of zoning appeals shall be held at such times, as the board shall determine. All

meetings of the municipal board of zoning appeals shall be open to the public. The municipal board of zoning appeals shall adopt rules of procedure and shall keep records of applications and actions thereof, which shall be a public record. Compensation of the members of the municipal board of zoning appeals shall be set by the legislative body.

(c) Appeals; how taken. An appeal to the municipal board of zoning appeals may be taken by any person, firm or corporation aggrieved or by any governmental officer, department, or bureau affected by any decision of the administrator based in whole or in part upon the provisions of this chapter. Such appeal shall be taken by filing with the municipal board of zoning appeals a notice of appeal, specifying the grounds thereof. In all cases where an appeal is made by a property owner or other interested party, the cost of publishing a notice of such hearings shall be paid by the appellant. The administrator shall transmit to the municipal board of zoning appeals all papers constituting the record upon which the appeal action was taken. The municipal board of zoning appeals shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to parties in interest and decide the same within a reasonable time which shall not be more than seven (7) days from the date of the hearing. At the hearing, any person or party may appear and be heard in person or by agent or by attorney.

(d) Powers. The municipal board of zoning appeals shall have the following powers:

(i) Administrative review. To hear and decide appeals where it is alleged by the applicant that there is error in any order, requirement, permit, decision, determination, or refusal made by the administrator or other administrative official in carrying out or enforcement of any provisions of this chapter.

(ii) Variance procedures. In the case of a request for a variance the following shall apply:

(A) The Town of Huntsville, Tennessee Municipal Board of Zoning Appeals shall hear and decide appeals and requests for variances from the requirements of this chapter.

(B) Variances may be issued for the repair or rehabilitation of historic structures as defined herein, upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary deviation from the requirements of this chapter to preserve the historic character and design of the structure.

(C) In passing upon such applications, the municipal board of zoning appeals shall consider all

technical evaluations, all relevant factors, all standards specified in other sections of this chapter, and:

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

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

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

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

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

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

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

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

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

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

(D) Upon consideration of the factors listed above, and the purposes of this chapter, the municipal board of zoning appeals may attach such conditions to the granting of variances, as it deems necessary to effectuate the purposes of this chapter.

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

(2) Conditions for variances. (a) Variances shall be issued upon a determination that the variance is the minimum relief necessary, considering the flood hazard and the factors listed in § 14-306(1).

(b) Variances shall only be issued upon: a showing of good and sufficient cause, a determination that failure to grant the variance would result in exceptional hardship; or a determination that the granting of a

variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

(c) Any applicant to whom a variance is granted shall be given written notice that the issuance of a variance to construct a structure below the base flood elevation will result in increased premium rates for flood insurance (as high as twenty-five dollars (\$25.00) for one hundred dollars (\$100.00)) coverage, and that such construction below the base flood elevation increases risks to life and property.

(d) The administrator shall maintain the records of all appeal actions and report any variances to FEMA upon request. (Ord. #88-89-01, July 1988, as replaced by Ord. #10-01-02, March 2010)

14-307. Legal status provisions. (1) Conflict with other ordinances. In case of conflict between this chapter or any part thereof, and the whole or part of any existing or future ordinance of the Town of Huntsville, Tennessee, the most restrictive shall in all cases apply.

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

(3) Effective date. The ordinance comprising this chapter shall become effective immediately after its passage, in accordance with the Charter of the Town of Huntsville, Tennessee, and the public welfare demanding it. (Ord. #88-89-01, July 1988, as replaced by Ord. #10-01-02, March 2010)

14-308. [Deleted.] (Ord. #88-89-01, July 1988, as deleted by Ord. #10-01-02, March 2010)

CHAPTER 4**WIRELESS COMMUNICATION TOWER REGULATIONS****SECTION**

14-401. Telecommunications towers and antennae.

14-401. Telecommunications towers and antennae. The requirements of this section apply to the placement of commercial transmitting and receiving antennae, telecommunication towers, and any incidental structures to said antennae or towers, and any incidental structures to said antennae or towers. Requirements noted below are meant to prevent harmful impacts upon the community, which can occur as the result of the erection of telecommunication towers. Commercial telecommunications towers and related incidental facilities must adhere to the following standards:

(1) Telecommunication tower as a principal use. For the purpose of the Huntsville Zoning Ordinance, a telecommunications tower shall be considered as a principal use of land. However, this definition shall not preclude the use of an existing structure or tower for the installation of a telecommunications antenna.

(2) The priority of co-location. An applicant proposing to construct a new telecommunications tower shall identify all other existing towers within the town as possible alternative sites for antenna installation. Where feasible, priority shall be given to the placement of an additional antenna on an existing tower, instead of erecting a new tower. Furthermore, approval of the construction of a new telecommunications tower generally shall be contingent on the capability of future installations of additional antennae on such a tower. The applicant for a new tower shall provide new written authorization to the planning commission indicating that the proposed tower is designed to allow the installation of additional antennae. The authorization shall be recorded at the Office of the Register of Deeds of Scott County, Tennessee prior to the issuance of permit for tower construction.

(3) Application for the location of telecommunication antennae and towers. A request to locate a telecommunications antennae or tower within the Town of Huntsville, Tennessee shall be submitted to the town's building inspector. If the request involves only the placement of an antenna on an existing structure or tower, without any extension of that structure or tower, and with no construction of new buildings and related facilities, then the building inspector may permit said installation upon finding that all applicable town requirements have been met. If, however, any new tower, extension of an existing structure or tower, or any new telecommunications building or facilities is proposed for a site, then the Planning Commission of the Town of Huntsville, Tennessee shall consider the request.

A permit for the construction of a telecommunications tower or related facility shall not be issued without the approval of the Planning Commission of the Town of Huntsville, Tennessee. If substantial progress on a tower project has not been made within six (6) months of the issuance of a permit, then that permit shall be void. Prior to any consideration by the planning commission regarding proposed construction of a telecommunications tower or facility, the following must be submitted for the planning commission agenda at least ten (10) days before the meeting at which the proposal is to be addressed:

(a) A scaled site plan displaying the location type, and height of the proposed tower; topographic contour lines at five foot (5') intervals; the locations and dimensions of any proposed or existing buildings on the site; locations of guy wires and their anchor points on the ground; dimensions of property boundaries, nearby rights-of-way and street names, easements and significant natural features; proposed or existing access points into the site; a landscape plan, along with any indications of any needed screening and fencing, utility lines or installations in the vicinity of the site, including the names of adjacent property owners.

(b) Information collected by the applicant concerning any alternative, existing structures or towers in the Town of Huntsville, Tennessee and within five thousand feet (5,000') of the municipal boundaries, which might provide for the placement of a communications antenna, without the construction of a new tower.

(4) Setbacks for towers and associated buildings or facilities. The placement of any telecommunications tower shall be provided with the setback from each property line equivalent in linear feet to the height of the tower. Any building and/or associated facilities erected on the tower site shall conform with all applicable building setback requirements which apply to the zoning district in which the site is located.

(5) Guy wires and supports. Guy wires, and associated supports for guy wires, shall be set back a minimum of ten feet (10') from side and rear property lines, and no guy wires shall be allowed within the front building setback ordinarily required in the zoning district in which the proposed tower site is located.

(6) Lighting, noise, and color. Lighting for a tower shall not exceed the requirements of federal and state regulations, with regard to the number and color of lights. Intermittent or strobe lights shall be allowed on a tower only to the extent needed to satisfy federal or state regulations. Lighting in excess of the applicable requirements shall not be permitted.

Insofar as possible, given federal or state regulations, noise emanating from a tower, or from equipment accessory to it, shall not be audible to adjacent residents. Where any such noise may emanate from a tower site, the applicant shall provide evidence for the implementation of measures to mitigate noise on surrounding properties.

Unless mandated by other applicable regulations, tower colors shall be restricted to those which tend to blend into the immediate environment, and which are as inconspicuous as possible. Accordingly, all new and replacement antenna towers located in the municipality shall be of stealth design and compatible with the surrounding environments. "Stealth design" means any communications facility that is designed to blend into the surrounding environment. Examples of stealth facilities may include, but are not limited to, antenna tower alternative structures, architecturally screened roof-mounted antennas, building mounted antennas painted to match the existing structures, antennas integrated into architectural elements, antennas and monopoles surrounded or obscured by existing and/or proposed trees and landscaping and antenna structures designed to look like light poles, flagpoles, or any other camouflaging techniques available on the market.

(7) Landscaping and screening from public view. Fences, equipment enclosures, buildings and all related facilities located at the base of a tower shall be screened by landscaping shrubs and/or trees. The landscape screening utilized shall be sufficient to obscure said fences, equipment and/or facilities from view. At a minimum such shrubs and trees shall be fast growing, a minimum of four and one half feet (4 1/2') high at the time of planting, and be capable of reaching a height of six feet (6') at maturity.

In addition, one (1) tree shall be planted for each fifteen feet (15') of tower height. Said trees shall be planted within the radius of the tower height from the base of the tower. Existing trees may be counted toward this tree planting requirement.

(8) Planting of new vegetation. Where vegetation is installed for screening, the time allowed for the installation of landscaping shall not exceed thirty (30) days after the completion of tower construction and associated appurtenances. If seasonal circumstances prevent the planting of vegetation on a tower site, then the building inspector may allow an extension of the thirty (30) day time limit into the next growing season.

(9) Tower removal upon termination of use. When the active use of a telecommunications tower ceases for a period of six (6) consecutive months, then the tower shall be removed at the owner's expense. It shall be the responsibility of the owner of a telecommunications tower to notify the building inspector when that tower has ceased operations, except for ordinary maintenance or minor repairs. (as added by Ord. #10-01-01, March 2010)