

TITLE 14

ZONING AND LAND USE CONTROL

CHAPTER

1. MUNICIPAL PLANNING COMMISSION.
2. ZONING ORDINANCE.
3. LENOIR CITY STREAM BUFFER ORDINANCE.

CHAPTER 1

MUNICIPAL PLANNING COMMISSION

SECTION

- 14-101. Creation and membership.
- 14-102. Organization, powers, duties, etc.
- 14-103. Additional powers.

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 another member of the governing body selected by the governing body; 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 five (5) years each. The five (5) members first appointed shall be appointed for terms of one (1), two (2), three (3), four (4) and five (5) years respectively so that the term of one (1) member expires each year. The terms of the mayor and the member selected by the governing body shall run concurrently with their terms of office. Any vacancy in an appointive membership shall be filled for the unexpired term by the mayor. (1963 Code, § 11-101)

14-102. Organization, powers, duties, etc. The planning commission shall be organized and shall carry out its powers, functions, and duties in accordance with Tennessee Code Annotated, title 13. (1963 Code, § 11-102)

14-103. Additional powers. Having been designated as a regional planning commission, the municipal planning commission shall have the additional powers granted by, and shall otherwise be governed by the provisions of the state law relating to regional planning commissions. (1963 Code, § 11-103)

CHAPTER 2

ZONING ORDINANCE

SECTION

14-201. Land use to be governed by zoning ordinance.

14-201. Land use to be governed by zoning ordinance. Land use within the City of Lenoir City shall be governed by Ordinance adopted Apr. 28, 1941, titled "Zoning Ordinance, Lenoir City, Tennessee," and any amendments thereto.¹

¹Ordinance adopted Apr. 28, 1941, and any amendments thereto, are published as separate documents and are of record in the office of the city recorder.

CHAPTER 3

LENOIR CITY STREAM BUFFER ORDINANCE

SECTION

- 14-301. Statutory authorization.
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- 14-303. Need.
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- 14-308. Stream buffer width requirements.
- 14-309. Design standards for stream buffers.
- 14-310. Management and maintenance of stream buffers.
- 14-311. Water pollution hazards.
- 14-312. Violations and enforcement.
- 14-313. Appeals.
- 14-314. Conflicts with other regulations.

14-301. Statutory authorization. Under the authority of the Federal Water Pollution Control Act of 1977 (known as the Clean Water Act), the United States Environmental Protection Agency (EPA) is specifically required to develop and oversee the National Pollutant Discharge Elimination System (NPDES) permit program which requires all communities operating a small municipal separate storm sewer system (MS4) to regulate the discharge of pollutants to the waters of the state. Under the authority of the Tennessee Water Quality Control Act of 1977 the Tennessee Department of Environment and Conservation (TDEC) has interpreted that this mandate includes the regulation of aquatic buffers. The Legislature of the State of Tennessee has in Tennessee Code Annotated, § 6-2-201, delegated the authority to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. (as added by Ord. #2010-1-15-1882, Jan. 2010)

14-302. Short title. This chapter will be known as the Lenoir City Stream Buffer Ordinance. (as added by Ord. #2010-1-15-1882, Jan. 2010)

14-303. Need. Stream buffers are naturally vegetated areas that are located along the edge or perimeter of waterways providing a tool for the overall improvement of a stream's water quality and habitat. A properly maintained stream buffer will slow down and spread-out stormwater runoff, and helps to filter sediment, chemicals and other pollutants that can compromise the integrity of a healthy stream. Further, the trees and other vegetation within a

stream buffer provide shade, allowing stormwater runoff that has been heated on roofed and paved areas to cool before reaching the stream. (as added by Ord. #2010-1-15-1882, Jan. 2010)

14-304. Purpose and intent. The purpose and intent of this ordinance is to protect and maintain native vegetation in the riparian areas of the aquatic corridor by implementing specifications for the establishment, protection, and long-term maintenance of stream buffers along identified streams, wetlands, and springs in or adjacent to new development, modifications to existing development, and/or redevelopment, except as exempted in § 14-306(2) of this ordinance, within the City of Lenoir City.

With the establishment and management of stream buffers, it is intended to improve overall water quality within the City of Lenoir City; to protect the city's identified waterways from being listed on TDEC's 303(d) list of endangered streams, and to ensure compliance with state and federal regulations.

For additional clarification purposes, waterways is a general term used within this ordinance to include the protection of identified wetlands, natural springs and includes those portions of Town Creek and Muddy Creek located within the corporate limits of the City of Lenoir City.

Exclusions to this ordinance are acknowledged as being man-made features; including detention/retention ponds, water gardens, and/or other man-made water features unique to a particular property. If an existing or man-made feature's exclusionary status is questionable, the stormwater administrator is authorized to request supporting data from the property owner or from other sources to assist in a final determination of which is to be made by the stormwater administrator.

Appeals to the stormwater administrator's final determination shall follow the appeal process identified within § 14-313 of this chapter.

14-305. Objective. It is the objective of this ordinance to protect the physical and ecological integrity of waterways within the corporate limits of the City of Lenoir City from surrounding upland activities. Stream buffers protect such integrity in the following ways:

- (1) Filter excess sediment, organic material, nutrients, and other chemicals;
- (2) Minimize the impact of floods;
- (3) Reduce stormwater runoff velocities;
- (4) Protect channel bank areas from scour and erosion;
- (5) Provide shade for cooling adjacent water;
- (6) Provide leaf litter and large woody debris to support aquatic organisms;
- (7) Protect wetlands;
- (8) Protect wildlife habitats.

Aquatic buffers are most effective when stormwater runoff is flowing into and through the buffer as shallow sheet flow, rather than in a concentrated form. Therefore, it is critical that the design of any development include best management practices to produce the above mentioned effect. (as added by Ord. #2010-1-15-1882, Jan. 2010)

14-306. Applicability. This ordinance shall apply to all new developments, modifications to existing developments, and/or redevelopments within the City of Lenoir City.

Exception to this ordinance shall include the following:

(1) Single-family residential lots in existence at the time of adoption of this ordinance.

(2) At time of modification to an existing development and/or redevelopment, the modification cannot encroach closer to the stream top of bank or the floodway than the existing conditions, or per this ordinance, whichever is less.

(3) Development, modifications to existing development, and/or redevelopment which prior to the effective date of this ordinance:

(a) Is covered by a valid, unexpired preliminary plat;

(b) Is covered by a valid, unexpired site plan;

(c) Is covered by a valid, unexpired building permit;

(d) Is covered by a valid, unexpired land disturbance permit.

(as added by Ord. #2010-1-15-1882, Jan. 2010)

14-307. Definitions. For the purpose of this chapter, words used in the present tense include the future tense; words in the singular number include the plural number, and words in the plural number include the singular number; the word "shall" is mandatory and not directory; the word "may" is permissive. Any word or term not defined within this title of the Lenoir City Municipal Code or in Chapter 2, Definitions of the Lenoir City Zoning Ordinance shall be construed to be used in this chapter as defined by the latest edition of Webster's Unabridged Dictionary. Any word or term not defined in the city's ordinances or the latest edition of Webster's Unabridged Dictionary shall have the meaning customarily assigned to it.

(1) Aquatic buffer. A strip of undisturbed native vegetation, either original or reestablished, that borders streams, wetlands, and springs.

(2) Aquatic corridor. An area of land and water which is important to the integrity and quality of a stream, wetland, and spring. An aquatic corridor consists of the actual body of water and the adjacent aquatic buffer.

(3) Development. Any manmade change, involving construction or reconstruction, to improved or unimproved real estate, including but not limited to, buildings or other structures, mining, dredging, grading, clearing, paving, excavation, drilling operations, or other land disturbances.

(4) Floodway. The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot (1').

(5) Native vegetation. Indigenous plants to East Tennessee.

(6) Redevelopment. See "development."

(7) Stream. Perennial and intermittent watercourses identified through site inspection by TDEC.

(8) Stormwater administrator. The Building Official for the City of Lenoir City or his or her designated representative, or other representative as appointed by the City Council of Lenoir City.

(9) TDEC 303(d) list. The list is a compilation of the streams and lakes in Tennessee that are "water quality limited" or are expected to exceed water quality standards in the next two (2) years and need additional pollution controls. Water quality limited streams are those that have one (1) or more properties that violate water quality standards. They are considered impaired by pollution and not fully meeting designated uses. Additionally, the 303(d) List prioritizes impacted streams for specialized studies called Total Maximum Daily Load (TMDL).

(10) Total Maximum Daily Load (TMDL). TMDL is a calculation of the maximum amount of a pollutant that a water body can receive and still meet water quality standards, and an allocation of that amount to the pollutant's sources. The Clean Water Act, section 303, establishes water quality standards and TMDL programs. In the State of Tennessee, TMDLs are established by TDEC.

(11) Watercourse. A permanent or intermittent stream or other body of water, either natural or manmade, which gathers or carries surface water.

(12) Waterways. Any stream, wetland, or spring.

(13) Wetlands. An area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetland determination shall be made by the Army Corp of Engineers and/or the Tennessee Department of Environment and Conservation. (as added by Ord. #2010-1-15-1882, Jan. 2010)

14-308. Stream buffer width requirements. (1) All land development activities subject to this ordinance shall maintain or install a vegetative stream buffer for a minimum of thirty feet (30'), measured horizontally, on both banks (as applicable) of all streams as measure from the top of the stream bank.

(2) Delineated wetlands and springs located on any land proposed for development shall maintain or install a vegetative buffer extending thirty feet (30') perpendicular beyond the edges of the delineated wetlands and springs. (as added by Ord. #2010-1-15-1882, Jan. 2010)

14-309. Design standards for stream buffers. (1) The vegetative target is a mature strip of undisturbed native vegetation (either original or re-established) that can provide erosion control to the stream, leaf litter, wood debris, delineated wetland and springs.

If streams, wetlands, or springs do not have an established vegetative buffer, then a planting plan shall be required. Such a planting plan shall be submitted to the Lenoir City Planning Office for approval and shall comply with the following:

(a) All planting plans shall be drawn at a scale of not less than 1" = 20' for small tracts and 1" = 50' for large tracts on 24" x 36" sheets.

(b) A minimum of two (2) complete sets of planting plans shall be submitted at the time of application.

(c) The planting plan shall include a "plant schedule" which lists the number and common and botanical name(s) of all existing and proposed plantings. The "plant schedule" shall also list the height, spread, and where applicable, the caliper of all new plantings at the time of planting.

(2) Establishment of a vegetated aquatic buffer must adhere to the following conditions and must be shown on the planting plan:

(a) Stream banks must be planted with native vegetation that represents both woody (trees and shrubs) and herbaceous species as determined by a landscape architect. Density shall depend on the re-vegetation technique to be used and existing site conditions.

(b) No trees shall be planted in a utility district easement.

(c) No species may comprise more than one-third (1/3) of the total planted trees or shrubs.

(d) Seedling/trees must be guaranteed at a seventy-five percent (75%) survivorship.

(e) Invasive species must be removed and managed. (as added by Ord. #2010-1-15-1882, Jan. 2010)

14-310. Management and maintenance of stream buffers.

(1) Management of the stream buffer includes specific limitation on alteration of the natural conditions.

The following practices and activities are restricted within the stream buffer, except with prior approval by the Lenoir City Planning Office and/or as approved and permitted by an appropriate state and/or federal agency:

(a) Clearing or grubbing of existing vegetation; and

(b) Use, storage, or application of pesticides, herbicides, and fertilizers.

(2) The following structures, practices, and activities are permitted in the stream buffer subject to the prior approval by the Lenoir City Planning Office and the following specific design or maintenance features:

(a) Crossings provided the following criteria are followed:

- (i) The width should be the minimum width needed to allow for maintenance access and installation;
 - (ii) The crossing shall be at an angle that minimizes clearing requirements; and
 - (iii) The minimum number of crossings should be used within each development.
 - (b) Paths provided the design and location are approved by the Lenoir City Planning Office.
 - (c) Public utilities provided the following criteria are followed:
 - (i) The width should be the minimum width needed to allow for maintenance access and installation; and
 - (ii) The crossing should be at an angle that minimizes clearing requirements.
 - (d) Individual trees within the stream buffer may be removed if in danger of falling, causing damage to dwellings or other structures, causing blockage of the stream, standing in the path of a proposed water or sewer main, or the roots of the tree are penetrating or in danger of penetrating a sewer line at a joint or pipe connection. However, the root wad or stump should be left in place, where feasible, to maintain soil stability.
- (3) All final plats and site plans shall:
 - (a) Show the extent of any aquatic buffer on the subject property and be labeled as "stream buffer";
 - (b) Provide a plat note to reference any stream buffer stating, "There shall be no clearing, grading, construction or disturbance of soil and/or native vegetation except as permitted by the Lenoir City Planning Office.
 - (c) Provide a plat note to reference any protective covenants governing all aquatic buffers.
- (4) All stream buffers must be protected during development activities. Prior to the initiation of development activities, ensure adequate visibility of the aquatic buffer by staking, flagging, or fencing.
- (5) Stream buffers shall be left in a stabilized condition upon completion of the development. The vegetative condition of the entire stream buffer must be monitored and landscaping or stabilization performed to repair erosion, damaged vegetation, or other problems identified.

Invasive species must be removed and managed. Only native vegetation may be used in conjunction with stabilization activities. Property owners shall remain responsible for maintaining the aquatic buffer. Where any tree or shrub which was required as part of an approved planting plan is removed, such tree or shrub shall be replaced with an equivalent tree(s) or shrub(s) approved by city staff.

Subsequent city permits, such as land disturbance, grading, building, and sign permits, may be withheld if, after written notification, the required stream buffer or stream buffer to be preserved is not properly maintained.

All landscaping or stabilization activities within the stream buffer must have prior approval by the Lenoir City Planning Office. In addition, performing work in and around waters of the state may require coverage under a State of Tennessee or possibly a federal permit. (as added by Ord. #2010-1-15-1882, Jan. 2010)

14-311. Water pollution hazards. The following land uses and/or activities are designated as potential water pollution hazards and must be set back from any water body by the distance indicated below:

(1) Non-residential storage of hazardous substances -- One hundred fifty feet (150');

(2) Non-residential above or below ground petroleum storage facilities -- One hundred fifty feet (150');

(3) Drain-fields from on-site sewage disposal and treatment system (i.e., septic systems) -- One hundred feet (100');

(4) Subsurface discharges from wastewater treatment plant -- One hundred feet (100'), or as regulated by other state or federal agencies, whichever is greater;

(5) Land application of biosolids -- One hundred feet (100'), or a distance as required by 40 CFR 503, whichever is greater. (as added by Ord. #2010-1-15-1882, Jan. 2010)

14-312. Violation and enforcement. It shall be unlawful for any person, corporation or entity to violate or fail to comply with any provisions of this ordinance. Each day a violation is allowed to continue shall constitute a separate offense.

In determining the severity of the penalty for a violation, the stormwater administrator shall consider the following conditions:

(1) The degree and extent of the harm to the natural resources, to the public health, or to the public or private property resulting from the violation;

(2) The duration and gravity of the violation;

(3) The effect on ground or surface water quality;

(4) The cost of rectifying the damage;

(5) The amount of money saved by noncompliance;

(6) Whether the violation was committed willfully or intentionally;

(7) The cumulative effect of other enforcement actions applied for the same offense;

(8) The prior record of the violator in complying or failing to comply with the stormwater quality management program;

(9) The costs of enforcement to the City of Lenoir City. (as added by Ord. #2010-1-15-1882, Jan. 2010)

14-313. Appeals. The board of codes enforcement appeals shall serve as the appellate body for this ordinance and have the power to hear and decide appeals to this ordinance.

The appeal shall be in a written request submitted to the stormwater administrator within ten (10) days of a written notice of violation. The appeal shall be heard in the same manner as all other appeals filed to the board of codes enforcement appeals, and as identified by its ordinance of establishment. (as added by Ord. #2010-1-15-1882, Jan. 2010)

14-314. Conflict with other regulations. Where the standards and management requirements of this stream buffer ordinance are in conflict with other laws, regulations, or ordinances or other environmental protective measures, the more restrictive requirements shall apply. (as added by Ord. #2010-1-15-1882, Jan. 2010)