

Fairview, Tennessee

Zoning Ordinance



ADOPTED:

EFFECTIVE:

The official copy of the Fairview, Tennessee Zoning Ordinance is available for inspection at the Fairview, Tennessee Planning Department office.

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1-101: TITLE AND PURPOSE

SECTION 1-101.1 LONG TITLE

An ordinance, in pursuance of the authority granted by Section 13-7-201 through 13-7-210, Tennessee Code, to provide for the establishment of districts within the City of Fairview, Tennessee: to regulate within such districts the location, height, bulk, number of stories and size of buildings and other structures, the percentage of lot occupancy, the size of open spaces, the density of population, and the uses of land, buildings, and other structures for trade, industry, residence, recreation, public activities and similar purposes to include special districts for areas subject to flooding and areas developed as a planned unit; to provide regulations governing nonconforming uses and structures; to provide for a board of appeals and for its powers and duties; to provide for permits; to establish and provide for the collection of fees; to provide for the administration of this ordinance and for the official whose duty it shall be to enforce the provisions thereof; to provide penalties for the violation of this ordinance; and to provide for conflicts with other ordinances or regulations.

SECTION 1-101.2 SHORT TITLE

This ordinance may be cited as the Zoning Ordinance of the City of Fairview, Tennessee.

SECTION 1-102: LEGISLATIVE ENACTMENT

AN ORDINANCE TO REPEAL ORDINANCE NO. 444, AND ALL AMENDMENTS THERETO, AND TO ADOPT THIS ORDINANCE NO. , AS THE ZONING ORDINANCE OF THE CITY OF FAIRVIEW, TENNESSEE, ALONG WITH A NEW OFFICIAL ZONING MAP

WHEREAS, Sections 13-7-201 through 13-7-210, of the Tennessee Code, empower the City to enact a zoning ordinance and to provide for its administration, enforcement, and amendment, and

WHEREAS, the Board of Commissioners deem it necessary, for the purpose of promoting the health, safety, morals, and general welfare of the City to enact such an ordinance, and

WHEREAS, the Board of Commissioners, pursuant to the provisions of Section 13-7-202, of the Tennessee Code, has appointed a Planning Commission to recommend the boundaries of the various original districts and appropriate regulations to be enforced therein, and

WHEREAS, the Planning Commission has divided the City into districts and has prepared regulations pertaining to such districts in accordance with a comprehensive plan designed to lessen congestion in the streets; to secure safety from fire, panic, and other dangers; to promote health and the general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements, and

WHEREAS, the Planning Commission has given reasonable consideration among other things, to the character of the districts and their peculiar suitability for particular uses, with a view to conserving the value of buildings and encouraging the most appropriate uses for the land throughout the City, and

WHEREAS, the Planning Commission has submitted its final report to the Board of Commissioners, and

WHEREAS, the Board of Commissioners has given due public notice of hearings related to zoning districts, regulations, and restrictions, and has held public hearings, and

WHEREAS, all the requirements of Sections 13-7-202 through 13-7-210, of the Tennessee Code, with regard to the preparation of the report of the Planning Commission and subsequent action of the Board of Commissioners have been met;

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE CITY OF FAIRVIEW, TENNESSEE:

SECTION 1-103: REPEAL

The existing zoning regulations of the City of Fairview (**Ordinance No. 444**, as amended) are hereby repealed. The adoption of this ordinance, however, shall not affect nor prevent any pending or future prosecution of an action to abate any existing violation of said existing regulations, as amended, if the violation is also a violation of this ordinance.

SECTION 1-104: INTENT AND PURPOSE

1. This ordinance is enacted pursuant to Title 13, of the Tennessee Code, for the following purposes:
2. To promote and protect the public health, safety, morals, comfort, convenience, and general welfare of the people;
3. To divide the City into zones and districts restricting and regulating therein the location, construction, reconstruction, alteration, and use of buildings, structures, and land for residence, business, commercial, manufacturing, and other specified uses;
4. To protect the character and maintain the stability of residential, business, commercial, and manufacturing areas within the City, and to promote the orderly and beneficial development of such areas;
5. To provide adequate light, air, privacy, and convenience of access to property;
6. To regulate the intensity of open spaces surrounding buildings that are necessary to provide adequate light and air and protect the public health.
7. To establish building lines and the location of buildings designated for residential, business, commercial, manufacturing, or other uses within such lines;
8. To fix reasonable standards to which buildings or structures shall conform;

9. To prohibit uses, buildings, or structures which are incompatible with the character of development or the permitted uses within specified zoning districts;
10. To prevent such additions to, and alterations or remodeling of, existing buildings or structures as would not comply with the restrictions and limitations imposed hereunder;
11. To limit congestion in the public streets and so protect the public health, safety, convenience, and general welfare by providing for the off-street parking of motor vehicles and for the loading and unloading of commercial vehicles;
12. To provide protection against fire, explosion, noxious fumes, and other hazards in the interest of the public health, safety; comfort, and general welfare;
13. To prevent overcrowding of land and undue concentration of structures so far as is possible and appropriate in each district by regulating the use and the bulk of buildings in relation to the land surrounding them;
14. To conserve the taxable value of land and buildings throughout the City;
15. To provide for the gradual elimination of those uses of land, buildings and structures which do not conform to the standards of the districts in which they are respectively located and which are adversely affecting the development and taxable value of property in each district;
16. To define and limit the powers and duties of the administrative officers and bodies as provided herein;
17. To protect and in general allow for the beneficial uses of property in a like manner to that which was permitted under previous zoning ordinances.
18. These general purposes include the specific purposes stated in the various articles throughout this ordinance.

SECTION 1-105: EXCEPTIONS

SECTION 1-105.1 Previously Issued Permits

Building permits, certificates of occupancy, certifications of zoning compliance, use and occupancy permits, or zoning permits lawfully issued before the effective date of this zoning ordinance or subsequent amendment shall remain in effect provided that such activity or building or other structure for which such certificate or permit was issued is substantially established or constructed within six (6) months from the date of issuance of such certificate or permit. In the event that the activity or construction of such building or other structure is not substantially underway and being diligently pursued within the six (6) month period following the issuance of a certificate or permit, then such certificate or permit shall automatically lapse and the provisions of this zoning ordinance shall apply.

SECTION 1-105.2 Previously Approved Exceptions

Whenever the zoning ordinance in effect at the time of adoption of this zoning ordinance has authorized any use that is not permitted as of right by issuing a variance, exception, or permit to locate in a district, such authorization may be continued, extended, enlarged, or structurally altered only as provided herein.

1. Renewals

Where no limitation as to duration of the use was imposed at the time of authorization, such use may be continued. Where such use was authorized subject to a term of years, such use may be continued until the expiration of the term, and thereafter, the agency or similar constituted agency that originally authorized such use may, in appropriate cases, extend the period of continuance for one or more terms of not more than five (5) years each. The agency may prescribe appropriate conditions and safeguards to minimize adverse effects of such use on the character of the neighborhood.

2. Change of Use

In no event shall such use be changed, and no agency shall be empowered to permit such use to change, except to a conforming use or a nonconforming use as provided for in Article XV, Section 15-102.6 (Change of Nonconforming Use). For the purposes of this section, a change of use is a change to another use either under the same activity type or any other activity type or major class of activity; however, a change in occupancy or ownership shall not, by itself, constitute a change in use.

SECTION 1-105.3 Alteration of Existing Buildings and Other Structures

All structural alterations or relocations of existing buildings or structures occurring after the effective date of this ordinance and all enlargements of or additions to existing uses occurring hereafter shall be subject to all regulations of this ordinance which are applicable to the zoning districts in which such buildings, uses, or land shall be located.

SECTION 1-106: INTERPRETATION

In their interpretation and application, the provisions of this ordinance shall be held to be the minimum requirements for the promotion of the public health, safety, and welfare.

SECTION 1-107: RELATIONSHIP TO OTHER LAWS AND PRIVATE RESTRICTIONS

1. Where the conditions imposed by any provisions of this ordinance upon the use of land or buildings or upon the height or bulk of buildings are either more restrictive or less restrictive than comparable conditions imposed by any other provision of this ordinance or any other law, or ordinance, of any kind, the provisions which are more restrictive shall apply.
2. This ordinance is not intended to abrogate any easement, covenant, or any other private agreement provided that where the regulations of this ordinance are more restrictive (or impose higher standards or requirements) than such easements, covenants, or other private agreements, the requirements of this ordinance to the extent that they are more restrictive shall govern.

SECTION 1-108: ORDINANCE PROVISIONS DO NOT CONSTITUTE PERMIT

Nothing contained in this ordinance shall be deemed to be a consent, license, or permit to use any property or locate, construct, or maintain any building, structure, or facility or to carry on any trade, industry, occupation, or activity.

SECTION 1-109: PROVISIONS ARE CUMULATIVE

The provisions of this ordinance are cumulative with any additional limitations imposed by all other laws and ordinances heretofore passed or which may be passed hereafter governing any subject matter appearing in this ordinance.

SECTION 1-110: SEPARABILITY

It is, hereby, declared to be the intention of the Board of Commissioners of the City of Fairview, Tennessee, that the several provisions of this ordinance are separable in accordance with the following:

1. If any court of competent jurisdiction shall adjudge any provision of this ordinance invalid, such judgment shall not affect any other provision of this ordinance not specifically included in said judgment.
2. If any court of competent jurisdiction shall adjudge invalid the application of any provision of this ordinance to a particular property, building, or other structure, such judgment shall not affect the application of said provisions to any other property, building, or structure not specifically included in said judgment.

SECTION 1-111: APPLICATION OF REGULATIONS

No structure shall be constructed, erected, placed or maintained and no land use commenced or continued within the City, except as specifically or by necessary implication, authorized by this ordinance. Conditional uses are allowed only on permit granted by the Board of Zoning Appeals upon finding that the specified conditions exist. Where a lot is devoted to a permitted principal use, customary accessory uses and structures are authorized except as prohibited specifically or by necessary implication,

ARTICLE 2: CONSTRUCTION OF LANGUAGE AND DEFINITIONS

SECTIONS

2-101: RULES FOR CONSTRUCTION OF LANGUAGE

2-102: GENERAL DEFINITIONS

2-103: DEFINITION OF LAND USE ACTIVITIES

2-101: RULES FOR CONSTRUCTION OF LANGUAGE

In the construction of this ordinance, the rules and definitions contained in this article shall be observed and applied, except when the context clearly indicates, otherwise:

1. The particular shall control the general.
2. The word "shall" is always mandatory and not discretionary.
3. The word "may" is permissive.
4. The word "lot" shall include the words "piece" or "parcel".
5. The word "structure" includes all other structures, or parts thereof, of every kind regardless of similarity to buildings; and the phrase "used for" shall include the phrases "arranged for", "designed for", "intended for", "maintained for", and "occupied for".
6. In the case of any difference of meaning or implication between the text of this ordinance and any caption, illustration or table the text shall control.
7. The word "permitted" or words "permitted as of right", means permitted without meeting the requirements for a conditional use permit.
8. The words "permitted with conditions" mean an activity, use or structure is permitted subject to a finding by the City Planner that the specific standards indicated for the use in question have been met.
9. The words "conditionally permitted" or "permitted by conditional use permit" mean permitted subject to the requirements for a conditional use by special permit pursuant to Article XVIII, Section 18-106, of this ordinance, and all other applicable provisions.
10. Words used in the present tense shall include the future, and words used in the singular include the plural, and the plural the singular, unless the context clearly indicates the contrary.
11. Unless the context clearly indicates to the contrary, conjunctions shall be interpreted as follows:
 - A. "And" indicates that all connected items, conditions, provisions or events shall apply.
 - B. "Or" indicates that the connected items, conditions, provisions, or events shall apply.

C. "Either ... or" indicates that the connected items, conditions, provisions, or events shall apply singly but not in combination.

12. All public officials, bodies, and agencies to which reference is made are those of the City of Fairview, Tennessee.

2-102: GENERAL DEFINITIONS

2-102.1 Application

Except where definitions are specifically included in various articles and sections, words in the text or tables of this ordinance shall be interpreted in accordance with the provisions set forth in this section. Where words have not been defined, the standard dictionary definition shall prevail.

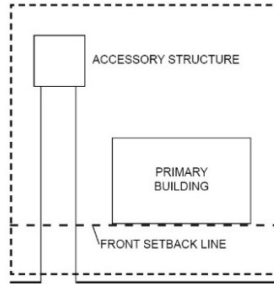
2-102.2 Terms Defined

ABUTTING - Having a common border with, or being separated from such a common border by a right-of-way or easement.

ACCESSORY - An activity or structure that is customarily associated with and is appropriate incidental and subordinate to a principal activity and/or structure and located on the same zone lot, except as provided for under the provisions of accessory off-street parking.

ACCESSORY APARTMENT - A temporary accessory dwelling unit located in a one-family residence that is subordinate to the principal one-family dwelling in terms of size and appearance and which apartment does not substantially alter the character and appearance of the residential structure or its conformity with the character of the neighborhood. All accessory apartments are subject to the specific standards set forth in Article IV, Section 4-102.2(1).

ACCESSORY STRUCTURE - A subordinate structure detached from, but located on the same lot as a principal building. The use of an accessory structure must be identical and accessory to the use of the principal building. Accessory structures include garages, carports, temporary or permanent private swimming pools with depths greater than 24" and detached, noncovered decks.



ACTIVITY - The performance of a function or operation which constitutes the use of land.

ACTIVITY-PRINCIPAL - (See PRINCIPAL ACTIVITY.)

ACTUAL CONSTRUCTION - The excavation of a site and/or the placement of building materials in conjunction with the construction of a building or other structure.

ALLEY - A public way intended to provide only secondary vehicular access to abutting properties.

ATTACHED - An enclosure having continuing walls, roof and floor.

BUILDING - Any structure which:

1. Is permanently affixed to the land, and
2. Has a roof supported by columns or walls, and
3. Is intended for the shelter or enclosure of goods or persons, and
4. Is bounded by either open area or the lot lines of a zone lot.

A building shall not include such structures as billboards, fences, radio or TV towers, or structures not normally accessible for human use, such as gas storage tanks, smoke stacks, and grain elevators, exposed industrial equipment (i.e., oil or chemical processing apparatus) or similar structures.

BUILDING-PRINCIPAL - (See Principal Building.)

BULK - Describes the size of buildings or other structures, and their relationship to each other and to open areas and lot lines, and therefore includes:

1. The size (including height and floor area) of buildings or other structures,

2. The area of the zoning lot upon which a residential building is located, and the number of dwelling units within such buildings in relation to the area of the zoning lot,
3. The location of exterior walls of buildings or other structures in relation to lot lines, to other walls of the same building, to legally required windows, or to other structures, and
4. All open areas relating to buildings or other structures and their relationship thereto.

CARPORT – PERMANENT – A permanent roofed structure positioned on a concrete slab or foundation permanently open on at least two (2) sides designed for the purpose of providing shelter for one (1) or more private passenger vehicles. Carports shall not include any parking structures.

CARPORT – TEMPORARY – A parking space or spaces covered by a roof, but not enclosed by walls and designed for the purpose of providing shelter for one (1) or more private passenger vehicles.

CENTRAL SEWAGE COLLECTION AND TREATMENT SYSTEM - A waste water collection and/or treatment system owned and operated by a public or quasi-public organization and approved by all appropriate licensing and oversight agencies. This term shall not be construed to include any type of privately owned and operated individual disposal system to include septic or other similar systems.

CHILD CARE - The provision of supplemental parental care and supervision:

1. For a nonrelated child or children;
2. On a regular basis;
3. For less than twenty-four (24) hours a day; and
4. Under license issued by the Tennessee Department of Human Services;

As used in this ordinance, the term is not intended to include baby-sitting services of a casual, nonrecurring nature or in a child's own home. Likewise, the term is not intended to include cooperative child care by a group of parents, in their domiciles or the keeping of four (4) or less pre-teenage children, which is an activity regulated as a minor home occupation by this ordinance and requires no licensing by the State of Tennessee.

COMMERCIAL COMPLEX - A commercial complex shall mean:

1. Two (2) or more buildings proposed for occupancy by commercial activities constructed or to be constructed upon one zone lot, or
2. Two (2) or more principal commercial uses or occupancies located upon one zone lot.

COMMON OPEN SPACE - A parcel or parcels of land and/or an area of water within the site designated, designed and intended for use or enjoyment of the occupants of said development. "Common Open Space" may contain such complementary structures and improvements as necessary and appropriate for the benefit and enjoyment of the occupants of such development.

COMPLETELY ENCLOSED - Refers to a building or other structure having a roof, and separated on all sides from the adjacent open area or from other buildings or other structures, by exterior walls or party walls, pierced only by windows or entrance and exit doors normally provided for persons, goods or vehicles.

CONDITIONAL USE - A conditional use is a use that would not be appropriate generally or without restriction throughout the zoning district but which, if controlled as to number, area, location, or relation to the neighborhood, would promote the public health, safety, welfare, morals, order, comfort, convenience, appearance, prosperity, or general welfare. Such uses may be permitted in such zoning districts as conditional uses, only when specific provisions for such use is made in this ordinance. For the purposes of administration of this ordinance, conditional uses shall be construed as synonymous with special exceptions, as controlled by Section 13-7-206, Tennessee Code.

CONSERVATION SUBDIVISION – A residential development approved under the authority of Chapter 6 (Conservation Subdivisions) of the Subdivision Regulations where land area is designated as undivided, permanent open space or farmland, thereby permanently protecting agriculturally, environmentally, culturally, or historically significant areas within the tract. The subdivision is characterized by compact lots, common open space, and the preservation maintenance of natural, historical, and cultural resources. Conservation Subdivisions are an alternative approach to the conventional lot-by-lot division of land in rural areas that spreads development evenly throughout a parcel with little regards to impacts on the natural and cultural features of the area.

CONVENTIONAL SUBDIVISION – A lot-by-lot division of land that spreads development evenly throughout a parcel, minimum lot size determined by underlying zoning. Conventional Subdivisions are approved under the authority of Chapters 1 through 5 of the Fairview Subdivision Regulations.

CURB LEVEL - The mean of the elevations of the side lot lines extended to the street line.

CURB LINE - The line formed by a curb extending along its roadbed or street bed.

DENSITY - The ratio of the number of dwelling units located on a lot to the horizontal area of the lot, expressed in units per acre.

DEVELOPMENT - Any man-made change to improved or unimproved real estate including but not limited to buildings or other structures, mining, dredging, filling, paving, excavating, or drilling operations. Agricultural activities such as plowing or cultivating and gardening activities are not included in this definition of development.

DEVELOPMENT AREA (MINIMUM) - The minimum amount of land area required for each dwelling unit located upon a zone lot. The minimum lot size provision shall apply to all lots within the district. However, the minimum development area provision may require a lot larger than the minimum lot size where the intended intensity of use would so require.

DORMITORY - A facility providing group living quarters for a student body, or other group as an associated use to a college, university, boarding school, orphanage, or other similar use when not located on the same site as the principal associated use. Rooming units are not equipped with kitchen facilities, although one or more dwelling unit may be provided for occupancy by staff. This term is intended to include university dormitories as well as fraternity or sorority houses.

DWELLING - A building, or portion thereof, designed or used exclusively for residential occupancy, but not including transient occupancy.

DWELLING UNIT - One (1) or more rooms that are physically arranged, designed, used or intended to create an independent housekeeping establishment for occupancy by one (1) family, and that include lawful cooking space and lawful sanitary facilities reserved for the occupants thereof.

EASEMENT - A grant of one (1) or more of the property rights by the owner to, or for use by, the public, a corporation or another person or entity.

FAMILY - One of the following:

1. An individual, or two (2) or more persons occupying a dwelling unit and living as a single independent, nonprofit housekeeping unit, together with incidental domestic servants and temporary nonpaying guests.

2. A group of not more than six (6) unrelated persons living together as a single nonprofit housekeeping unit.
3. Four (4) or more persons occupying a dwelling unit and living as a single, nonprofit housekeeping unit, if said occupants are handicapped persons, as defined by Title VIII, of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988. Such unrelated individuals shall have the right to occupy a dwelling unit in the same manner and to the same extent as any family unit as defined herein.

FLOODS - (See Article X, Section 10-302, for all definitions pertaining to floods and floodplain provisions.)

HAZARDOUS OCCUPANCY - The principal use of a building or structure, or any portion thereof that involves the manufacture, use or storage of highly combustible, flammable or explosive materials or materials that constitute a high fire hazard and as further defined within the currently adopted building code and/or fire code for the City of Fairview.

HOME OCCUPATION - An occupation or business activity which results in a product or service and which: is conducted, in whole or in part, in either the dwelling or an accessory building normally associated with permitted uses; is conducted by at least one (1) family member occupying the residence; and is clearly subordinate to the residential use of the dwelling and premises. Home occupations do not include garage sales, yard sales, Christmas bazaars, or home parties which are held for the purpose of the sale or distribution of goods or services. However, if such sales and/or parties are held more than six (6) times in any calendar year; or operate in excess of twenty-four cumulative days in a calendar year, such sales and/or parties shall be considered a home occupation.

INCIDENTAL ALTERATIONS - Modifications to a building or structure that meet the following criteria:

1. Changes or replacements in the nonstructural parts of a building or other structure, including but not limited to the following:
 - A. Alteration of interior partitions to improve livability in a nonconforming residential building, provided that no additional dwelling units are created;
 - B. A minor addition to the exterior of a residential building, such as an open porch;
 - C. Alterations of interior non-load-bearing partitions in all other types of buildings or other structures; or

- D. Replacement of, or minor changes in, capacity of utility pipes, ducts, or conduits.
2. Changes or replacements in the structural parts of a building or other structure, limited to the following examples or others of similar character or extent:
- A. Making windows or doors in exterior walls;
 - B. Replacement of building facades having non-load-bearing capacity;
or
 - C. Strengthening the floor load-bearing capacity, in not more than ten (10) percent of the total floor area, to permit the accommodation of specialized machinery or equipment.

LAND WITH MINOR IMPROVEMENTS - A tract of land that contains improvements including buildings or other structures having a total assessed valuation of ten thousand dollars (\$10,000) or less.

LANDHOLDER - The legal or beneficial owner or owners of all the land proposed to be included in a planned unit development. The holder of an option or contract to purchase, a lessee having a remaining term of not less than fifty (50) years in duration, or other person having an enforceable proprietary interest may be considered a "landholder" for the purpose of this ordinance.

LIVESTOCK - Means cattle, sheep, swine, poultry and other animals or fowl, which are being produced primarily for use as food or food products for human consumption or horses. Provided that the prohibition of livestock within residential areas shall not prevent the keeping of horses as specified in Section 4-102.2(5), of this ordinance.

LOT - A tract, plot, or portion of a subdivision or parcel of land intended as a unit for the purpose, whether immediate or future, for transfer of ownership or for building development.

LOT AREA - The horizontal area included within the boundary lines of a lot.

LOT, CORNER - A lot situated at the intersection of two (2) streets.

LOT, INTERIOR - Any lot other than a corner lot.

LOT, THROUGH - Any lot that adjoins two (2) street lines opposite to each other and parallel or within forty-five (45) degrees of being parallel to each other. Any portion of a through lot that is not or could not be bounded by two (2) such

opposite street lines and two (2) straight lines intersecting such street lines shall be subject to the regulations for an interior lot.

LOT COVERAGE - That portion of a zone lot which when viewed directly from above, could be covered by a building or any part of a building.

LOT FRONTAGE - The front of a lot shall be construed to be the portion nearest the street. For the purposes of determining yard requirements on corner lots and through lots, all sides of a lot adjacent to streets shall be considered frontage, and yards shall be provided as indicated under yards.

LOT LINE - A boundary of a zone lot.

LOT LINE EQUIVALENT - A straight line established for the purpose of determining the location and depth or width of a required yard and which either:

1. Joins points specified in these regulations, or
2. Is an extension of a street line or lot line.

LOT MEASUREMENTS

1. Depth of a lot shall be considered to be the distance between the midpoints of straight lines connecting the foremost points of the side lot lines in the rear.
2. Width of a lot shall be considered to be the distance between straight lines connecting front and rear lot lines of each side of the lot, measured across the rear of the required front yard, provided however that width between side lot lines at their foremost points (where they intersect with the street line) shall not be less than eighty (80) percent of the required lot width except in the case of lots on the turning circle of cul-de-sac, where the eighty (80) percent requirements shall not apply.

LOT OF RECORD - A lot which is part of a subdivision recorded in the office of the county recorder, or a lot or parcel described by metes and bounds, the description of which has been so recorded.

MANUFACTURED HOME - (See DWELLING, MANUFACTURED HOME.)

MANUFACTURED HOME SPACE - A designated area within a mobile home park for the exclusive use of the occupants of a single home.

MODULAR HOME - (See DWELLING, PREFABRICATED.)

NONCOMPLYING

1. Any lot of record which does not contain sufficient lot area to conform to the area requirements for the zoning district in which the lot is located.
2. Any lawful building or other structure which does not comply with any one (1) or more of the applicable bulk regulations, or
3. Any lawful use other than a nonconforming use, which does not comply with any part or any one (1) or more of the applicable regulations pertaining to: (a) Location along a district boundary; or (b) Accessory off-street parking and loading either on the effective date of this ordinance or as a result of any subsequent amendment.

NONCONFORMING SIGN - A lawful sign existing at the effective date of the adoption of this ordinance that does not conform with the provisions of this ordinance.

NONCONFORMING USE - A lawful use of a building or other structure other than a sign or of a tract of land which does not conform to any one (1) or more of the applicable use regulations of the district in which it is located, either on the effective date of this ordinance or as a result of any subsequent amendment.

OCCUPANT - For the purposes of this ordinance an occupant is a single legal entity who holds possession of a property, or portion thereof, as either an owner or a tenant.

OCCUPANCY - The principal use of land for the performance of a function or operation by a person, firm, corporation, or association as a single legal entity. For the purposes of this ordinance there shall be only one principal use of land by any one person, firm, corporation, association or legal entity.

PARKING STRUCTURE – A structure designed to accommodate vehicular parking spaces that are fully or partially enclosed or located on the deck of a building. This definition includes parking garages, deck parking, and underground or under-building parking areas.

PARTY WALL - A wall on an interior lot line, used or adopted for joint service between two (2) buildings; such walls shall extend from the foundation to the underside of roof sheathing without openings which would permit the spread of fire from one building to another and shall fully comply with fire and all other provisions and standards established for such walls in all currently adopted building and fire codes of the City of Fairview.

PERMANENT ACCESS EASEMENT - A perpetual easement guaranteeing right of ingress and egress to and from the premises of a lot owner to a street appurtenant to the land of the owner. Any permanent access easement shall be in compliance with Section 1-113.107 of the Fairview Subdivision Regulations.

PERSON - An individual, firm, partnership, corporation, company, association, joint stock association, or body politic, and includes a trustee, receiver, assignee, administrator, executor, guardian, or other representative.

PLANNED UNIT DEVELOPMENT - A relatively large, interrelated development adhering to a master development plan and located on a single tract of land, or on two (2) or more tracts of land which may be separated only by a street or other right-of-way.

PREFABRICATED DWELLING - (See DWELLING, PREFABRICATED.)

PRINCIPAL ACTIVITY - An activity which fulfills a primary function of an establishment, institution, household, or other entity.

PRINCIPAL BUILDING - A building which contains the principal activity or use of the zone lot on which the building is situated.

REQUIRED YARD - (See YARD, REQUIRED.)

RESIDENCE - A building or part of a building containing one (1) or more dwelling units or rooming units, including one-family or two-family houses, multiple dwellings, boarding or rooming houses, or apartment hotels, However, residences do not include:

1. Such transient accommodations as transient hotels, motels, tourist homes, or similar establishments, or
2. Dormitories, fraternity or sorority houses, monasteries, or convents, or similar establishments containing group living or sleeping accommodations, or
3. Nurses' residences, sanitariums, nursing homes, convalescent homes, rest homes, or other sleeping or living accommodations in community facility buildings or portions of buildings used for community facilities, or
4. In a mixed building, that part of the building used for any nonresidential uses, except uses accessory to residential uses.

RESIDENTIAL - Pertaining to a residence.

RESIDENTIAL BUILDING - Any building utilized solely for residential activities and their accessory functions.

RIGHT-OF-WAY LINE - Right-of-way line is a line contiguous with a lot line dividing a lot from an abutting street.

ROOMING HOUSE - (See LODGING, HOUSE.)

ROOMING UNIT - One (1) or more rooms that are arranged, designed, used or intended for occupancy by one (1) or more persons, and that do not include lawful cooking space or lawful sanitary facilities reserved for the occupants thereof.

SETBACK LINE - A line which establishes the minimum distance the principal building must be setback from the street line.

SEXUALLY ORIENTED MATERIAL - Means any book, article, magazine, publication or written matter of any kind, drawing, etching, painting, photograph, motion picture film or sound recording which depicts sexual activity, actual or simulated, involving human beings or animals, or which exhibits uncovered human genitals or pubic region in a lewd or lascivious manner or which exhibits male genitals in a discernibly turgid state if completely uncovered.

SHED – A subordinate structure or building used primarily for storage purposes, of a height no greater than eight (8) feet and the total square footage of which does not exceed two hundred (200) square feet.

SINGLE OWNERSHIP - Means a proprietary interest of a landholder as defined herein.

SPECIFIED ANATOMICAL AREAS - Means any of the following:

1. Less than completely and opaquely covered human genitals, pubic region, buttocks, anus or female breasts below a point immediately above the top of the areolae; or
2. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

SPECIFIED SEXUAL ACTIVITY - Means activities, services or performances that include the following sexual activities and/or the exhibition of the following anatomical areas:

1. Human genitals in a state of sexual stimulation or arousal;
2. Acts of human masturbation, sexual intercourse, sodomy cunnilingus, fellatio or any excretory function or the representation thereof; or
3. Fondling or other erotic touching of human genitals, pubic regions, buttocks or female breasts;

STREET - A publicly maintained right-of-way, other than an alley, which affords a primary means of access to abutting property.

STREET LINE - A lot line dividing a lot from an abutting street.

STRUCTURE - Any object constructed or installed by man, including but not limited to buildings, towers, smokestacks, and overhead transmission lines.

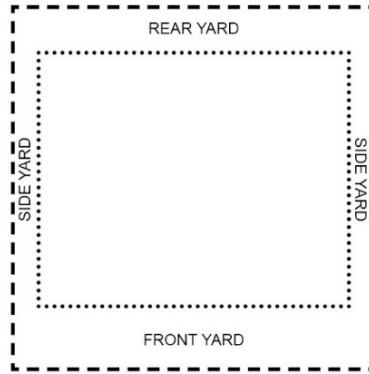
USE - The performance of a function or operation which constitutes the use of land.

USE AND OCCUPANCY PERMIT - A written permit issued by the City Planner required before occupying or commencing to use any building or other structure or any zone lot.

VEHICULAR USE AREA - Vehicular use area as used in this ordinance shall mean any group surface area, except public right-of-way, used by any type vehicle whether moving or at rest for the purpose of driving, parking, loading, storage or display (automotive sale lots). Also included are activities of a drive-in nature in connection with banks, restaurants, filling stations and grocery stores.

YARD - An open space on the same lot with a building or building group lying between the front, rear, or side wall of a building and the nearest lot line, unoccupied except for projections and the specific minor uses or structures allowed in such open space under the provisions of this ordinance.

YARD, DIAGRAM - The following Yard Diagrams shall be used in clarifying the meaning of the "line" and "yard" definitions of this ordinance.



YARD, FRONT - A yard extending along the full length of a front lot line. In the case of a corner lot, a yard at least the full depth required for a front hard in these regulations, and extending along the full length of a street line shall be considered a front yard. At least one such yard shall be designated for each corner lot, at least two such yards shall be designated for each through lot, and each through corner lot.

YARD REQUIRED - That part of a zone lot extending open and unobstructed from the lowest level to the sky along the entire length of a lot line, and from a lot line equivalent for a depth of width set forth in the applicable regulations. Only such obstructions, projections and specific minor uses or structures allowed in such open space under the provisions of this ordinance may be permitted in any required yard.

YARD, SIDE - A yard extending along a side lot line from the required front yard to the required rear yard. In the case of a corner lot, any yard which abuts a street line and which is not designated a front yard shall be considered a side yard. In the case of a thorough lot, side yards shall extend between the required front yards, except when such corner lots are required by these regulations specifically to have more than one front yard. A side yard abutting a street shall be at least one-half (1/2) the width of the front yard. See Section 6-103.3 of the Fairview Zoning Ordinance.

ZONE OR ZONING LOT - For the purposes of this ordinance, a lot is a parcel of contiguous land which is or may be developed or utilized under one ownership as a unit site for a use or group of uses and which is of at least sufficient size to meet minimum zoning requirements for use, coverage, and area, and to provide such yards and other open spaces as are herein required. Such lot shall have frontage on an improved public street, or on an approved private street, and may consist of:

1. A single lot of record;
2. A portion of a lot of record;

3. A combination of complete lots of record, of complete lots of record and portions of lots of record, or of portions of lots of records;
4. A parcel of land described by metes and bounds; provided that in no case of division or combination shall any residual lot or parcel be created which does not meet the requirements of this ordinance.

For the purpose of this definition, the ownership of a zone lot shall be deemed to include a lease of not less than fifty (50) years duration.

ZONING MAP - A map or series of maps and special overlap (the official copy being maintained by the City Planner) showing districts and special districts that are established under the provisions of an, hereby, being a part of this ordinance.

ZONING PERMIT - A general term referring to a permit required to construct, reconstruct, alter or use any building or other structure or any zone lot and including the following specific permits required by this ordinance:

1. Building permit.
2. Use and occupancy permit.

2-103: DEFINITION OF LAND USE ACTIVITIES

The definitions within this section are applicable to specific land use activities appearing throughout this ordinance.

2-103.1 Residential Activities

Permanent Residential Activities:

DWELLING, DUPLEX - A building containing not more than two dwelling units located on one (1) zone lot.

DWELLING, MANUFACTURED HOME - A detached one-family dwelling with all the following characteristics:

1. Designed for long-term occupancy, and containing sleeping accommodations, a flush toilet, a tub or shower bath, and kitchen facilities with plumbing and electrical connections provided for attachment to outside systems.
2. Constructed as a single self-contained unit and mounted on a single chassis transportable after fabrication on its own wheels or detachable wheels.

3. Arriving at the site where it is to be occupied as a dwelling complete, including major appliances and furniture, and ready for occupancy except for minor and incidental unpacking and assembly operations, location of foundation supports, connections to utilities and the like. Manufactured home dwellings do not include camping trailers, commercial mobile structures, motor homes, recreational vehicles, travel trailers, truck campers or similar units designed to provide temporary living quarters.

DWELLING, MULTI-FAMILY - A building containing three or more dwelling units. The term includes cooperative apartments, condominiums, and the like.

DWELLING, PREFABRICATED - A single detached dwelling constructed primarily off-site, designed to be transported on a flat-bed truck or trailer. As used in this ordinance the term "prefabricated dwelling" does not include "manufactured homes" constructed as a single self-contained unit and mounted on a single chassis and as further defined in Section 68-126-202, (4), (6) and (7), of the Tennessee Code. When such a structure meets the above stated definition of a prefabricated dwelling it shall qualify as a "single family dwelling" as defined below.

DWELLING, SINGLE-FAMILY - A building containing not more than one (1) dwelling unit located upon one (1) zone lot.

Semi-transient Residential Activities:

LODGING HOUSE - This is a general term and includes all places of semi-transient residential occupancy (as herein defined). The term lodging house is intended to include dormitories, rooming houses, boarding houses, apartment hotels, residential hotels and all similar facilities coming within the general definition of semi-transient residential activities.

SEMI-TRANSIENT RESIDENTIAL ESTABLISHMENT - An establishment where lodging is provided for compensation partly on a weekly or longer basis and partly for a shorter time period, but with less than thirty (30) percent of the living units under the same ownership or management on the same zone lot being occupied on a less than monthly basis; but excluding institutional living arrangements involving the provision of specific kinds of forced residence, such as nursing homes, orphanages, asylums, and prisons.

2-103.2 Community Facility Activities

ADMINISTRATIVE SERVICES - This use includes activities typically performed by public, utility and private nonprofit administrative offices.

CHILD CARE FACILITY - A licensed establishment wherein an agency, person or persons regularly provides nonmedical care for a group of five (5) or more children for periods of less than twenty-four (24) hours a day. Child care facilities as herein defined do not include pre-schools, nursery schools, kindergartens, or other facilities the primary purpose of which is educational, recreational or medical. Child care facilities include the following:

1. **Family Child Care Home** - A licensed family dwelling of a person or persons who regularly provides direct care during part of a twenty-four (24) hour day to five (5) to seven (7) children.
2. **Group Child Care Home** - A licensed, child care home or an agency that regularly provides care for eight (8) to twelve children in either a family dwelling of the licensee / care provider or in a premises other than the family dwelling. The number of children being provided care may be increased to fifteen (15), if four or more of the children are of school age and if adequate space is available to accommodate the additional children as provided in Tennessee State law and this ordinance.
3. **Child Care Center** - A licensed agency that provides for the care of thirteen (13) or more children.

COMMUNITY ASSEMBLY - An establishment providing meeting, recreational, or other social facilities for a private or nonprofit association, primarily for use by members and guests.

CULTURAL AND RECREATIONAL SERVICES – This use includes services and facilities of a cultural or recreational nature which are either owned by, or operated for the use and enjoyment of, the general public. The grouping is not intended to include entertainment and amusement facilities which are operated by private persons as profit making ventures.

EDUCATIONAL FACILITIES - Public, parochial and private nursery schools, kindergartens, primary and secondary schools. This use is not intended to include special training and schooling services offered by private individuals for profit or technical schools, colleges and universities.

ESSENTIAL PUBLIC TRANSPORT, COMMUNICATION AND UTILITY SERVICES - Public or quasi-public facilities necessary and incidental to the operation of transport, communication and utility services. These facilities operate primarily as distribution

networks and do not include production, storage or processing facilities for the product or service being distributed.

EXTENSIVE IMPACT FACILITIES - This is a diverse grouping of facilities that share the characteristic of potentially exerting high level impact upon surrounding properties. While the nature of the impact varies with the particular use, all the activities included within this grouping must be carefully managed if surrounding activities are to be adequately protected from adverse characteristics associated with the activities included within this grouping.

HEALTH CARE FACILITIES - Establishments included within this grouping are principally involved in providing a broad range of health care, treatment and convalescent services to individuals suffering physical or emotional distress.

Facilities within this grouping include the following:

1. **Center for Observation and Rehabilitation** - A licensed medical facility wherein services more intensive than those required for room, board, personal services and general nursing care are provided to an in-patient population, but which involves no form of forced residency of the type required within drug and alcohol rehabilitation facilities.
2. **Hospital** - An institution that (1) offers services more intensive than those required for room, board, personal services and general nursing care; (2) offers facilities and beds for use beyond twenty-four (24) hours by individuals requiring diagnosis, treatment or care for illness, injury, deformity, infirmity, abnormality, disease or pregnancy; and (3) regularly makes available clinical laboratory services, diagnostic services (including X-Ray, C-T Scan, etc.) and treatment facilities for surgery or obstetrical care or other definitive treatment. This activity may include offices for medical or dental personnel, central service facilities such as pharmacies, medical laboratories, and other related uses.
3. **Medical Clinics** - A public or private nonprofit institution providing a full range of the basic general medical designed to preserve the health, prevent disease and care for the common illnesses and disabilities of the population within a specified geographic area.

INTERMEDIATE IMPACT FACILITIES - This classification includes a diverse listing of activities which share the characteristic of exerting a significant effect upon surrounding land uses due to their traffic generation characteristics, parking requirements, land requirements or potential nuisances associated with such uses.

RELIGIOUS FACILITIES - Any structure or site such as a church, synagogue, chapel, sanctuary or cathedral used for purposes of individual or collective involvement with a religious activity, such as rites, rituals, ceremonies, prayers and discussions.

SPECIAL INSTITUTIONAL CARE FACILITIES - This is a general term that is intended to include all facilities that involve forced residency, full time supervision and care for: (1) individuals legally confined due to violations of law; (2) individuals who are addicted to drugs and/or alcohol and (3) individuals who are mentally ill, including the criminally dangerous or others who for their own protection or the protection of society must be confined.

SPECIAL PERSONAL AND GROUP CARE FACILITIES - This is a general term that is intended to include residential facilities for the care of elderly or infirm persons who may require special care and/or supervision. The term is intended to include facilities that are principally residential in nature but wherein long term medical or rehabilitative services are provided for the residents. This term is not intended to include facilities for the criminally dangerous or psychotic. Special personal and group care facilities include the following:

1. **Assisted Living Facilities for Elderly or Handicapped Persons** – A residential facility other than a dwelling unit (as defined above) intended for occupancy by unrelated individuals who are handicapped, aged, or disabled and wherein meals are prepared and served in a common dining facility and limited assistance is provided for daily activities.
2. **Convalescent Homes** - (See Nursing Homes)
3. **Family Care Facilities** - A licensed facility wherein residential services are provided to eight (8) or fewer unrelated individuals who are handicapped, aged, and disabled or otherwise in need of adult supervision in accordance with their individual needs. This grouping does not include facilities providing residential services to delinquent minors, the criminally dangerous, and the addicted, and/or mentally ill individuals.
4. **Group Care Facilities** - A licensed facility wherein residential services are provided to nine (9) or more unrelated individuals who are handicapped, aged, and disabled or otherwise in need of adult supervision in accordance with their individual needs. This grouping does not include facilities providing residential services to delinquent minors, the criminally dangerous, and the addicted, and/or mentally ill individuals.
5. **Day-Care Facilities for Elderly Persons** - A licensed establishment wherein an agency, person or persons regularly provides nonmedical care for a group of unrelated individuals who are handicapped, aged, disabled or

otherwise in need of adult supervision in accordance with their individual needs for periods of less than twenty-four (24) hours a day.

6. **Nursing Homes** - A general term used to describe a licensed establishment providing bed care and in patient services for individuals needing regular medical attention, but excluding a facility providing surgical or emergency medical services or providing care for mental illness or communicable disease. Retirement or rest homes, and convalescent homes are included within this term.

7. **Retirement and Rest Homes**

WASTE DISPOSAL OPERATIONS - Operations engaged in the storage, hauling and ultimate disposal of waste products. The grouping does not include operations involved in storage, processing, and shipping of scrap materials for recycling or reuse except when such materials are classified as hazardous or include activities that may present serious hazards to human life and health. The grouping does include all operations engaged in disposal of solid waste as defined in the most current version of Tennessee Code Annotated.

2-103.3 Commercial Activities

ADULT ORIENTED BUSINESS - .A commercial enterprise that offers as its principal or predominant stock or trade sexually oriented material, devices, or paraphernalia or specified sexual activities or any combination or form thereof, whether printed, filmed, recorded or live and which restricts or purports to restrict admission to adults or to any class of adults. "Adult Oriented Business" includes, but is not limited to:

1. **"Adult Arcade"**:
2. **"Adult Book Stores"**: which means any corporation, partnership or business of any kind which has as its principal or predominant stock in trade books, magazines or other periodicals and which offers, sells or rents for a fee:
 - A. Any sexually-oriented material which is available for viewing by patrons on the premises by means of the operation of movie machines or slide projectors; or
 - B. Any sexually-oriented material which has a substantial portion of its contents devoted to the pictorial depiction of sadism, masochism or bestiality; or

- C. Any sexually-oriented material which has as its principal theme the depiction of sexual activity by, or lascivious exhibition of, the uncovered genitals, pubic region or buttocks of children who are or appear to be under eighteen (18) years of age;

3. “Adult Mini- motion Picture Theater”:

- 4. **“Adult Motion Picture Theaters”:** which means an enclosed building used for presenting films which are distinguished by an emphasis on matter depicting, describing or relating to specified sexual activities for observation by patrons therein; and
- 5. **“Adult Shows” or “Adult Peep Shows”:** which includes all adult shows, exhibitions, performances or presentations which contain acts or depictions of specified sexual activities.

ANIMAL CARE AND VETERINARY SERVICES – Activities or facilities utilized by veterinarians in the care of small domestic pets. The grouping is not intended to include facilities or services for on-site treatment of large farm animals. (See Agricultural Services.)

AUTOMOTIVE PARKING - facilities for parking and/or storage of operative automotive vehicles. The grouping is not intended to include the storage of junk or scrap or inoperative vehicles of any type.

AUTOMOTIVE AND MARINE CRAFT SALES, SERVICE AND REPAIR – Retail dealers selling new and used automobiles, boats, recreational vehicles, utility trailers, and motorcycles. Repair shops and parts sales facilities are to be included, to the extent that such facilities are oriented to the servicing or repair of vehicles. The grouping is not intended to include automotive distributors, the greater part of whose sales are to dealers or to institutional or industrial users. (See Wholesale Sales.)

BANKING, FINANCIAL, INSURANCE AND REAL ESTATE SERVICES - Firms engaged in the provision of financial, insurance, and real estate brokerage services, as well as advice, information, or consultations of a professional nature (other than those classified as community facility activities, medical and professional service, or business and communication services).

These also include the executive management, or administrative activities of private, profit oriented firms, but exclude the sale and/or storage of goods or chattel, unless, otherwise, permitted by this ordinance.

CONVENIENCE RETAIL SALES AND SERVICES - An establishment, not exceeding five thousand (5,000) square feet of gross floor area, serving a limited market area and engaged in the retail sale of goods and/or services from the premises of frequently and recurrently needed items for personal consumption or household use. Convenience food stores may include accessory gasoline sales, provided that the pump facilities are capable of serving no more than four (4) vehicles at one time.

ENTERTAINMENT AND AMUSEMENT SERVICES - LIMITED - A recreational activity operated as a profit making enterprise, conducted entirely within an enclosed building and serving groups of less than five hundred (500) assembled spectators and/or participants.

GENERAL BUSINESS AND COMMUNICATIONS SERVICES - A commercial activity engaged in providing services to other commercial enterprises.

GENERAL RETAIL SALES AND SERVICES – Establishments engaged in the retail sale or rental from the premises, primarily for personal or household use, of goods and/or services; but excluding goods and services listed under the other activity types.

GROUP ASSEMBLY AND COMMERCIAL OUTDOOR RECREATION – The provision of cultural, entertainment, educational and athletic services, other than those classified as community facilities, to large groups (one hundred (100) or more) assembled spectators and/or participants.

OUTSIDE MATERIAL AND EQUIPMENT SALES AND REPAIR YARDS – Establishments engaged in the retail and wholesale sale and storage of bulk materials and heavy equipment where operations require open storage and display.

PROFESSIONAL SERVICES - MEDICAL - This activity classification is intended to include establishments primarily engaged in providing therapeutic, preventative or correctional personal treatment services on an out-patient basis by physicians, dentists, and other medical practitioners, as well as the provision of testing and analysis services. Offices of doctors, dentists and other health care providers. This grouping is limited and does not include the broad ranging services provided at general health care facilities such as hospitals but does include the limited outpatient services provided at outpatient clinics, whether operated for profit or otherwise.

PROFESSIONAL SERVICES – NONMEDICAL - Generally recognized professions, other than medicine, which are compatible with one another and tend to exert similar impacts upon their surroundings.

RESTAURANT - FULL SERVICE - An establishment where the principal business is the sale of food and beverages in a ready-to-consume state and where the design or principal method of operation consists of one or more of the following:

1. A sit-down restaurant where customers, normally provided with an individual menu, are generally served food and beverages in non-disposable containers by a restaurant employee at the same table or counter at which said items are consumed; or
2. A cafeteria or cafeteria-type operation where foods and beverages generally are served in non-disposable containers and consumed within the restaurant; or
3. Small specialty restaurants having floor area exclusively within a shopping center or office park, sharing common parking facilities with other businesses within such centers, and having access to a common interior pedestrian access way.

This activity shall include the on premise sale, service and consumption of alcoholic beverages as an accessory and secondary use, but excludes any service to a customer in a motor vehicle.

RESTAURANT, TAKE-OUT - Food service establishments where the principal business is the sale of food and nonalcoholic beverages to the customer in a ready-to-consume state and where the design or principal method of operation is that of a fast-food or drive-in restaurant offering quick food service, where orders are generally not taken at the customer's table, where food is generally served in disposable wrapping or containers, and where food and beverages may be served directly to the customer in a motor vehicle.

SCRAP OPERATIONS - Firms engaged in storage or sale, from the premises, of used or waste material or other items, except when such activities involve goods or materials that may present serious hazards to human life and health, are incidental to a manufacturing operations classified as "hazardous operations" or are classified as toxic or hazardous materials. (See Manufacturing- Hazardous Operations for storage of material that may present serious hazards to human life and health.)

SELF SERVICE STORAGE - All self-storage facilities as defined by this ordinance. The grouping shall not include storage or transport of goods or materials that may present serious hazards to human life and health. (See Manufacturing-Hazardous Operations for storage of goods that may present serious hazards to human life and health.)

TRANSIENT HABITATION - Commercial and institutional establishments engaged in furnishing temporary living accommodations, including lodging and/or meals on a fee basis. Included within this grouping are all facilities where thirty (30) percent or more of the living units located on the same zone lot and held under the same ownership are being occupied on a less than monthly basis.

WAREHOUSING, GOODS TRANSPORT AND STORAGE - Establishments and facilities associated with the commercial warehousing, storage, and transport of goods. The grouping does not include "self-storage facilities" as defined and regulated by this ordinance nor does it include storage or transport of goods or materials that may present serious hazards to human life and health. (See Manufacturing-Hazardous Operations for storage of goods that may present serious hazards to human life and health.)

WHOLESALE SALES – Storage and sale from the premises of goods, to other firms for resale, as well as the storage of goods and their transfer to retail outlets. This grouping is not intended to include establishments and facilities associated with the commercial warehousing, storage, and transport of goods that may present serious hazards to human life and health. (See Manufacturing-Hazardous Operations for storage of goods that may present serious hazards to human life and health.)

WASTE TRANSFER STATIONS - This activity includes a convenience center for collection and mechanical compaction of domestic waste transported in from individual households.

2-103.4 Manufacturing Activities

MANUFACTURING - BASIC INDUSTRY - An establishment engaged in the basic processing, conversion and manufacturing of materials or products predominantly from extracted or raw materials, or manufacturing processes utilizing flammable or explosive materials or storage or manufacturing processes that potentially involve hazardous or commonly recognized offensive conditions, other than those classified in the Hazardous Operations Activity Type.

MANUFACTURING - GENERAL - This grouping includes all manufacturing operations excepting those classified as Basic Industry or Hazardous Operations.

MANUFACTURING - HAZARDOUS OPERATIONS - Any establishment engaged in production and/or storage of materials that present serious hazards to human life and health.

MANUFACTURING - LIMITED - An establishment primarily engaged in the on-site production of limited quantities of goods by hand manufacturing that generally involves the use of hand or small power tools that may include the incidental direct sale of those goods to consumers.

2-103.5 Agricultural and Extractive Activities

AGRICULTURE, GENERAL - This term is intended to include farms (and farm residences) that involve orchards, raising of livestock, dairy cattle, horses or poultry, and truck farming.

AGRICULTURE, INTENSIVE - These agricultural uses include operations where animals are tightly confined in buildings or outdoor pens including operation of one or more of the following:

1. **Dairy Farm** - This term means any place or premises where one (1) or more cows are kept and from which a part or all of the milk or milk products is provided, sold or offered for sale to milk plant, transfer station or receiving station.
2. **Egg Production House** - Means any place or premises where chickens are kept for production of eggs for resale to processors, wholesalers or retailers.
3. **Feedlot** - Means a lot, yard, corral or other area in which livestock are confined primarily for the purposes of feeding, growing, raising, or birthing prior to slaughter. Feedlot does not include areas which are used for the raising of crops or other vegetation upon which livestock are allowed to graze or feed.

AGRICULTURAL SERVICES - This term is intended to encompass a wide variety of service activities that directly support production of crops and animals but are not in and of themselves agricultural activities.

MINING, QUARRYING AND SOIL EXTRACTION - This term is intended to include all operations engaged in the removal by excavation, stripping, dredging or otherwise taking of soil, gravel and sand for off-site use.

PLANT AND FOREST NURSERY - This category includes nurseries with or without retail sales or accessory greenhouses. A minimum of fifty-one (51) percent of all materials sold by a nursery must be grown on-site. (Nurseries containing a garden center are included within the "Outside material and Equipment Sales and Repair Yards" commercial classification.

2-103.6 Accessory Activities

ACCESSORY APARTMENT - An apartment shall be considered an accessory use to any single-family dwelling when such apartment is occupied by a family member and complies with the provisions of Section 4-102.2 of this zoning ordinance.

BED AND BREAKFAST - HOMESTAY - A minor home occupation that provides one (1) to three (3) rooms for occasional paying guests on an overnight basis for periods not to exceed fourteen (14) days with one daily meal being available on the premises. A bed and breakfast homestay is allowable only in a building originally constructed as a single-family residence.

BED AND BREAKFAST INN - An operator or owner occupied residence that provides four (4) to twelve (12) rooms for paying guests on an overnight basis for periods not to exceed fourteen (14) days with one (1) daily meal being available on the premises. A bed and breakfast inn is allowable only in a building originally constructed as a residence. In addition to all local requirements, Bed and Breakfast Inns are subject to approval by the Tennessee Department of Health: Division of Food and General Sanitation.

COUNTRY INN - A bed and breakfast inn that also has facilities for group and/or special event activities. A country inn is allowable only in a building constructed as a residential dwelling. In addition to all local requirements, Bed and Breakfast Inns are subject to approval by the Tennessee Department of Health: Division of Food and General Sanitation.

ARTICLE 3: USE REGULATIONS

SECTIONS

3-101: USE CLASSIFICATION

3-102: LISTING OF ACTIVITY TYPES

3-103: DETAILED ACTIVITY LISTING

3-101: USE CLASSIFICATION

The use regulations of the zoning districts are based on the following use classification system.

3-101.1 Purpose and Intent

The purpose of these provisions is to classify uses of land into a number of specially defined activity types on the basis of common functional characteristics and similar compatibility with other uses, thereby providing a basis for regulation of uses in accordance with criteria that are directly relevant to the public interest. These provisions shall apply throughout this zoning ordinance.

3-101.2 Classification of Principal Uses

The following rules shall apply where a single lot contains activities that resemble two (2) or more different activity types that are not classified as accessory activities.

1. Classification of Each Establishment

The principal activities conducted on a single lot by each individual establishment, management, or institution shall be classified separately.

2. Classification of Major Classes of Activities

If the principal activities conducted on a single lot by a single establishment, management, or institution resemble two (2) or more different major classes of activities, residential, community facilities, commercial, manufacturing, or agricultural and extractive activities, the principal activities of each major class shall be classified separately.

3. Classification of Multiple Activity Types

If principal activities conducted on a single lot by a single establishment, management, or institution resemble two (2) or more activity types within the same major class of activities, all such principal activities shall be classified in the activity type within said class the description of which type most closely portrays the overall nature of such activities. However, when activity types have any characteristics of group assembly and commercial outdoor recreation; community assembly; extensive impact facilities; outside material and equipment sales and repair yards; restaurant; fast

food; warehousing, goods transport and storage; hazardous manufacturing or mining and quarrying, all principal activities within the same major class of activities as any of such types shall be classified within that one of such types the description of which most closely portrays said principal activities; except that all such commercial activities shall be classified within the scrap operation activity type if they have any of its characteristics.

3-102: LISTING OF ACTIVITY TYPES

All activities are hereby classified into the following types.* **Vacant land, itself, shall not constitute an activity type.**

1. Residential Activities
Permanent
Semi-transient

2. Community Facility Activities
Administrative Services
Child Care Facilities
Community Assembly
Cultural and Recreational Services
Educational Facilities
Essential Public Transport, Communication and Utility Services
Extensive Impact Facilities
Health Care Facilities
Intermediate Impact Facilities
Religious Assembly Facilities
Special Institutional Care Facilities
Special Personal and Group Care Facilities
Waste Disposal Operations

3. Commercial Activities
Adult Oriented Business
Animal Care and Veterinary Services
Automotive Parking
Automotive and Marine Craft Sales, Service and Repair
Banking, Financial, Insurance and Real Estate Services
Convenience Retail Sales and Services
Entertainment and Amusement Services- Limited
General Business and Communication Services
General Retail Sales and Services
Group Assembly and Commercial Outdoor Recreation
Outside Material and Equipment Sales and Repair Yards
Professional Services - Medical

Professional Services - Nonmedical
Restaurant, Full-Service
Restaurant, Take-Out
Scrap Operations
Self Service Storage
Transient Habitation
Warehousing, Goods Transport and Storage
Wholesale Sales
Waste Transfer Station

4. Manufacturing Activities
Manufacturing - Basic Industry
Manufacturing - General
Manufacturing - Hazardous Operations
Manufacturing - Limited

5. Agricultural and Extractive Activities
Agriculture - General
Agriculture - Intensive
Agricultural Services
Mining and Quarrying
Plant and Forest Nurseries

6. Accessory Activities
Accessory Apartment
Bed and Breakfast – Homestay
Bed and Breakfast – Inn
Country Inn

3-103: DETAILED ACTIVITY LISTING

3-103.1 Residential Activities - Class and Types

1. Activity Type - Permanent Residential Activities

- A. Intent and Limitations

This grouping is intended to include permanent residential activities which involve the occupancy of a dwelling unit as defined by this ordinance. This form of occupancy shall not be construed to include:

- i. Institutional living arrangements involving provision of special care or forced residence, such as nursing homes, convalescent homes, rest homes, orphanages, asylums, and prisons; or
- ii. Transient accommodations such as transient hotels, motels, tourist homes, or similar establishments; or
- iii. Dormitories, nurses' residences, fraternity or sorority houses, monasteries or convents, or similar establishments containing group living or sleeping accommodations; or
- iv. In a building with mixed use occupancy, that part of the building used for any nonresidential uses, excepting accessory residential uses.

B. Use Listing

The following dwelling unit types, as defined by this ordinance, are considered as permanent residential activities when located within any district. However, only those dwelling unit types as indicated by individual district regulations may be permitted therein.

Single-Family Dwelling

Duplex Dwelling

Multi-Family Dwelling

Manufactured Home Dwelling

Prefabricated Dwelling

2. Activity Type - Semi-Transient Residential Activities

This grouping is intended to include residential activities which are semi-transient in nature and involve the occupancy of a rooming unit as defined by this ordinance. This form of occupancy shall not be construed to include:

A. Intent and Limitations

Institutional living arrangements involving provision of special care or forced residence, such as nursing homes, convalescent homes, rest homes, orphanages, asylums, and prisons; or In any building with mixed use occupancy, that part of the building used for any nonresidential uses, excepting accessory residential uses.

B. Use Listing

A general term "Lodging House" is included within this ordinance to describe a group of residential uses considered semi-transient in nature when they meet the general limitations of rooming units (as defined by this ordinance). The term lodging house is intended to

include, subject to the general limitations for semi-transient residential activities, the following residential types:

Apartment Hotel
Boarding House
Rooming House
Residential Hotel
Lodging House

3-103.2 Community Facilities Activities - Class and Types

1. Activity Type - Administrative Services

A. Intent and Limitations

This grouping is intended to include the activities typically performed by public, utility and private nonprofit administrative offices.

B. Use Listing

City, County, State, and Federal Offices
Civil Defense Facilities
Court Buildings
Fire Department Facilities
Police Department Facilities
Post Offices

2. Activity Type - Child Care Facilities

A. Intent and Limitations

This grouping is intended to include licensed establishments wherein an agency, person or persons regularly provide nonmedical care for a group of five (5) or more children for periods of less than twenty-four (24) hours a day.

B. Use Listing

Child Care Center
Family Child Care Home
Group Child Care Home

3. Activity Type - Community Assembly

A. Intent and Limitations

This grouping is intended to include a broad range of facilities utilized as public gathering places in conjunction with various social and recreational events. This grouping is not intended to include facilities primarily utilized for profit, nor is it to include any facility which has the

characteristics associated with extensive impact community facilities.

B. Use Listing

**Civic, Social, Fraternal, and Philanthropic Associations
Private (Nonprofit) Clubs, Lodges, Meeting Halls, and
Recreation Centers
Temporary Nonprofit Festivals**

4. Activity Type - Cultural and Recreational Services

A. Intent and Limitations

This grouping is intended to include services and facilities of a cultural or recreational nature which are either owned by, or operated for the use and enjoyment of, the general public. The grouping is not intended to include entertainment and amusement facilities which are operated by private persons as profit making ventures.

B. Use Listing

**Art Galleries (Noncommercial)
Athletic Associations
Libraries
Museums
Parks, Playgrounds, and Playfields
Planetariums and Aquariums
Recreational Centers and Gymnasiums (Public Nonprofit)
Swimming Pools and Beaches
Yachting Clubs (Private)
Zoological and Botanical Gardens (Noncommercial)**

5. Activity Type - Educational Facilities

A. Intent and Limitations

This grouping is intended to include services and facilities typically performed by public, parochial and private nursery schools, kindergartens, primary and secondary schools. The grouping is not intended to include special training and schooling services offered by private individuals for profit or technical schools, colleges and universities.

B. Use Listing

**Public, Parochial, and Private Kindergartens
Primary and Secondary Schools**

6. Activity Type - Essential Public Transport, Communication, and Utility Services

A. Intent and Limitations

This grouping is intended to include facilities necessary and incidental to the operation of transport, communication, and utility services. The grouping is not intended to include major transport terminals or utility production and processing facilities.

B. Use Listing

Commercial Communication Towers
Electrical and Gas Substations
Gas, Electric, and Water Distribution Lines and Pumping Facilities for water and Sewer Systems
Rights-of-Way for all Modes of Transportation
Sewage Collection Lines

7. Activity Type - Extensive Impact Facilities

A. Intent and Limitations

This grouping is intended to include public activities and facilities which have a high degree of impact upon surrounding land uses due to hazards, and nuisance characteristics, traffic generation, and parking requirements.

B. Use Listing

Airports, Air Cargo Terminals, Heliports, Helistops, or Any Other Aeronautical Device
Electricity Generating Facilities
Major Petroleum and Natural Gas Transmission Lines and Facilities
Marine Terminals
Military Bases or Reservations
Railroad, Bus, and Transit Terminals
Railroad Yards and Other Transportation Equipment Marshaling and Storage Yards
Water and Sewage Treatment Plants

8. Activity Type - Health Care Facilities

A. Intent and Limitations

This grouping is intended to include medical and other health care facilities which are required for promotion and protection of public health and safety. This grouping is not intended to include the offices,

clinics, laboratories, etc., of private physicians or of other health care professionals.

B. Use Listing

**Center for Observation and Rehabilitation
Hospitals
Medical Clinics (Excluding Substance Control Facilities)**

9. Activity Type - Intermediate Impact Facilities

A. Intent and Limitations

This grouping is intended to include a broad range of public and private activities that have a significant effect upon surrounding land uses due to their traffic generation characteristics, parking requirements, land requirements, or potential nuisances associated with such uses.

B. Use Listing

**Cemeteries, Columbarium, and Mausoleums
Colleges, Junior Colleges, and Universities, but
Excluding Profit-Making Business Schools
Commercial Boat Docks, Marinas, and Yacht Clubs
Electrical and Gas Substations
Golf Courses
Major Mail Processing Centers
Radio, Telephone, Television Towers and
Transmission Facilities
Water Storage Facilities**

10. Activity Type - Religious Facilities

A. Intent and Limitations

This grouping is intended to include facilities utilized by various religious organizations for worship or community service functions including child care facilities and parent's day out. The grouping is not intended to include facilities which primarily function to produce products, including printed matter, for sale or general distribution to groups other than the immediate membership of the organization located upon the same zone lot nor is it intended to include school facilities providing primary or secondary education.

- B. Use Listing
 - Chapels**
 - Churches**
 - Convents and Monasteries**
 - Sanctuaries**
 - Synagogues**
 - Temples**

11. Activity Type - Special Institutional Care Facilities

- A. Intent and Limitations

This grouping is intended to include facilities that involve forced residency, full time supervision and/or walk-in care for: (1) individuals legally confined due to violations of law; (2) individuals who are addicted to drugs and/or alcohol and (3) individuals who are mentally ill, including the criminally dangerous
- B. Use Listing
 - Detention and/or Correctional Institutions**
 - Drug and Alcohol Rehabilitation Facilities**
 - Half-Way Houses (Serving Convicted Felons or Recovering Substance Abusers)**
 - Institutional Care Facilities: (Including All Types of Asylums for the Psychotic or Insane)**
 - Substance Control Centers (Serving Recovering Substance Abusers)**

12. Activity Type - Special Personal and Group Care Facilities

- A. This grouping is intended to include a wide variety of facilities for persons who have need of special care or supervision when such care or supervision is provided in a group environment where meals are provided in a shared dining facility. This grouping is not intended to include facilities which involve independent living arrangements in "dwelling units" as defined by this ordinance regardless of the level of care provided. This grouping does not include facilities primarily oriented to the provision of surgical or emergency medical care nor is it to include facilities for delinquent minors, the criminally dangerous, and the addicted and/or mentally ill individuals. See definition of the term "family" for exemptions to these provisions granted by Title VIII, of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988.

B. Use Listing

Assisted Living Facilities for Elderly or Handicapped Persons
Convalescent Homes
Day-Care Facilities for Elderly Persons
Family Care Facilities
Group Care Facilities
Nursing Homes
Retirement or Rest Homes

13. Waste Disposal Operations

A. Intent and Limitations

This grouping is intended to include operations engaged in the storage, hauling and ultimate disposal of waste products. The grouping does not include operations involved in storage, processing, and shipping of scrap materials for recycling or reuse except when such materials are classified as hazardous or include activities that may present serious hazards to human life and health. The grouping does include all operations engaged in disposal of solid waste as defined in Section 68-211-103, Tennessee Code.

B. Use Listing

Hazardous Waste Disposal
Medical Waste Disposal
Radioactive Waste Processing, Storage and Disposal
Solid Waste Landfills
Solid Waste Processing and Recycling
Waste Incinerators, Including Hospital and Medical Waste

3-103.3 Commercial Activities - Class and Types

1. Activity Type - Adult Oriented Business

A. Intent and Limitations

This grouping is intended to include all "adult oriented businesses" and activities defined by this ordinance. This grouping includes all facilities wherein material is presented or exhibited which is distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" as defined by this ordinance for observation by patrons therein.

- B. Use Listing
 - Adult Arcade**
 - Adult Bookstore**
 - Adult Mini- motion Picture Theater**
 - Adult Motion Picture Theater**
 - Adult Shows or Adult Peep Shows**

2. Activity Type - Animal Care and Veterinary Services

- A. Intent and Limitations

This grouping is intended to include the activities or facilities utilized by veterinarians in the care of small domestic pets. The grouping is not intended to include facilities or services for on-site treatment of large farm animals. (See Agricultural Services.)
- B. Use Listing
 - Veterinary Clinics**
 - Kennels**

3. Activity Type - Automotive Parking

- A. Intent and Limitations

This grouping is intended to include facilities for parking and/or storage of operative automotive vehicles. The grouping is not intended to include the storage of junk or scrap or inoperative vehicles of any type.
- B. Use Listing
 - Auto Parking Lots**
 - Parking Garages**

4. Activity Type - Automotive and Marine Craft Sales, Service and Repair

- A. Intent and Limitations

This grouping is intended to include retail dealers selling new and used automobiles, boats, recreational vehicles, utility trailers, and motorcycles. Repair shops and parts sales facilities are to be included, to the extent that such facilities are oriented to the servicing or repair of vehicles. The grouping is not intended to include automotive distributors, the greater part of whose sales are to dealers or to institutional or industrial users. (See Wholesale Sales.)

B. Use Listing

Auto Dealers

Auto and Home Supply Stores

Auto Paint Shops

Auto Repair Services

Auto Towing Services

Boat Dealers

Car Washes

Motorcycle Dealers

Radiator and Muffler Shops

Recreational and Utility Vehicle Sales, Service and Storage

Tire Sales Retreading and Repair Shops

5. Activity Type - Banking, Financial, Insurance and Real Estate Services

A. Intent and Limitations

This grouping is intended to include firms engaged in the provision of financial, insurance, and real estate brokerage services, as well as advice, information, or consultations of a professional nature (other than those classified as community facility activities, medical and professional service, or business and communication services).

These also include the executive management, or administrative activities of private, profit oriented firms, but exclude the sale and/or storage of goods or chattel, unless, otherwise, permitted by this ordinance.

B. Use Listing

Agricultural Credit Institution

Banking and Bank-Related Functions

Credit Unions

Holding and Investment Organizations

Installment Sales Finance Companies

Insurance Carriers, Agents, Brokers, and Service

Money Management and Investment Offices

Real Estate Brokers, Managers, and Appraisers

Rediscount and Financing Institutions for

Credit Agencies Other Than Banks

Savings and Loan Associations

Securities Commodities, Brokers, Dealers, and Exchanges

Title Offices

6. Activity Type - Convenience Retail Sales and Services

A. Intent and Limitations

This grouping is intended to include firms engaged in the retail sale, from the premises, of goods and services which are needed immediately and often and which are purchased where it is most convenient for the shopper; as well as the provision of personal convenience services which are typically needed frequently and recurrently. (Individual establishments are limited to a gross floor area of five thousand (5,000) square feet.)

B. Use Listing

Bakeries

Barber Shops

Beauty Shops

Candy, Nut and Confectionery Stores

Convenience Markets

Dairy Products Stores

Drug Stores

Fruit Stores

Gasoline Service Stations

Hardware Stores

Health Spas

Laundry, Cleaning and Garment Services

Liquor Stores

Meat and Fish Markets

News Stands

Shoe Repair Shops

Vegetable Markets

7. Activity Type - Entertainment and Amusement Services-Limited

A. Intent and Limitations

This grouping is intended to include establishments engaged in providing amusement or entertainment to groups of assembled spectators and/or participants for payment of a fee or admission charge. The activities are limited to those conducted within enclosed buildings having a total seating capacity for one hundred (100) or fewer persons.

B. Use Listing

Art Galleries - Commercial
Bowling Alleys and Billiard Parlors
Coin Operated Amusement Arcades
Dance Studios, and Schools
Exhibition Halls and Commercial Auditoriums
Fitness Centers and Reducing Salons
Gardens (Botanical and Zoological)
Karate Schools
Motion Picture Theaters
Recording and Television Production Studios
Theaters - Legitimate
Theatrical Producers, Bands, Orchestras, and Entertainers
Video Game Arcades

8. Activity Type - General Business and Communication Service

A. Intent and Limitations

This grouping is intended to include firms engaged in the provision of services of a clerical, goods brokerage, and communications of a minor processing nature.

B. Use Listing

Advertising Agencies & Services
Commercial Cleaning Services
Commercial Testing Laboratories

Communications Services:

Radio and Television Broadcasting Studios
Telegraph Offices and Message Centers
Telephone Exchanges
Television and Recording Production Studios
Computer and Data Processing Services
Credit Reporting, Adjustment, and Collection Agencies
Detective Agencies and Protective Services
Drafting Services
Employment, Personnel, and Temporary Help Services
Exterminating Services
Interior Decorator and Consulting Services
Mailing, Reproduction, and Commercial Art Services
Management, Consulting, and Public Relations Services

Membership Organizations:

Automobile Clubs
Better Business Bureaus
Chapter of Commerce
Labor Unions
Photo finishing Services
Political Organizations
Professional Associations
News Syndicates
Research and Development Laboratories
Trading Stamp Services
Travel Agencies

9. Activity Type - General Retail Sales and Services

A. Intent and Limitations

This grouping is intended to include the retail sale or rental from the premises, primarily for personal or household use, of goods and/or services; but excluding goods and services listed under the other activity types.

B. Use Listing

Antique and Second Hand Merchandise Stores
Book and Stationary Stores
Camera Stores
Children's and Infants' Stores
Department Stores
Drapery, Curtain, and Upholstery Stores
Family Clothing Stores
Floor Covering Stores
Florists
Furniture Stores
Furriers and Fur Shops
Gift Shops
Grocery Stores
Hardware Stores
Hobby, Toy, and Game Stores
Household Appliance Stores
Jewelry Stores
Luggage Shops

Miscellaneous Apparel and Accessory Stores:

Bathing Suit Stores
Custom Tailors
Shirt Shops
Sports Apparel Stores
Uniform Stores

Miscellaneous General Merchandise Stores:

Direct Selling Organizations
Mail Order Houses

Miscellaneous Home Furnishings Stores:

Bedding and Linen Stores
Cookware Stores
Cutlery Stores
Glassware and China Shops
Lamp and Shade Shops
Paint and Wallpaper Stores
Music Stores
News Stands
Proprietary Stores
Radio and Television Stores
Sewing and Piece Goods Stores
Shoe Stores
Sporting Goods Stores
Tobacco Stores
Variety Stores
Women's Accessory and Specialty Stores
Women's Ready-to-Wear Store

10. Activity Type - Group Assembly and Commercial Outdoor Recreation Facilities

A. Intent and Limitations

This grouping is intended to include the provision of cultural, entertainment, educational and athletic services, other than those classified as community facilities, to large groups (one hundred (100) or more) assembled spectators and/or participants.

- B. Use Listing
Amusement Parks and Fairgrounds
Commercial Camp Grounds

Commercial Sporting Facilities:
Golf Courses and Driving Ranges
Riding Stables
Skating Facilities
Swimming Pools and Beaches
Commercial Resorts
Commercial Sports Arenas and Playing Fields
Drag Strips
Marinas, Boat Docks, and Boat Rental
Race Tracks (Auto, Motorcycle, Dog, and Horse)

11. Activity Type - Outside Material and Equipment Sales and Repair Yards

- A. Intent and Limitations

This grouping is intended to include establishments engaged in the retail and wholesale sale and storage of bulk materials and heavy equipment **where operations require open storage and display.**

- B. Use Listing

Construction Equipment Sales
Contractors Storage Yards
Farm Equipment Sales and Service
Feed Milling and Sales
Heating, Plumbing and Electrical Suppliers
Highway and Street Construction Contractors
Lumber and Other Building Material Dealers

12. Activity Type - Professional Services – Medical

- A. Intent and Limitations

This grouping is intended to include establishments primarily engaged in providing medical, dental, and other health services to individuals. The grouping is limited and does not include the broad ranging services provided at general health care facilities such as hospitals.

- B. Use Listing
 - Blood Banks**
 - Chiropractors Offices**
 - Dental Offices and Laboratories**
 - Limited Outpatient Medical Service Facilities**
 - Medical Laboratories**
 - Optometrists**
 - Physicians' Offices and Clinics (Out-Patient Services)**
 - Psychologists and Psychotherapists**

13. Activity Type - Professional Services - Nonmedical

- A. Intent and Limitations

This grouping is intended to include a broad listing of generally recognized professions, other than medicine, which are compatible with one another and tend to exert similar impacts upon their surroundings.
- B. Use Listing
 - Accounting, Auditing, and Bookkeeping Services**
 - Artists' Studios**
 - Attorneys and Law Offices**
 - Consulting Scientists**
 - Educational and Scientific Research Services**
 - Engineering and Architectural Services**
 - Songwriters and Music Arrangers**
 - Writers and Lecturers**

14. Activity Type - Restaurant, Full Service

- A. Intent and Limitations

This grouping is intended to include establishments where the principal business is the sale of food and beverages in a ready-to-consume state and where the design or principal method of operation consists of one (1) or more of the following:

 - i. A sit-down restaurant where customers, normally provided with an individual menu, are generally served food and beverages in non-disposable containers by a restaurant employee at the same table or counter at which said items are consumed; or

- ii. A cafeteria or cafeteria-type operation where foods and beverages generally are served in non-disposable containers and consumed within the restaurant; or
- iii. Small specialty restaurants having floor area exclusively within a shopping or office center, sharing common parking facilities with other businesses within the center, and having access to a common interior pedestrian access way.

This activity may include the on premise sale, service and consumption of alcoholic beverages as an accessory and secondary use, but excludes any service to a customer in a motor vehicle.

- B. Use Listing
Cafes
Cafeterias
Restaurants
Taverns

15. Activity Type - Restaurant, Take-Out

- A. Intent and Limitations

This grouping is intended to include food service establishments where the principal business is the sale of food and nonalcoholic beverages to the customer in a ready-to-consume state and where the design or principal method of operation is that of a fast-food or drive-in restaurant offering quick food service, where orders are generally not taken at the customer's table, where food is generally served in disposable wrapping or containers, and where food and beverages may be served directly to the customer in a motor vehicle.

- B. Use Listing
Drive-In Restaurants
Fast Food Restaurants

16. Activity Type - Scrap Operations

- A. Intent and Limitations

This grouping is intended to include firms engaged in storage or sale, from the premises, of used or waste material or other items, except when such activities involve goods or materials that may present

serious hazards to human life and health, are incidental to a manufacturing operations classified as “hazardous operations” or are classified as toxic or hazardous materials. (See Manufacturing-Hazardous Operations for storage of material that may present serious hazards to human life and health.)

- B. Use Listing
 - Automobile Junk Yard**
 - Recycling Firms**
 - Salvage Establishments**
 - Waste Transfer Stations**

17. Activity Type - Self-Service Storage Facilities

- A. Intent and Limitations

This grouping is intended to include all self-storage facilities as defined by this ordinance. The grouping shall not include storage or transport of goods or materials that may present serious hazards to human life and health. (See Manufacturing-Hazardous Operations for storage of goods that may present serious hazards to human life and health.)
- B. Use Listing

18. Activity Type - Transient Habitation

- A. Intent and Limitations

This grouping is intended to include commercial and institutional establishments engaged in furnishing temporary living accommodations, including lodging and/or meals on a fee basis. Included within this grouping are all facilities where thirty (30) percent or more of the living units located on the same zone lot and held under the same ownership are being occupied on a less than monthly basis.
- B. Use Listing
 - Hotels, Motels**
 - Tourist Homes or Courts**
 - Sporting and Recreational Vehicle Camps**

19. Activity Type - Warehousing, Goods Transport, and Storage

A. Intent and Limitations

This grouping is intended to include establishments and facilities associated with the commercial warehousing, storage, and transport of goods. The grouping does not include "self-storage facilities" as defined and regulated by this ordinance nor does it include storage or transport of goods or materials that may present serious hazards to human life and health. (See Manufacturing- Hazardous Operations for storage of goods that may present serious hazards to human life and health.)

B. Use Listing

Freight Forwarders
General Warehousing
Household Goods Storage
Local and Long Distance Trucking Terminals
Packing and Crating Services
Refrigerated Warehousing
Truck Terminals and Freight Handling

20. Activity Type - Wholesale Sales

A. Intent and Limitations

This grouping includes the storage and sale from the premises of goods, to other firms for resale, as well as the storage of goods and their transfer to retail outlets. This grouping is not intended to include establishments and facilities associated with the commercial warehousing, storage, and transport of goods that may present serious hazards to human life and health. (See Manufacturing- Hazardous Operations for storage of goods that may present serious hazards to human life and health.)

B. Use Listings

Apparel, Piece Goods, and Notions
Beer, Wine, and Distilled Alcoholic Beverages
Chemicals and Allied Products
Drugs, Drug Proprietaries, and Sundries
Electrical Goods and Appliances
Farm Products Raw Materials
Farm Supplies
Furniture and Home Furnishings
Groceries and Related Products

Hardware, Plumbing, and Heating Equipment and Supplies
Metals and Minerals
Motor Vehicles, Vehicle Parts and Supplies
Paints, Varnishes, and Supplies
Paper and Paper Products
Petroleum and Petroleum Products
Sporting, Recreational, Photographic, and Hobby Goods
Tobacco and Tobacco Products

21. Activity Type – Waste Transfer Station

A. Intent and Limitations

This grouping is intended to include convenience center(s) for collection and mechanical compaction of domestic waste transported in from individual households.

B. Use Listing

Landfill

3-103.4 Manufacturing Activities - Class and Types

1. Activity Type - Manufacturing - Limited

A. Intent and Limitations

This grouping is intended to include manufacturing operations which involve the compounding, processing, assembling, packaging treatment or fabrication of materials necessary to create the following products:

Apparel Accessories, such as Hats, Jewelry, and Umbrellas
Art Objects
Bakery Goods
Beverages
Dairy Products
Instruments for Scientific, Medical, Dental, Engineering, and Other Professional Purposes
Printed Matter
Signs

NOTE: *No activity included within this grouping shall involve the outside storage of any amount of raw material or finished goods.*

B. Use Listing

In addition to the manufacturing of the above products the following activities and operations are held to be limited manufacturing activity:

Book Binding
Candle-making
Data Processing Service
Photocopying
Photoengraving
Precision Machining of Dies, Jigs, and Fixtures
Printing
Publishing
Record Pressing
Upholstering

2. Activity Type - Manufacturing - Basic Industry

A. Intent and Limitations

This grouping is intended to include firms engaged in the conversion, processing and storage of extracted or raw materials, or in the use and/or storage of flammable or explosive materials, or manufacturing processes that potentially involve hazardous or commonly recognized offensive conditions, other than those classified as Hazardous Operations. The grouping includes activities engaged in the following operations as well as the storage, manufacture, compounding, or treatment of the materials indicated:

Asphaltic Cement and Concrete Batching
Cotton Seed Oil
Fat Rendering
Fuel Production, Refining and Bulk Storage
Organic Fertilizers
Smelting and Refining of Metals
Wood Pulp

B. Use Listing

Subject to the general intent and limitations set out above for this use grouping the following manufacturing activities and operations shall be considered basic manufacturing.

Abrasive, and Nonmetallic Mineral Processing

Asphaltic Cement Plants
Bulk Fuel Storage, Processing and Distribution
Cement and/or Concrete Plants
Coal Yards
Cotton Ginning
Crematories
Fat Rendering
Foundries
Grain Milling
Ore Reduction
Offal Processing
Pulp Manufacturing
Slaughterhouses
Steel Works and Metal Smelting
Tanneries

3. Activity Type - Manufacturing -General

A. Intent and Limitations

This grouping is intended to include a broad range of manufacturing operations. The grouping does not include those operations engaged in operations classified as Basic Industry or Hazardous Operations.

B. Use Listing

Subject to the general intent and limitations set out above for this use grouping manufacturing activities and operations, except those classified as Basic Industry or Hazardous Operations shall be classified as general manufacturing operations.

4. Activity Type - Manufacturing - Hazardous Operations

A. Intent and Limitations

This grouping is intended to include all manufacturing and storage operations and facilities that may present serious hazards to human life and health. The use listing presented within this grouping is intended to be illustrative of the type operations included within this activity type and is not intended to be inclusive of all operations which may be considered as hazardous. The grouping is specifically intended to include operations engaged in the storage of, as well as manufacturing operations involving the use of, substances that may present serious hazards to human life and health. In any instance where the nature of operations or of materials utilized in such operations can be substantiated as presenting serious hazards to

human life and health such activities shall be classified as hazardous operations.

- B. Use Listing
Arsenals
Atomic Reactors
Explosives and Fireworks Manufacture and Storage

3-103.5 Agricultural and Extractive Activities - Class and Types

1. Activity Type - Agriculture - General

- A. Intent and Limitations
This grouping is intended to include the raising of tree, vine, field, forage, and other plant crops intended to provide food or fiber, as well as keeping, grazing, or feeding animals for animal products, animal increase, or value increase.
- B. Use Listing
Animal Raising
Food Crop Production

2. Activity Type - Agriculture - Intensive

- A. Intent and Limitations
This grouping is intended to include feedlots, dairy farms, and egg production operations covered under provisions of Sections 44-18-101 through 44-18-104, Tennessee Code, where animals are tightly confined in buildings or outdoor pens including facilities for the processing, packaging, or treatment of agricultural products.
- B. Use Listing
Dairy Farms
Egg Production Operations
Feedlots

3. Activity Type - Agricultural Services

- A. Intent and Limitations
This grouping is intended to include a variety of service functions that are directly linked to the agricultural activities that these functions support.

- B. Use Listing
 - Crop Drying, Storage, and Processing Services**
 - Crop Planting, Cultivating, and Protection Services**
 - Horticultural and Soil Preparation Services**
 - Veterinary Services for Livestock**

4. Activity Type - Mining and Quarrying

- A. Intent and Limitations

This grouping is intended to include operations and facilities either utilized by, or in support of the extraction of minerals, ores, petroleum, and natural gas or in the quarrying and collection of stone, sand, and gravel, clay, and other nonmetallic minerals (such as phosphate rock).
- B. Use Listing
 - Borrow Pits Involving Soil Extraction and Off-Site Use**
 - Chemical Fertilizer and Nonmetallic Mineral Mining**
 - Clay, Ceramic, and Refractory Minerals Mining**
 - Coal Mining**
 - Crude Petroleum and Natural Gas Production**
 - Metal Ore and Mineral Mining**
 - Sand and Gravel Quarrying**
 - Stone Quarrying**
 - Metal Ore and Mineral Mining**
 - Sand and Gravel Quarrying**
 - Stone Quarrying**

5. Activity Type - Plant and Forest Nurseries

- A. Intent and Limitations

This grouping is intended to include the cultivation for sale of horticultural specialties, such as flowers, shrubs, and trees, intended for ornamental, landscaping, or tree planting purposes.
- B. Use Listing
 - Forest Nursery**
 - Plant Nursery**

ARTICLE 4: SUPPLEMENTARY USE REGULATIONS

SECTIONS

4-101: SUPPLEMENTARY AND CONDITIONAL USE REGULATIONS

4-102: ACCESSORY USES

4-103: TEMPORARY USES

4-101: SUPPLEMENTARY USE REGULATIONS

In addition to the bulk, parking, landscaping and other regulatory provisions of this ordinance, supplemental development standards are required for specific land uses when located in certain zone districts. These development standards are necessary because certain uses may tend to dominate or adversely affect the area more than other uses permitted within the same zone district due to large land area, unique operating, traffic generation or other characteristics. The land use tables for the zoning districts reference those uses and activities which must comply with supplemental development standards as:

SUP - Principal Use Permitted with Supplemental Provisions

C - Conditional Use (Subject to Approval by the Board of Zoning Appeals)

ASP - Accessory Use Permitted with Supplemental Provisions

The community service or institutional nature of these activities makes it necessary that they be located within areas where the potential exists for the use to be incompatible. A distinction is made between those uses and activities which involve relatively minor and predictable impacts and those uses which have impacts that cannot be satisfactorily predetermined for every possible location within a zone district. Uses with relatively minor, predictable impacts are indicated with the designation (SUP). These uses may be approved by the Zoning Administrator upon a demonstration that the established conditions can be met. The second category involve "Conditional Uses" (C) which are permitted only upon approval by the Board of Zoning Appeals. The last grouping involves certain uses are incidental to the operation and enjoyment of other principal land uses which remain appropriate only when certain standards are applied to limit their scope. These are designated as "Accessory Uses Permitted with Supplemental Provisions" (ASP).

The supplementary use regulations appearing within this section shall apply to new uses and to existing uses as set out in Subsections 4-101.2 and 4-101.3.

4-101.1 Application to New Uses

No zoning permit shall be issued for the use of any building or land, where such use was not established prior to the adoption of this ordinance, unless the activity

is in compliance with all supplementary use regulations specified for such activity within this article.

4-101.2 Application to Existing Uses

Where any use of a building or land was established prior to the adoption of this ordinance and has become a non-conforming uses, such activity may be continued or expanded according to the provisions of Article XIII, of this ordinance; provided, however, that any expansion of such activity shall comply as fully as possible with the supplementary use regulations specified for such activity within this section.

4-101.3 Plans Required

1. Principal Uses Permitted With Supplemental Provisions (SUP)

Prior to establishing or expanding any use or activity classified as a principal use permitted with supplemental provisions **(SUP)** the City Planner shall have determined that such use complies with all applicable standards for such use established in this ordinance and in any instance where either new construction or exterior modifications to an existing structure is to be undertaken in conjunction with the establishment of such use or activity, a Site Plan meeting the specifications of Article 17, Section 17-103.3, is approved.

2. Conditional Uses (C)

No zoning permit shall be issued for any use or activity classified as a conditional **(C)** use until such use is approved by the Board of Zoning Appeals and, in any instance where either new construction or exterior modifications to an existing structure is to be undertaken in conjunction with the establishment of such use or activity, a Site Plan meeting the specifications of Article 17, Section 17-103.3, is approved.

4-101.4 Provisions Applicable to Residential Activities

1. Manufactured Home Dwelling

When a manufactured home is located within a Manufactured Home Park, (MHP) District, the supplemental development standards of Section 7-102.1, shall apply to such use.

2. Multi-Family Dwelling

When a multi-family dwelling is located within a complex of two (2) or more buildings on a zone lot or portion of a zone lot, the supplemental development standards of Article 7, Subsection 7-101.1, shall apply to such use.

3. Attached Dwellings

All attached dwellings shall comply with the supplemental development standards of Article 7, Subsection 7-103.1.

4-101.5 Provisions Applicable to Community Facility Activities

1. Administrative Services

In all districts where authorized as a use permitted with Supplemental Provisions (SUP), the following supplementary regulations shall apply to uses classified in the Administrative Services activity type.

- A. The traffic generated by such facility shall be safely accommodated along arterial and collector streets without traversing local minor streets.
- B. No such facility shall be permitted on a lot within any residential district unless it contains twice the minimum lot area requirements of the district.
- C. The use shall comply with all of the district bulk regulations, applicable off-street parking requirements and landscaping, buffering and design review standards without recourse to variances.

2. Child Care Facilities

In all districts where authorized as either a use permitted with supplemental provisions (SUP) or a conditional (C) use, the following supplementary regulations shall apply to uses classified in the child care facilities activity type.

A. Child Care Home – Family

- i. All state and local licensing and code requirements including those pertaining to building, fire safety and health shall be met to the satisfaction of the approving agency at all times during operation of the facility.
- ii. Lot size, building coverage and setback provisions shall conform to those applicable to residential uses located within the zoning district.
- iii. One (1) off-street parking space shall be provided for each nonresident or nonfamily member employee in addition to the spaces required for the dwelling. The residential driveway is acceptable for this purpose.
- iv. An off-street drop-off/pick-up area shall be provided.
- v. Signage shall conform to the provisions of Article XIII.

- vi. No structural or exterior decorative alteration that will alter the character of an existing residential structure or be incompatible with surrounding residences may be permitted. (Note: This provision shall not be construed as prohibiting alterations necessary to ensure the safety of the structure for its intended use.)
- vii. An outside play area of sufficient size to meet the minimum requirements established by the Tennessee Department of Human Services shall be provided. This area shall be fenced and shall be located within portions of the lot other than that utilized for a septic disposal field or any portion of the lot existing from the street line to a line drawn parallel to the front wall of the dwelling extending from one side lot line to the other. No portion of the outside play area shall be at any point closer than fifteen (15) feet to any septic disposal field.

B. Child Care Home - Group

- i. All state and local licensing and code requirements including those pertaining to building, fire safety and health shall be met to the satisfaction of the approving agency at all times during operation of the facility.
- ii. One (1) off-street parking space shall be provided for each nonresident or nonfamily member employee in addition to the spaces required for the dwelling. The residential driveway is acceptable for this purpose.
- iii. An off-street drop-off/pick-up area shall be provided.
- iv. Signage shall conform to the provisions of Article 12.
- v. No exterior alterations, other than those necessary to ensure the safety of the structure for its intended use shall be made to any group care home that is occupied as a dwelling. Minimal outward modifications may be made to the structure or grounds of group care homes whose principal use is as a child care facility (and not a residence) only if such changes are compatible with the character of the neighborhood or area and with the intent of the zoning district in which the use is located.
- vi. The Board may limit either interior or exterior modifications of any structure built as a dwelling to those which would not hamper reconversion to its original state upon cessation of the child care operation.

- vii. An outside play area of sufficient size to meet the minimum requirements established by the Tennessee Department of Human Services shall be provided. This area shall be fenced and shall be located within portions of the lot other than that utilized for a septic disposal field or any portion of the lot existing from the street line to a line drawn parallel to the front wall of the dwelling extending from one side lot line to the other. No portion of the outside play area shall be at any point closer than fifteen (15) feet to any septic disposal field.
- viii. Fencing shall be provided which is adequate for the protection and safety of children being served by the group care facility.
- ix. Screening may be required which is adequate to protect abutting properties.
- x. Any child care facility which upon passage of this ordinance does not comply with one (1) or more of the provisions set forth above may continue to operate and to serve the number of children for which such facility is licensed by the State of Tennessee. No such facility shall be permitted to expand or to serve a greater number of children until the facility is brought into compliance with these provisions.

C. Child Care Centers

In any instance where a child care center is proposed as a principal use or activity such may be permitted subject to compliance with the criteria set out below. A child care center, if sited on the premises of an operating community service activity such as, but not limited to, a private or public school, place of worship, community center or library and is associated with that activity, shall be considered accessory to the principal use of the property concerned and no independent permitting process shall be required. However, prior to issuance of any building permit, it shall be demonstrated to the satisfaction of the City Planner that the child care center meets or exceeds the design criteria and operational standards set forth below:

- i. All state and local licensing and code requirements including those pertaining to building, fire safety and health shall be met to the satisfaction of the approving agency at all times during operation of the facility.
- ii. No child care center shall be located in any private family residence unless the portion of the residence where the children have access

is used exclusively for children during the hours the center is in operation and is separate from the usual living quarters of the family.

- iii. At least one (1) off-street parking space shall be provided for each on-duty staff person.
- iv. Signage shall conform to the provisions of Article XIII, for the district wherein the use is located.
- v. Within residential districts, no structural or exterior decorative alteration that will alter the character of an existing residential structure or be incompatible with surrounding residences may be permitted. Any new or remodeled structure shall be designed to be compatible with the residential character of the surrounding neighborhood.
- vi. The Board may limit either interior or exterior modifications of any structure built as a dwelling to those which would not hamper reconversion to its original state upon cessation of the child care operation.
- vii. An outside play area of sufficient size to meet the minimum requirements established by the Tennessee Department of Human Services shall be provided. This area shall be fenced and within residential districts shall not be located within any portion of the lot existing from the street line to a line drawn parallel to the front wall of the building extending from one side lot line to the other. No portion of the outside play area shall be at any point closer than fifteen (15) feet to any septic disposal field.
- viii. An on-site vehicle turnaround, or separate entrance and exit points, and passenger loading area shall be provided.
- ix. To provide for the safe pick-up and delivery of children, an unloading zone is required. One unloading space is required for each twenty (20) children. Loading and unloading of children from vehicles shall only be permitted on the driveway, approved parking area and directly in front of the facility.
- x. Any child care centers shall be served by public sewer.
- xi. All elements of the site and structure shall, at all times, meet all building, sanitation, health, traffic safety and fire safety code requirements.

- xii. Fencing, screening and landscaping may be required to protect the area immediately surrounding the day care center.
- xiii. Any child care center which upon passage of this ordinance does not comply with one (1) or more of the provisions set forth above may continue to operate and to serve the number of children for which such facility is licensed by the State of Tennessee. No such facility shall be permitted to expand or to serve a greater number of children until the facility is brought into compliance with these provisions.

3. Community Assembly

In all districts where authorized as a use permitted with supplemental provisions (SUP) or a conditional (C) use, the following supplementary regulations shall apply to uses classified in the community assembly activity type.

- A. The principal access shall be to a designated collector street, or arterial street designated on the Major Thoroughfare Plan.
- B. No such facility shall be permitted on a lot within any residential district unless it contains twice the minimum lot area requirements of the district; provided, however, that if such community assembly includes outdoor activities, the minimum lot area shall be four (4) acres.
- C. The use shall comply with all of the district bulk regulations, applicable off-street parking requirements and landscaping, buffering and design review standards without recourse to variances.
- D. All public utilities including a central sewage collection and treatment system (as defined by this ordinance) shall be available to the site.
- E. All activities shall be conducted such that no noise shall exceed the sound levels established in Article 13.

4. Cultural and Recreational Services

In all districts where authorized as a conditional (C) use, the following supplementary regulations shall apply to uses classified in the cultural and recreational services activity type.

- A. No such activity shall be permitted on a lot, unless it contains twice the lot area requirements of the district; provided, however, that if such

cultural and recreational service includes outdoor activities, the minimum lot area shall be four (4) acres.

- B. The use shall comply with all of the district bulk regulations, applicable off-street parking requirements and landscaping and buffering standards without recourse to variances.
- C. All public utilities including a central sewage collection and treatment system (as defined by this ordinance) shall be available to the site.
- D. The principal access shall be to a collector or arterial street designated on the Major Thoroughfare Plan.

5. Educational Facilities

All uses classified in the educational facilities activity type shall be subject to the following supplementary regulations.

- A. The Board of Zoning Appeals may grant a variance from minimum yard requirements whenever an existing structure is proposed for conversion to a community education facility.
- B. This activity type is a permitted (P) use by right in all districts in which it is authorized only if it is located on a lot meeting the site size standards for the appropriate type school as set forth in standards established by the Tennessee Department of Education.
- C. This activity type may be permitted on a smaller site as a conditional (C) use subject to the following provisions.
 - i. The Planning Commission shall review the master development plan and make a recommendation as to the appropriate site size and plan for the proposed school. In its review, the Planning Commission shall take into account:
 - a) Proposed enrollment levels;
 - b) Physical site characteristics, such as steeply sloped areas, areas subject to flooding, or unstable soils;
 - c) The need for buffers, such as screening, fencing, unused open spaces, and access and traffic control, to protect surrounding land use; and

- d) "Optional programmatic activities" to be conducted on the site, including indoor or outdoor interscholastic competitive sports; outdoor intramural competitive sports; outdoor physical education activities requiring large land areas, such as baseball, softball, football, soccer, golf, field hockey, and track and field events; marching band; outdoor concerts, assemblies, and theatrical performances; vocational training facilities; and outdoor education space such as nature study areas and experimental gardens.
- ii. The minimum site sizes established below may be recommended whenever none of the "optional programmatic activities" are to be present on the site, no hazardous site characteristics exist, and adequate buffering can be accomplished without additional land. The reduced site size shall not be less than an absolute minimum based on the following table.

TABLE 4-101A MINIMUM SITE SIZE PER ENROLLMENT CAPACITY	
STUDENT ENROLLMENT CAPACITY	MINIMUM SITE SIZE
1 – 49	1.5 acres
50 – 99	2.0 acres
100 – 149	2.5 acres
150 or More	2.5 acres + .5 acres for each 50 students or fraction thereof above 150

- iii. Any school in existence upon adoption of this ordinance shall not be subject to the land area requirements of this section, but shall be subject to all other code requirements including fire, electrical, plumbing and building codes.
6. Essential Public Transport, Utility and Communication
 In all districts where authorized as a use permitted with supplemental provisions (SUP), the following supplementary regulations shall apply to uses classified in the Essential Public Transport, Utility and Communication activity type.
- A. The proposed facility shall provide a basic community function or essential service necessary for a convenient and functional living environment in order to be located on the proposed site.
 - B. The use shall comply with all landscaping, buffering and design review standards without recourse to variances.

- C. All transmitter stations, including towers and operating equipment shall adhere to the following standards:
- i. A conditional use permit for a commercial communication tower in a residential district shall only be authorized upon a finding by the Board of Zoning Appeals that existing or approved towers within the proposed service area cannot accommodate the equipment planned to be located on the proposed tower. Factors to be considered in evaluating the practicality of locating the proposed equipment on existing or approved towers shall include structural capacity, radio frequency interference, geographic service area requirements, and cost.
 - ii. All towers with a height of one hundred fifty (150) feet or more (measured from base to top) shall be constructed in accordance with and in compliance with all current industry standards, including electrical standards, structural standards, wind rating and ice load ratings for the Middle Tennessee region. Each application for a building permit shall be accompanied by a certification prepared and stamped by a licensed engineer that the tower in question meets this design standard.
 - iii. All towers shall be set back from all property lines a distance that is equal to or greater than:
 - a) For a guyed tower, twenty (20) percent of the height.
 - b) For a self-supporting tower, fifty (50) percent the height.
 - iv. Guy wire anchors, if used, shall be set back a minimum of five (5) feet from all property lines, and a minimum of twenty (20) feet from any property line abutting a residentially zoned lot.
 - v. All applications for permits shall be accompanied by a "Determination of No Hazard" from the Federal Aviation Administration, as well as all required Federal Communications Commission permit information.
 - vi. The entire tract containing such tower and equipment shall be enclosed with a fence no less than six (6) feet in height. Access gates will be locked at all times when the site is not occupied.

7. Extensive Impact Facilities

In all districts where authorized as conditional (C) uses, the following supplementary regulations shall apply to uses classified in the extensive impact activity type.

- A. The location, size, and design of such facilities shall be such that the proposed development shall be compatible with the development within the surrounding area, thus reducing the impact upon the surrounding area.
- B. The traffic generated by such facility shall be safely accommodated along arterial and collector streets without traversing local minor streets.
- C. The proposed facility shall provide a basic community function or essential service necessary for a convenient and functional living environment in order to be located on the proposed site.
- D. The off-street parking requirements shall be determined by the Board of Zoning Appeals.

8. Health Care Facilities

In all districts where authorized as a use permitted with supplemental provisions (SUP) or a conditional (C) use, the following supplementary regulations shall apply to uses classified in the health care activity type as indicated.

A. Minimum Lot Area

- i. No health clinic shall be permitted on a zone lot, unless it contains a minimum of ten thousand (10,000) square feet, or twice the lot area requirements of the district, whichever is greater.
- ii. No hospital, or center for observation or rehabilitation shall be permitted on a zone lot, unless it contains a minimum of five (5) acres.

B. Hospital, Centers for Observation or Rehabilitation

The minimum side and rear yards for hospitals and centers for observation or rehabilitation shall be fifty (50) feet for one (1) or two (2) story buildings, increased by five (5) feet for each story above two (2).

- C. All other regulations of the zone district shall apply.

- D. There shall be provided along the entire site boundaries fencing, screening, and landscaping as appropriate to protect any surrounding residential area.
- E. The location and operation of such facility shall be in keeping with the character of the surrounding area and shall not have an adverse effect on the properties in the surrounding area.
- F. All public utilities including a central sewage collection and treatment system (as defined by this ordinance) shall be available to the site.
- G. The following activity classes and types may be permitted as accessory to the health care activities provided they appropriately complement the health care activity, will not impose an adverse impact on the surrounding land use, and be subject to all other provisions of the zoning district:
 - i. Community Facility Activities
All Facilities
 - ii. Commercial Activities:
Convenience Sales and Services
Automotive Parking
Food Service
Professional Services - Medical

9. Intermediate Impact Facilities

In all districts where authorized as a conditional (C) use, the following supplementary regulations shall apply to uses classified in the intermediate impact activity type.

- A. The location, size, and design of such facilities shall be such that the proposed development shall be compatible with the development within the surrounding area, thus reducing the impact upon the surrounding area.
- B. The traffic generated by such facility shall be safely accommodated along major streets (collector or arterial classifications) without traversing local minor streets.
- C. The proposed facility shall provide a basic community function or essential service necessary for a convenient and functional living environment in order to be located on the proposed site.

D. The off-street parking requirements shall be determined by the Board of Zoning Appeals.

10. Religious Facilities

Land use development standards apply to religious facilities according to seating capacity ranges. For existing facilities located within residential districts, a conditional use permit shall be required for any proposed increase that upgrades the range of seats.

A. Religious facilities with a maximum sanctuary capacity of fifty (50) seats shall be classified as a principal use permitted with supplemental provisions (SUP) activity and shall meet the following standards:

- i. No such facilities shall be permitted on a zone lot, unless it contains twice the lot area requirements of the district or one (1) acre, whichever is less.
- ii. Religious facilities within this grouping may have driveway access on any street.
- iii. Religious facilities within this grouping shall be screened along all property lines adjoining any AR, RS or R residential district.

B. Religious facilities with a maximum sanctuary capacity in excess of fifty (50) seats shall be classified as a conditional use (C) activity and shall meet the standards established for facilities within its seating capacity range:

- i. The minimum lot size shall be based on the number of seats.

TABLE 4-101B MINIMUM SITE SIZE PER SEATING CAPACITY	
SEATING CAPACITY	MINIMUM SITE SIZE
51 to 200	2 acres + .5 acres for each 100 seats
201 – 400	5 acres + .5 acres for each 100 seats
401 +	10 acres

- ii. If the site area exceeds three (3) acres in size, such facilities shall be located only on designated arterial or collector streets as shown on the official Major Thoroughfare Plan.
- iii. Religious facilities within this grouping shall be screened according to the landscaped standards within the Fairview Design Review Manual, along all property lines adjoining any residential district.

11. Special Institutional Care Facilities

In those districts where authorized as a conditional (C) use, the following supplementary regulations shall apply to all uses classified in the special institutional care activity type.

- A. The location, size, and design of such facilities shall be such that the proposed development shall be compatible with the development within the surrounding area, thus reducing the impact upon the surrounding area.
- B. The traffic generated by such facility shall be safely accommodated along designated arterial or collector streets as shown on the Major Thoroughfare Plan without traversing local minor streets.
- C. The purpose(s) of the facility must be clearly established by the agency responsible and the appropriate staff services must be provided to achieve the stated purpose(s).
- D. The facility shall have resident twenty-four (24) hour staff and appropriate professional services shall be supplied.
- E. The off-street parking requirements shall be determined by the Board of Zoning Appeals.
- F. The minimum lot area shall be five (5) acres, plus one (1) additional acre for each ten (10) persons accommodated.
- G. The minimum side and rear yards shall be one hundred (100) feet for a one (1) and two (2) story building, increased by ten (10) feet for each additional story.
- H. All public utilities including a central sewage collection and treatment system (as defined by this ordinance) shall be available to the site.

12. Special Personal and Group Care Facilities

In all districts where authorized as a use permitted with supplemental provisions (SUP) or a conditional (C) use, the following supplementary regulations shall apply to uses classified in the special personal and group care activity type as indicated.

A. All Activities

- i. The purpose(s) of the facility must be clearly established by the agency responsible and the appropriate staff services must be provided to achieve the stated purpose(s). Written findings shall be presented to the Planning Commission regarding these requirements based on advice from such agencies as the Tennessee Department of Human Services.
- ii. An appropriate license must be secured for any activity regulated by any public agency, including the Tennessee Department of Human Services. Any activity lawfully regulated by any public agency may be permitted for only that time period for which a valid license is obtained. Where grades or classes of approvals are granted, only the most restrictive may be permitted.
- iii. Necessary utilities including a central sewage collection and treatment system (as defined by this ordinance) shall be available to the site.
- iv. Notwithstanding the previously listed provisions, the Board of Zoning Appeals may be permitted to vary the required yards and the screening strip for parking when the application involves a change in activities in existing structures. The plan shall provide for compensating features to offset any potentially adverse conditions that might be brought about by said variance.

B. Family Care and Group Care Facilities

- i. Family Care and Group Care facilities shall meet the State of Tennessee Department of Health standards and requirements of the Tennessee Department of Human Services.
- ii. Family Care and Group Care shall meet all bulk regulations of the zoned district.
- iii. The minimum side and rear yards for group care facilities accommodating thirteen (13) or more persons shall be fifty (50) feet for a one- or two-story building, increased by five (5) feet for each story above two (2).

C. All Other Facilities

- i. No such facility shall be permitted on a zone lot within any residential district, unless it contains twice the lot area requirements of the zone district.
- ii. All bulk regulations of the district shall be met.
- iii. The requirements of the accessory off-street parking presented in Section 11-103.2, shall apply to the particular use as specified.

13. Waste Disposal Operations

In all districts where authorized as a use permitted with supplemental provisions (SUP), the supplementary regulations established in Section 9-107 shall apply to uses classified in the waste disposal operations activity type.

4-101.6 Provisions Applicable to Commercial Activities

1. Adult Entertainment Establishments

The Board of Commissioners is aware that numerous communities and states have experienced significant negative effects due to the fact that concentration of "Adult-Oriented Businesses" (as defined by this ordinance) tend to attract an undesirable quantity and quality of transients, adversely affects property values, causes an increase in crime and encourages residents and businesses to move elsewhere. The Adult Entertainment Overlay District is intended to provide adequate locational opportunities for adult entertainment establishments within the planning jurisdiction while reasonably preventing the concentration of such activities in order to reduce the potential detrimental impact of these activities upon the public health, safety and welfare.

All adult entertainment establishments are available, as a conditional use, in the Industrial General (I-G) which is found in Section 9-105 of this zoning ordinance. In addition, all adult entertainment establishments shall adhere to the following locational criteria:

2. Locational Standards

All adult entertainment establishments shall be located within the Industrial General (I-G) which is found in Section 9-105 of this zoning ordinance. The uses are available as Conditional Uses and shall follow all standards for Conditional Uses as described in Section 4-101.

In addition, all adult entertainment establishments shall adhere to the following locational criteria within the overlay district:

- A. No establishment shall be located within five hundred (500) feet (measured property line to property line) of any church, school ground, college campus or park; and
- B. No establishment shall be located within one-hundred fifty (150) feet (measured property line to property line) of another adult entertainment establishment.

3. Animal Care and Veterinary Services

In all districts where authorized as a use permitted with supplemental provisions (SUP), uses classified in the animal care activity type shall be subject to the following supplementary regulations.

- A. All animal care uses shall occur in completely walled and roofed structures, except that completely fenced exercise yards may be provided as specified in Subpart b, of this section, below.
- B. Exercise yards shall be completely fenced and screened from all abutting lots and streets. Exercise yards shall not be used for overnight accommodations. The use of exercise yards shall be restricted to the hours of 8:00 a.m. to 8:00 p.m.
- C. Animal care boarding facilities shall be restricted to domesticated animals that have an adult weight not exceeding two hundred (200) pounds.
- D. The design of animal care facilities shall provide for the off-street pickup and drop-off of animals.

4. Convenience Retail and Services

In all districts where authorized as a use permitted with supplemental provisions (SUP), the Convenience Retail and Services activity type shall be subject to the following supplementary regulations.

- A. Strong preference shall be given to location of complementary additions in the immediate vicinity of existing convenience establishments of other types in patterns which facilitate easy pedestrian circulation from the surrounding area and from one establishment to another, and to arrangements which encourage joint use of parking areas and automotive entrances and exits. In cases where a proposed

location is suitable for later addition of other permitted convenience facilities, an isolated food service or general personal service activity may be permitted. Separate medical service activities (other than professional offices conducted as accessory uses in residences of such physicians and dentists) shall also be so located unless substantial public advantage can be demonstrated for other locations.

- B. In the environment in which convenience establishments are intended to be permitted, it is the intent of this chapter that no such establishment or group of establishments shall be of such size or character as to create the impression of general commercial development. Therefore, in addition to other limitations designed to achieve these ends, no individual convenience establishment shall have a gross floor area exceeding five thousand (5,000) square feet).
- C. Except as provided herein for gasoline sales, all sales, services, or displays in connection with convenience establishments shall be within completely enclosed buildings, and there shall be no display, service, or storage outside such buildings. A maximum of eight (8) gasoline pumps may be located in conjunction with a convenience food market. No public address systems or other devices for reproducing or amplifying voices or music shall be mounted outside such buildings or be audible beyond any line of the lot on which the building is situated.
- D. Exterior storage of goods or materials of any kind is prohibited. The placement of waste disposal facilities is permitted in the rear of the commercial operation only and shall not be located in any required yard. Such facilities shall be totally screened using similar exterior materials from which the outside walls of the principal building is constructed and shall be maintained in a clean and orderly manner.

5. Entertainment and Amusement Services - Limited

Within those districts where authorized as a conditional (C) use, activities classified in the Entertainment and Amusement Services - Limited activity type shall be subject to the following supplementary regulations.

- A. The facility shall be located so as to be compatible with the surrounding area and provide safety to those using such facility.
- B. All state and local regulations pertaining to fire safety and emergency access shall be met.

- C. All public utilities, including a central sewage collection and treatment system (as defined by this ordinance) shall be available to the site.
- D. Adequate accessory off-street parking shall be provided to accommodate such use.
- E. Notwithstanding the previously listed provisions, the Board shall in each instance require such additional measures as are in its judgment necessary and proper to protect the health, safety and welfare of users or occupants of the facility and of the public in general.

6. Group Assembly and Commercial Outdoor Recreation

Within those districts where authorized as a conditional (C) use, activities classified in the Group Assembly and Commercial Outdoor Recreation activity type shall be subject to the following supplementary regulations.

- A. The location, size, and design of such facilities shall be such that the proposed development shall be compatible with the development within the surrounding area, thus reducing the impact upon the surrounding area.
- B. The traffic generated by such facility shall be safely accommodated along designated arterial or collector streets as shown on the official Major Thoroughfare Plan without traversing local minor streets and without reducing the level of service (LOS) on collector or arterial streets.
- C. The off-street parking requirements shall be based upon the recommendation from the Planning Commission.
- D. All activities shall be conducted such that no noise shall exceed the sound levels established in Section 13-106.
- E. When an application for a group assembly permit includes amusement parks, sports arenas, fairgrounds, racetracks, and similar recreational pursuits, the following requirements shall be observed:
 - i. The minimum site shall be twenty-five (25) acres;
 - ii. The minimum setback of all structures from all public roads shall be one hundred (100) feet;
 - iii. Such facility shall be situated so that no residential use is located closer than five hundred (500) feet from the principal building entrance of the principal use at the time of approval;

- iv. Off-street parking shall be provided at a minimum of one (1) space for each four (4) patrons or seats. For those facilities which are not utilized on a regular and frequent basis, parking may be provided on adjacent parcels of land provided further that any parcel so used is located no more than five hundred (500) feet from the lot boundary;
- v. Any lighting provided at such facilities shall be designed so that no direct light falls on adjacent residential property;
- vi. Accessory uses may be permitted in conjunction with the principal use of the property provided that such uses are physically designed as a part of or within the principal structure. Such uses may include food sales, beverage sales, gift or souvenir shops, and similar activities;
- vii. Accessory structures may be permitted which are incidental and subordinate to the principal structure. Such structures may not be located within any required setback or buffer area.

7. Professional Services - Medical

Within the Commercial Community (CC), Convenience Neighborhood Service (CNS) and Office/Professional Service (OPS) Districts, medical offices and facilities shall be limited to twenty-five hundred (2500) square feet of gross floor area per establishment, with no more than two (2) establishments per lot.

8. Professional Services - Nonmedical

Within the Commercial Community (CC), Convenience Neighborhood Service (CNS) and Office/Professional Service (OPS) Districts, nonmedical offices and facilities shall be limited to twenty-five hundred (2500) square feet of gross floor area per establishment, with no more than two (2) establishments per lot.

9. Scrap Operations

- A. In any district where authorized as a conditional (C) use, the following supplementary regulations shall apply to uses classified in the scrap operation activity type.
- B. The location and topography of the site shall be such that fencing, screening, and landscaping can be provided as appropriate to effectively protect the surrounding areas.

- C. The scrap operation shall not include any open burning activity.
- D. Insect and rodent control measures shall be provided as approved by the Williamson County Health Department.
- E. There shall be no storage of any scrap material outside a permanent structure within two hundred (200) feet of any residential district.
- F. The location and operation of such facility shall not produce damaging pollution to surrounding streams.

10. Self-Service Storage

In any districts where authorized as a use permitted with supplemental provisions (SUP) or as a conditional (C) use, the following supplementary regulations shall apply to uses classified in the self-service storage activity type.

- A. No self -storage facility shall be approved upon a lot less than two (2) acres in size.
- B. All storage shall be kept within an enclosed building, except propane or a gasoline engine or storage tanks or any boat or vehicle incorporating such components, which shall be stored in designated screened exterior areas. This provision shall not be interpreted to permit the storage of partially dismantled, wrecked, or inoperable vehicles.
- C. A barrier shall be provided around the perimeter of the facility. Said barrier shall be located at the setback line and may consist of either the solid facades of the storage buildings or a fence. If the barrier is to be provided by a fence, said fence shall be a minimum of six (6) feet in height and shall be constructed of opaque or semi-opaque materials that will prevent the passage of light and debris, such as brick, stone, architectural tile, masonry units, wood, or similar materials, but expressly prohibiting woven wire.
- D. No business activity other than the rental of storage units and pick-up or deposit of dead storage shall be conducted on the premises. All contracts for rental of self-storage facilities shall include clauses prohibiting the storage of flammable liquids, highly combustible or explosive materials or hazardous chemicals and the use of the property for any purpose other than dead storage. Examples of prohibited activities include, but are not limited to the following:

- i. Auctions, commercial wholesale or retail sales or miscellaneous or garage sales.
 - ii. The servicing, repair or fabrication of motor vehicles, boats, trailers, lawn mowers, appliances or other similar equipment.
 - iii. The operation of power tools, spray painting equipment, table saws, lathes, compressors, welding equipment, kilns or other similar equipment.
 - iv. The establishment of a transfer or commercial warehouse business.
- E. One parking space for every two hundred (200) storage cubicles or fraction thereof shall be located adjacent to the project office. A minimum of two (2) such spaces shall be provided.
- F. Driveway aisles shall be a minimum of twenty-four (24) feet in width. A driveway aisle where access to storage units is only on one side of the aisle may be twenty (20) feet in width.
- G. The maximum size of a storage unit shall be six hundred (600) square feet.
- H. All outdoor lighting shall be shielded so as to direct light and glare only onto the premises of the self-service storage facility and away from all adjoining property. Such lighting may be sufficient to discourage vandalism and theft.

4-101.7 Provisions Applicable to Manufacturing Activities

1. Manufacturing - Limited

Within any commercial district where limited manufacturing activity is authorized as a use permitted with supplemental provisions (SUP), no stocks, merchandise or material (with the exception of automobiles, tractors and other transportation, excavation or agriculturally related vehicles) may be stored upon any open area situated on any zone lot and all manufacturing activities shall be conducted in totally enclosed buildings.

2. Manufacturing - Hazardous Operations

Hazardous manufacturing operations may be permitted only within I-S, Industrial-Special District when approved as provided in Section 9-104. The following supplementary regulations shall apply to uses classified in the manufacturing hazardous activity type.

- A. The location of such an activity shall be in an area likely to be sparsely developed for reason of topography, lack of existing or planned utilities, accessibility or a similar cause.
- B. Such facility shall not be located on a site having an area of less than fifty (50) acres.
- C. The location, design and nature of the facility shall be such that the facility will not pose any significant hazard to human life, health or safety.
- D. All regulations of the State Fire Marshal and the Local Fire Department relating to the storage of explosives shall be met.

4-101.8 Provisions Applicable to Agricultural and Extractive Activities

1. Crop and Animal Raising

In those districts where authorized as a conditional (C) use, the following supplementary regulations shall apply to uses classified in the crop and animal raising activity type.

- A. A minimum lot size of five (5) acres shall be required.
- B. The raising of swine, poultry and fowl shall not be permitted.

2. Special Conditions for Egg Production Houses, Feedlots and Stockyards

These provisions are adopted pursuant to Title 44, Chapter 18, "Feedlots, Dairy Farms and Egg Production Houses", of the Tennessee Code.

In those districts where authorized as a conditional (C) use, the following supplementary regulations shall apply to uses classified in the Intensive Agriculture activity type.

- A. The location of such an activity shall be in an area sparsely developed during the length of time the use as an egg production house, stockyard or feedlot is anticipated.
- B. No such facilities shall be permitted on a zone lot, unless it contains a minimum lot area five (5) acres.

- C. Any permit issued, thereunder, shall be based on a site plan or other documents submitted with an application that shall indicate the following:
- i. Existing contours of the site and up to one hundred (100) feet beyond the site boundary. Contour intervals shall be at two (2) foot intervals.
 - ii. Location of the area in which the proposed keeping of animals is to be conducted.
 - iii. Location of all proposed buildings, animal pens, roadways and other facilities proposed on the site.
 - iv. Proposed method of drainage of the animal pens.
 - v. Proposed fencing of the site.
- D. Any egg production house, feedlot or stockyard shall be located on a site such that the closest point of any building or fenced lot, yard, corral or other area in which livestock are confined primarily for purposes of feeding, growing, raising, or birthing prior to slaughter is set back a minimum of five hundred (500) feet from any existing residence and two hundred fifty (250) feet from any public right-of-way.
- E. Any facility to be constructed shall submit a Groundwater Protection Plan with the required application. Such plan shall address:
- i. Decreased water quality from erosion and runoff; and
 - ii. Surface and groundwater contamination from poultry waste.
- F. A plan for disposal of waste, including manure, litter and dead birds, shall accompany the required application.
- G. A plan for odor control to include evidence developed from operations similar to the one being proposed shall accompany the required application.
3. Mining, Quarrying and Soil Extraction Activities
In those districts where authorized as a conditional (C) use, the following supplementary regulations shall apply to uses classified in the mining and quarrying activity type.

- A. The location of such an activity shall be in an area sparsely developed and likely to remain sparsely developed during the length of time the mining or quarrying activity is anticipated.
- B. Approval for mining and quarrying activities may also include accessory concrete batching plants, asphaltic cement mixing plants and/or rock crushing activities on the same lot or adjoining lots that may have directly opposing frontages on the same public street. If such accessory activities are included on the quarry site, the total site must meet all the special use regulations for mining and quarrying activities; however, in conditions of multiple lots, the outer perimeter of the site shall be considered the lot line.
- C. Fencing shall be provided around all open excavations.
- D. After the quarrying operation has been terminated, the site shall be graded and/or filled so as to be in substantial conformity with the topography of the surrounding lands. All fill material shall be nontoxic, nonflammable, and noncombustible solids. All areas that are backfilled shall be left so that adequate drainage is provided.
- E. Any permit issued, hereunder, shall be based on a site plan or other documents submitted with an application that shall provide for the following:
 - i. Existing contours of the site and up to one hundred (100) feet beyond the site boundary. Contour intervals shall be at two (2) foot intervals.
 - ii. Location of the area in which the proposed quarrying activity is to be conducted.
 - iii. Location of all proposed buildings, crusher and screening equipment, roadways and other facilities proposed on the site.
 - iv. Proposed method of drainage of the quarry area.
 - v. Proposed fencing of the quarry area.
 - vi. Methods proposed for blasting that are in compliance with all state regulations.

- vii. Methods proposed to control noise, vibration and other particulate matter in order to meet the operational performance standards as set out in the zoning ordinance.
 - viii. Finished contours of the site after the quarrying operation has been terminated.
- F. Before issuing a conditional use permit, the Board of Zoning Appeals shall require the owner of the quarry facility to execute a bond not less than six hundred dollars (\$600.00) or more than one thousand dollars (\$1,000.00) per acre of active quarrying throughout a five (5) year period to restore the lands in the manner prescribed, herein, including the removal of all structures and machinery.
- G. Any conditional use permit issued, hereunder, shall not be for a period exceeding five (5) years. After the expiration date of such permit, the Board of Zoning Appeals may review and grant an extension of time in the same manner and procedure as prescribed for an original application.

4-102: ACCESSORY USES

In addition to the principal activities expressed above, each activity type shall be deemed to include activities customarily associated with, and appropriate, incidental, and subordinate to the principal activity when such accessory activity is located on the same zone lot as such principal activity and meets the further conditions set forth below.

Accessory uses are segmented into two (2) groupings. Those accessory uses presented in Subsection 4-102.1, are permitted as a matter of right, subject only to the general definition of an accessory use and to any specific criteria established, herein, for the particular accessory use. The accessory uses presented in Subsection 4-102.2, may be permitted only upon approval of a conditional use permit by the Board of Zoning Appeals as provided in Article XVII, Section 17-106.

4-102.1 Accessory Uses Permitted by Right

The accessory uses enumerated within this section are permitted as a matter of right subject to the general definition of an accessory use and to any specified criteria presented herein for the particular use. Such accessory uses include the following:

1. Accessory Storage

Storage of goods sold by a principal commercial activity engaged in by the same firm on the same lot shall be considered an accessory use.

2. Administrative Office

Operation of an administrative office of a firm engaged in a principal manufacturing or commercial activity on the same zone lot, but only if such office does not occupy more than forty-nine (49) percent of the total floor area occupied by the same firm located on the same zone lot.

3. Bed and Breakfast Homestay

This activity may be permitted subject to the limitations of a minor home occupation and the criteria presented in Subsection 4-102.1(6).

4. Farm Buildings

A. Private barns, stables, sheds and other farm buildings.

B. Living quarters for persons regularly employed on the premises.

5. Home Child Care

Child care for up to four (4) pre-teenage children shall be considered an accessory use. The dwelling unit in which this activity occurs shall meet all applicable state and local regulations.

6. Minor Home Occupations

In all zones permitting residences, minor home occupations in compliance with the following regulations are permitted as accessory uses. Due to their small scale and residential nature, minor home occupations are relatively common accessory uses which are not easily detectable and are not reasonable or desirable to regulate through a conditional use permit. However, in order to assure that such activities remain within the limited scope of this provision, a use permit shall be obtained from the City Planner. The effective period for the use permit shall not exceed two (2) years. At the end of every two (2) year period, renewal shall be automatically granted upon receipt of properly documented certification that the home occupation continues to be operated within the limitations set forth below:

A. A minor home occupation may be conducted within a dwelling and shall be clearly incidental to the use of the structure as a dwelling. No more than five hundred (500) square feet or twenty-five (25) percent of the floor area of the dwelling, whichever is less, may be utilized by the minor home occupation.

- B. In no way shall the appearance of the structure be altered or the occupation, within the residence be conducted in a manner that would cause the premises to differ from its residential character either by use of colors, materials, construction, lights, signs, or the emission of noise or vibration.
- C. No traffic shall be generated by such minor home occupation by persons other than the occupants of the dwelling and any parking required as a result of the conduct of such home occupation shall be met off the street and in portions of the lot other than in required yards.
- D. No minor home occupation shall not involve the use, parking, storage or repair of any vehicle exceeding a gross vehicle weight of eleven thousand (11,000) pounds, except deliveries by parcel post, United Parcel Service, or similar in town delivery service trucks.
- E. No minor home occupation shall involve the on-site use or storage of tractor trailers, semi-trucks, buses or heavy construction equipment.
- F. No equipment or process shall be used in any minor home occupation that creates noise, vibration glare, fumes, odors, or electrical interference detectable to the normal senses off the lot. In the case of electrical interference, no equipment or processes shall be used which creates visual or audible interference in any radio or television receivers off the premises.
- G. No outdoor display of goods or outside storage of equipment or materials used in the home occupation shall be permitted.
- H. No home occupation shall require internal or external alterations or involve construction features or the use of mechanical or electrical equipment that would change the fire rating of the structure or the district in which the structure is located.
- I. No person other than residents of the dwelling shall be employed at the location in the conduct of a minor home occupation.
- J. The following are specifically prohibited as minor home occupations, but may be permitted as major home occupations in accordance with the procedures of Section 4-103.2 (Accessory Uses Permitted with Supplemental Provisions).
 - i. Appliance Repair

- ii. Beauty Salons and Barber Shops
- iii. Cabinet Making
- iv. Ceramics (with Kiln Larger than Six (6) Cubic Feet)
- v. Dance or Music Studios with more than Four (4) Students
- vi. Medical or Dental Office
- vii. Transportation Equipment Repair
- viii. Upholstering
- ix. Veterinary Uses (Including Care, Grooming or Boarding)

7. Off-Street Parking

Off-street parking and loading serving a principal activity, whether located on the same zone lot or on a different zone lot, but only if the facilities involved are reserved for the residents, employees, patrons or other persons participating in the principal activity. This use does not include a for profit parking lot (pay to park).

8. Private Recreation Facilities

Private swimming pools, tennis courts and other outdoor recreational facilities exclusively for the use of the residents.

4-102.2 Conditional Accessory Use Provisions

In addition to the requirements established for accessory uses generally, the specific standards set out below for individual accessory uses and activities shall be met as part of the conditions for issuing the conditional use permit. Upon issuance of any permit for a conditional accessory use as specified by this section such use or activity shall be continuously subject to compliance with any operational standard or criteria established by the Board of Zoning Appeals and limitations imposed upon such use by virtue of its being classified as "accessory" to a principal use or activity.

Any conditional use permit issued hereunder shall be for a maximum time period of two (2) years. Such permit may be renewed for additional periods upon a finding by the City Planner that all conditions and operational limitations established by the Board in originally issuing the permit are being complied with fully. In any instance where the City Planner shall find that questions exist concerning compliance with any aspect or limitation of the permit, he/she shall

refuse to renew the permit and immediately take all actions necessary to have the permit reviewed by the Board of Zoning Appeals.

All accessory activities to a conditional **(C)** use shall be approved in accordance with the procedure set out in Article 17, Section 17-106, for review and approval of conditional uses generally. An accessory activity may be approved along with the principal conditional use or at any point subsequent thereto in the manner provided, herein.

Accessory uses with supplemental provisions include the following:

1. Accessory Apartment

An apartment shall be considered an accessory use to any single-family residential activity that is a self-sufficient housekeeping unit, provided that the following conditions are met.

- A. The single-family residence is owner occupied and meets all regulations for the district.
- B. There is free and clear access between the principal and accessory dwelling units without going outdoors.
- C. Only one (1) meter per utility shall be installed to service both units.
- D. A maximum of twenty-five (25) percent of the gross floor area, excluding garage and utility space, shall be used for the accessory apartment.
- E. No entrance that would be visible from the street shall be added solely for the purpose of providing direct outside access to the apartment.
- F. The accessory apartment shall not be occupied by anyone other than a family member, defined as grandmother, grandfather, mother, father, sister, brother, son, daughter, mother-in-law, father-in-law, sister-in-law, brother-in-law, son-in-law, daughter-in-law, aunt or uncle.
- G. An instrument shall be recorded with the Register's Office covenanting that the apartment is being established as an accessory use and may only be used under the conditions listed above.
- H. The covenants provided herein may be enforced by the City Planner.

2. Accessory Day Care

Child care for pre-teenage children shall be considered an accessory use when operated by a health care, commercial or industrial activity where the care is provided solely for the children of their employees and meets all applicable state and local regulations for a child care center for children.

3. Bed and Breakfast Establishments

Bed and breakfast establishments may be permitted as conditional accessory activities subject to the following:

- A. Individual rooms which are rented shall not contain cooking facilities.
- B. The owner and/or operator must reside on the premises.
- C. The bed and breakfast establishment shall not create noise, light or traffic conditions detrimental to neighboring properties.
- D. No exterior alterations other than those necessary to assure safety of the structure, shall be made to any building for the purpose of providing a bed and breakfast establishment.
- E. The bed and breakfast establishment must front on or have direct access to a public street of adequate design for the proposed use.
- F. Off-street parking shall be provided, however no off-street parking is permitted in the front yard area.
- G. Off-street parking spaces shall be one (1) for each guest/rental room in addition to the provisions spaces required for the dwelling.
- H. Maneuvering area shall be provided on-site to allow vehicles to exit property front-end first.
- I. Screening may be required of off-street parking areas to minimize any detrimental impact to adjoining properties.
- J. The bed and breakfast establishment shall be service by a public water and wastewater system.
- K. A landscaping plan shall be required that is compatible with neighboring properties.
- L. Bed and Breakfast Homestay - A total of one (1) sign, not exceeding three (3) square feet in area, indirectly illuminated may be located flat

against the wall of the residence or within a window of the residence. No yard sign is permitted.

- M. Bed and Breakfast Inn or Country Inn – A total of one (1) yard sign, not exceeding six (6) square feet in area and three and one-half (3 1/2) feet in height.

Such sign may be located within the required setback area of the zoning district, provided it is situated in a manner so as not to adversely affect traffic safety, corner vision or similar condition. The sign may only be indirectly illuminated. Banners, flags, noise making or musical devices, portable or lighted signs are not permitted.

4. Columbarium

A columbarium shall be considered an accessory use when located within a place of worship.

5. Keeping of Horses

Within the all residential districts, horses may be kept subject to the following conditions.

A. Limitation of Commercial Boarding

Except as provided in Section 4-102.2(5)(I), (Boarding of Horses), no commercial boarding of horses shall be permitted.

B. Minimum Lot Area

That the keeping of equines shall be permitted only on lots having a minimum area of one hundred twenty thousand (120,000) square feet or more according to the number of equines being kept. Where equines are being kept, the number kept shall not exceed one equine for each forty thousand (40,000) square feet of lot area.

C. Limitation of Stables

That no stable is located or maintained on any lot having an area of less than one hundred twenty thousand (120,000) square feet.

D. Location of Private Stables on Individual Lots

An animal keeping structure or enclosure shall neither be located closer than thirty-five (35) feet from the habitable rooms of the animal keepers dwelling unit nor closer than one hundred (100) feet from the habitable rooms of a neighbors dwelling unit. A minimum space of the lesser of thirty-five (35) feet or thirty (30) percent of the width of the lot shall be maintained between an animal keeping structure and a dwelling unit or accessory living quarter. All buildings related to the care or housing of

horses and to the operation of riding facilities, other than stables permitted on individual residential lots, shall be located at least one hundred (100) feet from any property line of the lot.. A stable may be located on any portion of a parcel except that all portions of any such structure shall be located behind the front façade of the principal residential structure located on such lot.

E. Drainage of Lots with Stables

Grading within stalls, corrals and stables shall be properly integrated into a master drainage plan for the development to prevent ponding of water, the propagation of insects, and the pollution of adjacent streams. Stall/corral coverings or roofs on enclosed shelters shall be sloped away from the center of the stall/corral, or rain gutters shall be installed.

F. Lot Maintenance

If horses are in a contained area, all manure shall be removed at least daily from stables, corrals, exercise pens and workout areas so as to prevent the propagation of insects and the creation of odors. Owners of horses kept in a confined area are encouraged to use a Rabon supplement as this will reduce the propagation of insects. All grain stored on the lot shall be stored in rodent-proof containers. All exercise and training areas shall be dampened so as to prevent dust. Hay shall be covered and stored on a raised platform that is a minimum of six (6) inches above the ground.

G. Equine Enclosures

A fenced enclosure of two thousand (2,000) square feet shall be provided on each lot where a horse is kept. A stall/corral covering or enclosed area of one hundred forty-eight (148) square feet minimum per horse, with no dimension less than ten (10) feet shall be provided.

All fencing shall meet or exceed the standards for such established Title 44, Chapter 8 (Fences and Confinement) of the Tennessee Code Annotated.

H. Riding Trails

All riding trails shall be set back ten (10) feet from the property line of the lot. All riding trails shall be fenced so as to prevent horses intruding onto private property.

6. Boarding of Horses

Boarding of horses may be permitted within the Agricultural/Residential (AR) districts subject to the following provisions:

A. Minimum Lot Size

That the boarding of equines shall be permitted only on lots having a minimum areas of five (5) acres or more according to the number of equines being kept. Where equines are being kept, the number kept shall not exceed one (1) equine for each forty thousand square feet of lot area.

B. Activity to be Reviewed as a Major Home Occupation

In addition to the criteria set forth within this Section, the Boarding of Horses Activity shall also meet the requirements of Major Home Occupations – Section 4-102.2(6).

C. Operational Standards

Horse boarding facilities shall also the operational standards set out in Section 4-102.2(5)(D)(E)(F)(G).

7. Major Home Occupations

In all zones permitting residences, home occupations that exceed the standards for minor home occupations may be approved as conditional accessory uses subject to the following:

A. Participants

The home occupation is to be conducted only by members of the family residing in the dwelling unit, plus no more than one (1) nonresident assistant or employee. Persons engaged in the building trades or similar fields, using their dwelling units or residential premises as an office for business activities carried on off the premises, may have more employees that the limitation set forth above, if such persons are not employed on the premises.

B. Hours of Operation

In no case shall a home occupation be open to the public at times earlier than 8:00 a.m., or later than 10:00 p.m.

C. Scale

A home occupation shall be conducted within a dwelling and shall be clearly incidental to the use of the structure as a dwelling. No more than five hundred (500) square feet or twenty-five (25) percent of the floor

area of the dwelling, whichever is less, may be utilized by the home occupation.

D. Residential Appearance and Character

In no way shall the appearance of the structure be altered or the occupation, within the residence be conducted in a manner that would cause the premises to differ from its residential character either by use of colors, materials, construction, lights, signs, or the emission of noise or vibration.

E. Noise, Equipment and Process Restrictions

No equipment or process shall be used in any home occupation that creates noise, vibration, glare, fumes, odors or electrical interference detectable to the formal senses off the lot. In the case of electrical interference, no equipment or processes shall be used which creates visual or audible interference in any radio or television receivers off the premises.

F. Restriction of Wholesale and Retail Sales

There shall not be conducted on the premises the business of selling stocks of merchandise, supplies or products, provided that orders previously made by telephone or at a sales party may be picked up and products or goods produced or fabricated on the premises as a result of the home occupation may be sold. However, direct sales of products produced off premises are not permitted.

G. Deliveries and Large Vehicle Storage

The home occupation shall not involve the use, parking, storage or repair of any vehicle exceeding a gross vehicle weight of eleven thousand (11,000) pounds, except deliveries by parcel post, United Parcel Service, or similar in town delivery service trucks.

H. Outside Storage

There shall be no storage of equipment, vehicles, or supplies associated with the home occupation outside the dwelling or accessory building.

I. Display of Products Prohibited

There shall be no display of products visible in any manner from outside the dwelling.

J. Hazards

No home occupation shall require internal or external alterations or involve construction features or the use of mechanical or electrical equipment that would change the fire rating of the structure or shall be used or stored on the property in conjunction with any home

occupation permitted, hereunder. No use shall be permitted which involves the manufacture or storage of products that are dangerous in terms of risk of fire, explosion or hazardous emissions.

K. Heavy Transportation and Construction Equipment Prohibited

No home occupation shall involve the on-site use or storage of tractor trailers, semi-trucks, or heavy construction equipment.

L. Parking

A parking plan shall be presented with each request for a conditional use permit presented, hereunder. The plan shall demonstrate:

- i. That adequate off-street parking can be provided on the site to accommodate the additional needs generated by the home occupation.
- ii. That any added parking will not detract from the visual appearance of the residence or adversely impact adjoining properties.

8. Operation of a Cafeteria

Operation of a cafeteria for employees, residents, patrons or others participating in the principal activity conducted by an organization engaged in community facility activity on the same zone lot. Where the community facility is permitted as a conditional use an accessory cafeteria must be approved as a part of the action granting said permit.

9. Parents Day Out

Child care for pre-teenage children, for not more than twelve (12) hours in any one (1) week, shall be considered an accessory use when operated by a place of worship.

10. Residential Occupancy in Connection with Nonresidential Activity

Residential occupancy may be permitted as an accessory use to a principal nonresidential activity located on the same zone lot subject to the following:

A. Only One Unit Permitted

No more than one (1) dwelling or rooming unit may be permitted in connection with a principal nonresidential activity located upon the same zone lot.

B. Occupancy Limited

Any dwelling or rooming unit permitted under the provisions of this section shall be limited to occupancy by person(s) employed in the principal nonresidential activity located upon the same zone lot.

C. Residential Occupancy Prohibited

No dwelling or rooming unit may be located upon any site with a nonresidential activity that is defined by this ordinance as a "hazardous occupancy."

11. Production for Retail Sale

Production of goods for sale by a firm engaged in a principal commercial activity on the same lot shall be considered an accessory use, but only if:

- A. All goods so produced are sold at retail by the same firm on the same zone lot;
- B. Such production does not occupy more than forty-nine (49) percent of the total floor area occupied by such firm on the lot;
- C. Such production does not in any case occupy more than two thousand (2,000) square feet of such floor area; and
- D. Such production occurs only in an enclosed building.

12. Detached Accessory Dwelling Units (On Single Family Detached Lots)

Within the AR-15A and AR-5A zoned districts a second detached dwelling unit shall be considered an accessory use to any single-family residential activity provided that the following conditions are satisfied:

- A. No more than one (1) accessory dwelling unit is permitted on the same zone lot with a principal dwelling unit (single-family residence).
- B. The accessory dwelling unit shall be owned by the same person who owns and occupies the principal dwelling unit (single-family residence).
- C. The accessory dwelling unit shall not be served by a separate driveway from that serving the principal dwelling, unless the accessory dwelling unit is accessed from a rear alley and the principal dwelling is accessed from a street.
- D. Maximum Area: The total floor area of all buildings located upon the lot shall not exceed five thousand (5,000) square feet.

- E. A minimum area of forty thousand (40,000) square feet shall be designated and reserved exclusively for use by the accessory dwelling.
- F. The accessory dwelling shall meet all side and rear yards line as required by the base zoning – either AR-15A or AR-5A.
- G. The accessory dwelling shall be located behind the rear building line of the principal residence.

4-103: TEMPORARY USES

The provisions of this section are necessary to govern the operation of certain seasonal and other temporary uses. Application for a temporary use and occupancy permit shall be made to the City Planner. The application shall contain information as to the nature of the proposed use, the anticipated period of operation, the number and location of parking spaces and sanitary facilities. No permit issued, herein under, shall be for a time period in excess of that stipulated below for shall be provided each individual activity.

1. Circus or Carnival

Such use shall only be permitted in the following districts subject to the approval standards and conditions presented herein:

- Commercial Districts - All
- Industrial Districts - IR and IG

A. Approval Standards

Prior to issuance of any permit the City Planner shall establish that the proposed activity satisfies the following standards:

- i. That the proposed activity is in conformance with all applicable City ordinances;
- ii. That the proposed activity will not result in undue adverse traffic congestion and unsafe conditions regarding the use of public roads;
- iii. That the proposed activity will not present or create a threat to the safety of persons or property because of fire, explosion or other threat;
- iv. That the proposed activity will not create unhealthy conditions regarding water supply, sewage disposal or solid waste disposal;

- v. That the proposed activity will not interfere with the use of neighboring property for its customary use by creation of noise, dust, noxious odors, lighting or other activities which exceed the operational performance standards established in Article 13 of this ordinance;

B. Approval Conditions

Within those districts where permitted the following supplementary provisions shall apply to all circuses and carnivals.

- i. No permit may be issued for a period longer than ten (10) days.
- ii. Such activity may be permitted only on lots where adequate off-street parking can be provided.
- iii. Sanitary facilities shall be approved by the local Department of Health
- iv. The Board of Zoning Appeals shall stipulate, based upon the pattern and nature of land uses within the immediate area, whether a maximum of sixty (60) or seventy (70) decibels noise level shall be permitted to occur at the site boundary.
- v. The Board of Zoning Appeals shall have the power to restrict the days and hours of operation of the activity.

2. Christmas Tree Sale

May be permitted in any district. Such permit may be issued for a period not longer than forty-five (45) days.

3. Religious Tent Meetings

Such use may be permitted in any zone district subject to the approval standards and conditions presented herein:

A. Approval Standards

Prior to issuance of any permit the City Planner shall establish that the proposed activity satisfies the following standards:

- i. That the proposed activity is in conformance with all applicable City ordinances;

- ii. That the proposed activity will not result in undue adverse traffic congestion and unsafe conditions regarding the use of public roads;
- iii. That the proposed activity will not present or create a threat to the safety of persons or property because of fire, explosion or other threat;
- iv. That the proposed activity will not create unhealthy conditions regarding water supply, sewage disposal or solid waste disposal;
- v. That the proposed activity will not interfere with the use of neighboring property for its customary use by creation of noise, dust, noxious odors, lighting or other activities which exceed the operational performance standards established in Article 13, of this ordinance;

B. Approval Conditions

Within those districts where permitted the following supplementary provisions shall apply to all Religious Tent Meetings.

- i. No permit may be issued for a period longer than ten (10) days.
- ii. Such activity may be permitted only on lots where adequate off-street parking can be provided.

C. When the activity is to be located within any residential district, the minimum site shall be no less than four (4) acres in size.

D. Sanitary facilities shall be approved by the local Department of Health

E. The Board of Zoning Appeals shall stipulate, based upon the pattern and nature of land uses within the immediate area, whether a maximum of sixty (60) or seventy (70) decibels noise level shall be permitted to occur at the site boundary.

F. The Board of Zoning Appeals shall have the power to restrict the days and hours of operation of the activity.

4. Special Civic Events Including Temporary Nonprofit Festivals, Bazaars, etc.

A. Approval Standards

Prior to issuance of any permit the Board of Zoning Appeals shall establish that the proposed activity satisfies the following standards:

- i. That the proposed activity is in conformance with all applicable City ordinances;
- ii. That the proposed activity will not result in undue adverse traffic congestion and unsafe conditions regarding the use of public roads;
- iii. That the proposed activity will not present or create a threat to the safety of persons or property because of fire, explosion or other threat;
- iv. That the proposed activity will not create unhealthy conditions regarding water supply, sewage disposal or solid waste disposal;
- v. That the proposed activity will not interfere with the use of neighboring property for its customary use by creation of noise, dust, noxious odors, lighting or other activities which exceed the operational performance standards established in Article XIV, of this ordinance;

B. Approval Conditions

Within those districts where permitted as a conditional (C) use, the following supplementary provisions shall apply to all temporary nonprofit festivals, bazaars, and similar activities.

- i. No permit may be issued for a period longer than ten (10) days.
- ii. Such activity may be permitted only on lots where adequate off-street parking can be provided.
- iii. When the activity is to be located within any residential district, the minimum site shall be no less than four (4) acres in size.
- iv. Sanitary facilities shall be approved by the local Department of Health
- v. The Board of Zoning Appeals shall stipulate, based upon the pattern and nature of land uses within the immediate area, whether a maximum of sixty (60) or seventy (70) decibels noise level shall be permitted to occur at the site boundary.

- vi. The Board of Zoning Appeals shall have the power to restrict the days and hours of operation of the activity.

5. Temporary Construction Offices

In any district, a temporary use permit may be issued for contractor's temporary office and equipment sheds incidental to a construction project. Such permit shall not be valid for more than one (1) year, but may be renewed for six (6) month extensions. Such use shall be removed immediately upon completion of the construction or expiration of the temporary use permit, whichever occurs sooner.

6. Temporary Dwelling Unit in Cases of Special Hardship

In any residential district, a temporary use permit may be issued to place a mobile home temporarily on a lot in which the principal structure was destroyed by fire, explosion or natural phenomena. The purpose of such temporary placement shall be to provide shelter for only the residents of the principal structure during the period of reconstruction and to prevent an exceptional hardship on the same. Placement of such temporary structure must not represent a hazard to the safety, health, or welfare of the community. An applicant for a temporary use permit as provided under this subsection must produce a written statement from the appropriate regulatory authority approving the water supply and sewage disposal systems of the temporary structure. Such a permit may be initially issued for nine (9) months. A permit may be renewed twice, for up to six (6) months at a time, the total time for all permits not exceeding a total of twenty-one (21) months.

7. Temporary Real Estate Sales

Temporary conduct of a real estate sales office that is necessary and incidental to, and located on the site of a subdivision being developed into five (5) or more lots shall be considered an accessory use.

ARTICLE 5: ESTABLISHMENT OF DISTRICTS & PROVISIONS FOR OFFICIAL ZONING MAP

SECTIONS

5-101: ESTABLISHMENT OF DISTRICTS

5-102: PROVISIONS FOR OFFICIAL ZONING MAPS

5-103: RULES FOR INTERPRETATION OF DISTRICT BOUNDARIES

5-104: APPLICATION OF DISTRICT REGULATIONS

5-105: ZONING OF ANNEXED TERRITORY

5-101: ESTABLISHMENT OF DISTRICTS

5-101.1 Regular Districts

In order to implement all purposes and provisions of this ordinance, the following districts are hereby established:

1. Residential Districts

AR-15A, Agricultural/Residential Districts

AR-5A, Agricultural/Residential Districts

RS-40, Single Family Residential Districts

RS-20, One and Two-Family Residential Districts

RS-15, Single Family Residential Districts

RS-10, Single Family Residential Districts (Added by Ord. #649, November 2, 2008)

RS-8, Single Family Residential Districts (Added by Ord. #509, August 16, 2001)

RS-5, Single Family Residential Districts (Added by Ord. #509, August 16, 2001)

RM-20, Multi-Family Residential Districts (Added by Ord. #509, August 16, 2001)

RM-12, Multi-Family Residential Districts

RM-8, Multi-Family Residential Districts

R-MHP, Mobile Home Park Districts

2. Commercial Districts

CG, Commercial-General Districts

CI, Commercial Interchange Districts

CMU, Commercial Mixed-Use District

CNS, Convenience Neighborhood Service Districts

OPS, Office/Professional Service Districts

CC, Commercial Community District (Amended by Ord. #509, August 16, 2001)

MSMU, Main Street Mixed Use Districts (Added by Ord. #509, August 16, 2001)

OG, Office General Districts (Added by Ord. #509, August 16, 2001)

3. Industrial Districts

I-R, Restrictive Industrial Districts

I-G, General Industrial Districts

I-S, Special Industrial Districts

5-101.2 Special Districts

The following are hereby established as special districts to which the provisions set forth in this ordinance are applicable.

1. Floodplain Districts
2. Planned Unit Development Districts
3. Town Center Overlay District
(Originally added by Ord. #509, August 16, 2001)
4. Historic and Landmark District Regulations

5-102: PROVISIONS FOR OFFICIAL ZONING MAPS

5-102.1 Incorporation of Maps

The boundaries of districts established by this ordinance are shown on the official zoning map which are hereby incorporated into the provisions of this ordinance. The zoning map in its entirety, including all amendments shall be as much a part of this ordinance as if fully set forth and described herein.

5-102.2 Identification and Alteration of the Official Zoning Map

The official zoning map shall be identified by the signature of the mayor attested by the city recorder, and bearing the seal of the City under the following words: "This is to certify that this is the Official Zoning Map, referred to in Article IV, of the adopted Zoning Ordinance of the City of Fairview, Tennessee, together with the date of the adoption of such ordinance."

If, in accordance with the provisions of this ordinance changes are made in district boundaries or other matter portrayed on the official zoning map, such changes shall be entered on the official zoning map promptly after the amendment has been approved by the Board of Commissioners. No amendment to this ordinance which involves matter portrayed on the official zoning map shall become effective until after such change and entry has been made on said map.

No changes of any nature shall be made in the official zoning map or matter shown thereon, except in conformity with the procedures set forth in this ordinance. Any unauthorized change of whatever kind by any person or persons shall be considered a violation of this ordinance and punishable as provided under Article 17.

Regardless of the existence of purported copies of the official zoning map which may from time to time be made or published, the official zoning map which shall be located in the office of the City Planner shall be the final authority as to the current zoning status of land and water areas, buildings, and other structures in the City.

1. Replacement of Official Zoning Map

In the event that the official zoning map becomes damaged, destroyed, lost, or difficult to interpret because of the nature or number of changes and additions, the Board of Commissioners may, by resolution, adopt a new official zoning map which shall supersede the prior official zoning map. The new official zoning map may correct drafting or other errors or omissions in the prior official zoning map, but no such correction shall have the effect of amending the original official zoning map or any subsequent amendment, thereof. The new official zoning map shall be identified by the signature of the Mayor, attested by the City recorder, and bearing the seal of the City under the following words: *"This is to certify that this official zoning map supersedes and replaces the official zoning map adopted, by the City of Fairview, Tennessee."*

All prior official zoning maps or any significant parts, thereof, shall be preserved, together with all available records pertaining to their adoption or amendment.

5-103: RULES FOR INTERPRETATION OF DISTRICT BOUNDARIES

When uncertainty exists as to the boundaries of districts shown on the official zoning map, the following shall apply:

1. Boundaries indicated as approximately following the center lines of streets, highways, or alleys shall be construed to follow such center lines.
2. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
3. Boundaries indicated as approximately following city limits shall be construed as following such city limits.
4. Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks.
5. Boundaries indicated as following shore lines shall be construed to follow such shore lines, and in the event of change in the shore line shall be construed as moving with the actual shore line; boundaries indicated as approximately following the center lines of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such center lines.
6. Boundaries indicated as parallel to or extensions of features indicated in Subparts "A" through "E", of this section, above, shall be so construed. Distances not specifically indicated on the official zoning map shall be determined by the scale of map.

7. Where physical or cultural features existing on the ground are in conflict with those shown on the official zoning map, or in other circumstances not covered by Subparts "1" through "6", of this section, above, the City Planner shall research and make a determination on the district boundaries.

5-104: APPLICATION OF DISTRICT REGULATIONS

The regulations set by this ordinance within each district shall be minimum regulations and shall apply uniformly to each class or kind of structure or land, and particularly, except as hereinafter provided:

1. No building, structure, or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved, or structurally altered, except in conformity with all of the regulations herein specified for the district in which it is located.
2. No building or other structure shall hereafter be erected or altered, except as permitted under Planned Unit Development Regulations in Article 10:
 - A. To exceed the height or bulk.
 - B. To accommodate or house a greater number of families.
 - C. To occupy a greater percentage of lot area.
 - D. To have narrower or smaller rear yards, front yards, side yards, or other open space.
3. Except as may be expressly permitted under the provisions of Article 10 for Planned Unit Developments, no part of a yard, or other open space, or off-street parking or loading space required about or in connection with any building for the purpose of complying with this ordinance, shall be included as part of a yard, open space, or off-street parking or loading space similarly required for any other building.
4. No yard or lot existing at the time of passage of this ordinance shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this ordinance shall meet at least the minimum requirements established by this ordinance.

5-105: ZONING OF ANNEXED TERRITORY

All territory which may hereafter be annexed to the City of Fairview, shall, unless, otherwise specified, be zoned "RS-40, Low Density Residential". Such annexed territory shall retain such zoning classification until necessary studies are made by the Planning Commission and the official zoning map is amended in the manner provided in Article 17.

ARTICLE 6: RESIDENTIAL DISTRICT REGULATIONS

SECTIONS

6-101: PURPOSES of RESIDENTIAL DISTRICTS

6-102: USES and STRUCTURES

6-103: LOT AREA, YARDS, DENSITY, BUILDING SEPARATION – GENERAL REGULATIONS

6-104: PURPOSES AND INTENT OF AR – AGRICULTURAL/RESIDENTIAL DISTRICTS

6-105: PURPOSE AND INTENT OF RS-40 – SINGLE FAMILY RESIDENTIAL DISTRICTS

6-106: PURPOSE AND INTENT OF R-20 – ONE- AND TWO- FAMILY RESIDENTIAL DISTRICTS

6-107: PURPOSE AND INTENT OF RS-15 – SINGLE FAMILY RESIDENTIAL DISTRICTS

6-108: PURPOSE AND INTENT OF RS-10 – SINGLE FAMILY RESIDENTIAL DISTRICTS

6-109: PURPOSE AND INTENT OF RS-8 – SINGLE-FAMILY RESIDENTIAL DISTRICTS

6-110: PURPOSE AND INTENT OF RS-5 – SINGLE FAMILY RESIDENTIAL DISTRICTS

6-111: PURPOSE AND INTENT OF RM-20 – MULTI-FAMILY RESIDENTIAL DISTRICTS

6-112: PURPOSE AND INTENT OF RM-12 – MULTI-FAMILY RESIDENTIAL DISTRICTS

6-113: PURPOSE AND INTENT OF RM-8 – MULTI-FAMILY RESIDENTIAL DISTRICTS

6-114: PURPOSE AND INTENT OF R-MHP – MANUFACTURED HOME RESIDENTIAL DISTRICTS

SECTION 6-101: PURPOSES of RESIDENTIAL DISTRICTS

SECTION 6.101.1 General Purposes

1. The residential districts established in this ordinance are designed to promote and protect the health, safety, morals, convenience, order, prosperity, and other aspects of the general welfare. These goals include, among others, the following:
2. To provide sufficient space in appropriate locations for residential developments to adequately meet the housing needs of the present and expected future population of the urban area, with due allowance to the need for a variety of choices in site selection.
3. To permit improved movement on the public ways and to effectively utilize existing public ways, and, as far as possible, to mitigate the effects of heavy traffic and more particularly all through traffic, in residential areas.
4. To protect residential areas against flood, fire, explosions, toxic and noxious matter, radiation, and other dangers, and against offensive matter, heat, glare, humidity, and other objectionable influences.
5. To protect residential areas against undue congestion, as far as possible, by regulating the density of population, the intensity of activity, and the bulk of buildings in relation to the surrounding land and to one another, and by providing for off-street parking spaces for automotive vehicles.

6. To require the provision of open space in residential areas whenever practicable in order to open up residential areas to light and air, to provide open areas for rest and recreation, and to break up the monotony of continuous building bulk and thereby to provide a more desirable living environment.
7. To provide for access of light and air to windows and for privacy, as far as possible, by controls over the height of buildings and structures.
8. To provide appropriate space for public and private educational, religious, recreational, and similar facilities, and public utilities which serve the needs of nearby residents, which generally perform their own activities more effectively in a residential environment, and which do not create objectionable influences, and to coordinate the intensity of residential land use with the appropriate community facilities.
9. To provide a zoning framework conducive to freedom of architectural design in order to encourage the development of more attractive and economical building forms.
10. To provide sufficient space in appropriate locations for agricultural activities.
11. To promote the most desirable use of land and direction of building development in accordance with a well-considered general plan to promote stability of residential development, to protect the character of the district and its peculiar suitability for particular uses, to conserve the value of land and buildings, and to protect the community's tax revenues.

SECTION 6-102: USES and STRUCTURES

SECTION 6-102.1 GENERAL PROVISIONS

Principal uses of buildings or other structures and land have been classified and combined into major classes and activity types in Article III, of this ordinance. The procedure for interpreting the classes and type of activities is provided in Article 3, Section 3-101. The following sections presents uses and structures which are classified as "principal permitted" (P), "permitted with supplemental provisions" (SUP) or "conditional" (C) uses within the various residential districts. The supplemental design provisions with which (SUP) and (C) uses and activities are required to comply are presented in Article 4, Section 4-101 (Supplemental Use Regulations).

SECTION 6-102.2 PRINCIPAL PERMITTED USES (P)

Principal permitted uses are permitted as a matter of right within the district indicated, subject to the general requirements established for the district wherein the use is located.

SECTION 6-102.3 USE PERMITTED WITH SUPPLEMENTAL PROVISIONS (SUP)

A use permitted with supplemental provisions is an activity, use or structure which is permitted subject to a finding by the City Planner that the specific standards indicated for the use in question have been met. Only those uses and structures so indicated in Article 4, Section 4-101, may be allowed within the districts indicated.

SECTION 6-102.4 CONDITIONAL USES (C)

A conditional use is an activity, use, or structure which may require large land area, have unique operating, traffic generating or other characteristics that may tend to dominate or adversely affect the area more than do other uses permitted within the same zone district. Because the impacts of these uses cannot be satisfactorily predetermined for every possible location within a zone district, these land uses are permitted only upon approval by the Board of Appeals. Only those uses and structures so indicated in Article 4, Section 4-102, may be allowed within the districts indicated.

SECTION 6-102.5 ACCESSORY USES

In addition to the principal activities expressed above, each activity type shall be deemed to include activities customarily associated with, and appropriate, incidental, and subordinate to the principal activity when such accessory activity is located on the same zone lot as such principal activity and meets the further conditions set forth in Article 4, Section 4-103. Such accessory activities shall be controlled in the same manner as the principal activities within such type, except as otherwise, expressly provided in this ordinance.

SECTION 6-102.6 TEMPORARY USES

The temporary uses and structures specified in Article 4, Section 4-104, as permissible within residential districts may be permitted for the limited time periods indicated for each such use or activity.

SECTION 6-102.7 USES NOT PERMITTED

Any uses or structures not allowable as permitted uses, conditional uses, temporary uses or accessory uses are prohibited within the various residential districts.

SECTION 6-102.8 RESTRICTIONS OF BUILDINGS PERMITTED ON RESIDENTIAL ZONE LOTS

Only one (1) principal building may be permitted on any zone lot, except as may otherwise be approved as follows:

1. As part of a complex of dwellings subject to the provisions of Section 7-101.1 Development Standards for Multi-Family Dwellings or Section 7-102.1 Development Standards for Manufactured Home Parks.
2. As part of a planned overlay district as provided in this ordinance.

SECTION 6-102.9 PERMITTED OBSTRUCTIONS IN REQUIRED YARDS

In all residential districts, the following shall not be considered obstructions when located within a required yard.

1. In Any Yard:
 - A. Air conditioning units, provided that no such unit shall extend more than one-half (1/2) the required width of the yard.
 - B. Arbors and trellises.
 - C. Awnings or canopies projecting from a building wall over a required yard not more than six (6) feet, and having no supports other than provided by the wall or its integral parts.
 - D. Chimneys projecting not more than three (3) feet into and not exceeding two (2) percent of the area, of the required yard.
 - E. Driveways subject to other specific provisions of this ordinance related directly thereto.
 - F. Eaves, gutters, or down spouts, projecting into or over required yards not more than twenty-four (24) inches or twenty (20) percent of the width of such yard, whichever is the lesser distance.
 - G. Fire escapes or staircases, the riser of which shall be at least fifty (50) percent open, and whose vertical projection downward onto a required yard does not project more than three (3) feet into, and not exceeding ten (10) percent of the area of the required yard.
2. In Any Rear Yard:
 - A. Accessory structures, provided that all accessory structures taken in total may occupy a maximum of thirty-five (35) percent of the rear yard area and all structures shall be located at least five (5) feet from the side and rear property line.

SECTION 6-102.10 GENERAL EXCEPTIONS TO HEIGHT REGULATIONS

The height limitation contained in the district regulations does not apply to spires, belfries, cupolas, radio towers, water tanks, ventilators, chimneys, or other appurtenances usually required to be placed above the roof level and not intended for human occupancy.

SECTION 6-103: LOT AREA, YARDS, DENSITY, and BUILDING SEPARATION GENERAL REQUIREMENTS

SECTION 6-103.1: LOT AREA REGULATION

1. Lot Dimensions - No lot shall be created and no building permit or zoning approval shall be issued for any lot that does not meet the following minimum dimensional requirements, unless otherwise provided in the preliminary development plan of a planned unit development.
2. Reduction in Lot Area - No lot, even though it may consist of one or more adjacent lots of record, shall be reduced in area so that yards, lot area per dwelling unit, lot width, building area, or other requirements of the zoning ordinance are not maintained. This section shall not apply when a portion of a lot is acquired for a public purpose.
3. Lot Frontage - All lots shall have a minimum of fifty (50) feet of frontage on a publicly dedicated and maintained street or a permanent access easement as defined and regulated by this ordinance, except that lots located along the terminus of a cul-de-sac shall have a minimum of thirty-five (35) feet of frontage.

SECTION 6-103.2: DENSITY REGULATIONS

1. Basic Requirement - The residential density permitted upon any zone lot found within the various residential districts is controlled by the development area required for each dwelling or rooming unit permitted to locate thereon. This is determined by dividing the total area of the zone lot by the "development area per dwelling or rooming unit" which are stated in the various residential zoning districts in Article 6.
2. Adjustment for Lot Area Remainder - In all districts where multi-family dwellings are permitted, if an amount of lot area not allocated to a dwelling unit is less than that required for one (1) additional dwelling, the remaining lot area may be used to satisfy lot area requirements if it represents not less than three-fourths (3/4) of the total required.

SECTION 6-103.3: YARDS – GENERAL REGULATIONS

1. In all residential districts, the width or depth of a yard shall be measured perpendicular to lot line equivalents and the yard diagram in Section 2-102.2 Definitions, shall be used in clarifying the meaning of the "line" and "yard" definitions of this section.
2. Application of the Lot Line Equivalent to Measurement of Yards -The following provisions shall apply in the determination of a lot line equivalent.
 - A. A front lot line equivalent is a straight line joining the foremost points of the side lot lines. In the case of rounded property corners at street intersections, the foremost point of a side lot line shall be assumed to be the point at which the side lot line and the front lot line would have met without such rounding.
 - B. A rear lot line equivalent is a straight line joining the rearmost points of the side lot lines.
 - C. A side lot line equivalent is a straight line joining the ends of the front yard line and the rear yard line on the same side of the zone lot.
3. Accessory Buildings - provided that one (1) such building may be permitted, within the rear yard of a lot, the building may occupy a maximum of twenty-five (25) percent of the rear yard area and shall be located at least five (5) feet from the side and rear property line.
4. Special Conditions Affecting Yards
 - A. Front Yards to be Measured from Future Street Lines - For the purpose of providing adequate space for the future widening of streets, required front yards shall be determined by the right-of-way as shown on the latest official major thoroughfare plan.
 - B. Rear Yard Exception for Through Lots - In all residential districts, no rear yard regulations shall apply to any through lot which extends less than two hundred fifty (250) feet in depth from street to street. The depth of such lot shall be considered to be the mean length of its side lot lines. In lieu thereof a front yard shall be required for each street frontage.
 - C. Yard Requirements for Zone Lots of Unusual Shape - In all residential districts, wherever a zone lot is of such unusual shape that the yard provisions of these regulations cannot be specifically applied, the City Planner may substitute special yard requirements for such lot only to the extent that these regulations are inapplicable and not to

exceed the average of the yard requirements on adjacent lots in the district.

- D. Special Yard Requirements for Corner Lots - The minimum required width of a side yard abutting a street shall be one-half (1/2) the minimum required front yard depth for the district. Parking within this side yard is prohibited.
- E. Minimum Side Yard for Residential Structure with Facade Parallel to a Side Lot Line - For any residential structure constructed with a front and/or rear building facade parallel to a side lot line, the required side yard shall be not less than one-half (1/2) the minimum required front yard depth for the district.
- F. Special Provisions for Front Yard Setback (Amended by Ordinance No. 509, August 16, 2001) - For all residential districts not located within the Town Center Overlay District, any alteration, addition or construction of a building or structure on a zone lot shall extend no closer to the street which abuts the designated front yard than the average of the distances of the buildings located within one hundred (100) feet on each side of the lot whereon the alteration, addition or construction is to occur; provided that no building shall be required to provide a front yard of greater than twice the minimum front yard for the district. The average front yard requirement shall not prohibit alterations or additions to an existing structure which has irregular front walls provided said alteration or addition extends no closer to the street than the existing closest front wall to the street. The board of appeals shall have jurisdiction to vary from this strict application upon property where such provision would create an undue hardship.
- G. Special Yards and Setbacks Along District Boundaries (Amended by Ordinance No. 509, August 16, 2001) - For all residential districts not located within the Town Center Overlay District, along such portion of the boundary of any multi-family or RMHP District, which coincides with a side or rear lot line of a zone lot in any other residential district, the following shall apply:
 - i. Residential Buffer Yards - An open area unobstructed from the ground to the sky shall be provided within the multi-family or R-MHP District, said area being at least thirty (30) feet in width or depth. Such open area shall not be used for accessory off-

street parking, or for accessory off-street loading, or for storage or processing of any kind.

- ii. Special Front Setbacks - Regardless of the front yard provisions established for any multi-family or R-MHP District, no building located on any zone lot adjacent to any other residential district shall extend closer to the street than the average of the distances of the buildings located within one hundred (100) feet of the lot; provided that no building shall be required to set back more than twice the minimum front yard applicable within the zoning district wherein it is located.

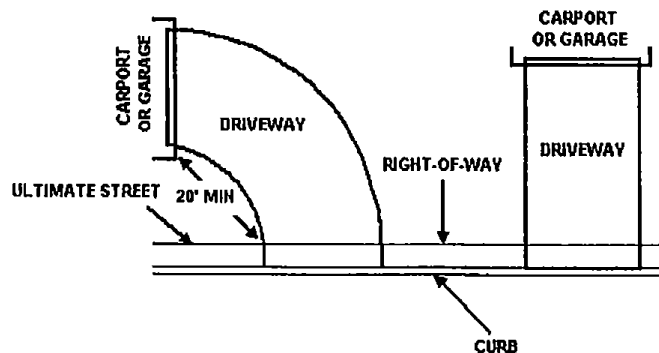
H. Location of Garages and Carports (Added by Ord. 671 in 2007)

i. Garages and Permanent Carports

a) Front Yard Setbacks

The placement of garages and carports on any building site used for residential purposes, including residential areas within planned overlay districts, shall comply with the front yard setback requirements for a principal building except as otherwise specified below.

In any instance where the building line is closer than twenty (20) feet from the ultimate right-of-way of a street or from a common driveway providing primary access and circulation to other dwelling units, attached and detached garages and permanent carports shall be located so that the entry is a minimum of twenty (20) feet, at the closest point from the sidewalk or curb line, if no sidewalk exists).



b) Side Yard Setbacks

A permanent carport may be located so as to cover a parking space or spaces located in any side yard provided that such structure may be located no closer than five (5) to the side lot line.

ii. Temporary Carports

a) Temporary Carports may be located to the rear of any principal dwelling. Such structures may be located no closer than five (5) feet to any side or rear lot line.

5. Separation of Building on the Same Lot (Amended by Ordinance No. 509, August 16, 2001)

A. For all residential districts not located within the Town Center Overlay District, in any residential district where more than one (1) principal building may be located upon a single zone lot, the minimum distance between such buildings shall be the greater of thirty (30) feet or the separation required by adopted building and fire codes.

6. Special Provisions for Party Walls

Within those districts where semi-detached and attached dwellings are permitted the following shall apply:

A. The governing building and fire codes shall apply to all construction details of firewalls.

B. The firewall shall bisect the line dividing each portion of the building or lot so that one-half (1/2) of the firewall is held by each of the abutting properties.

C. If a firewall is destroyed or damaged by fire or other casualty, any owner may restore said wall and if other owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use without prejudice, however, to the right of any such owner to call for a larger contribution from the others under any rule of law requiring liability for negligent or willful acts and omissions.

D. Each abutter who may share in the ownership of any firewall shall have an easement on the property of any other owner(s) for the purpose of reconstruction and protection of remaining unit(s) from the elements.

SECTION 6-104: PURPOSES AND INTENT OF AR – AGRICULTURAL/RESIDENTIAL DISTRICTS

These districts are designed to provide suitable areas for the growing of crops, animal husbandry, dairying, forestry, and other similar intensive agricultural activities which generally occur and characterize rural rather than urban areas. These districts are designed, furthermore, to provide for very low density residential development generally on un-subdivided tracts of land where public water and sewer service may not be available and where the provision of appropriate urban services cannot be physically and economically facilitated. In addition, these districts may include areas and lands not suited by reason of soil, geologic, topographic, or other limitations for development. These districts also include community facilities, public utilities, and open uses which serve specifically the residents of these districts, or that are benefited by an open environment without creating objectionable or undesirable influences that are incompatible with a rural environment. It is the express purpose of this ordinance to exclude from these districts all buildings or other structures and uses having commercial characteristics, whether operated for profit or otherwise, except that conditional uses and home occupations specifically provided by these regulations for these districts shall be considered as not having such characteristics if they otherwise conform to the provisions of this ordinance.

SECTION 6-104.1: AR-15A ZONE DISTRICT

1. PERMITTED USES

A. Residential Activities

- i. Single Family Dwelling

B. Community Facilities Activities

- i. Civil Defense Facilities
- ii. Fire Department Facilities
- iii. Police Department Facilities
- iv. Parks, Playgrounds, And Playfields

C. Essential Public Transport, Utility and Communication

- i. Pumping Facilities for Water and Sewer Systems
- ii. Rights-Of-Way for All Modes of Transportation

D. Agricultural and Extractive

- i. Agriculture – General
- ii. Plant Nursery
- iii. Sod Farming

2. USES PERMITTED WITH SUPPLEMENTAL PROVISIONS (SUP)

A. Child Care Facilities

- i. Family Child Care Home

3. CONDITIONAL USES

A. Community Facilities Activities

- i. Group Child Care Home
- ii. Civic, Social, Fraternal and Philanthropic Associations
- iii. Private (non-profit) Clubs, Lodges, Meeting Halls, and Recreation Centers
- iv. Athletic Associations
- v. Libraries
- vi. Recreation Centers and Gymnasiums (Non-Profit)
- vii. Swimming Pools and Beaches
- viii. Gas, Telephone, Television, and Water Distribution Lines
- ix. Major Petroleum and Natural Gas Transmission Lines and Facilities
- x. Cemeteries, Columbarium, and Mausoleums
- xi. Electrical and Gas Substations
- xii. Golf Courses
- xiii. Radio, Telephone and Television Towers and Transmission Facilities
- xiv. Water Storage Tanks and Facilities
- xv. Religious Facilities
- xvi. Assisted Living Facilities for Elderly and Handicapped Persons
- xvii. Convalescent Homes
- xviii. Day Care Facilities for Elderly Persons
- xix. Family Care Facilities
- xx. Group Care Facilities
- xxi. Nursing Homes

B. Agricultural And Extractive

- i. Feedlots
- ii. Poultry and Egg Production Operations
- iii. Crop Drying, Storage and Processing Services
- iv. Crop Planting, Cultivation, and Protection Services
- v. Horticultural Services
- vi. Soil Preparation Services
- vii. Veterinary Services for Livestock
- viii. Borrow Pits Involving Soil Extraction and Off-Site Use

4. ACCESSORY USES

A. Permitted Uses

- i. Farm Buildings
- ii. Home Child Care
- iii. Private Recreational Facilities

B. Conditional Uses

- i. Bed and Breakfast Establishment
- ii. Major Home Occupations (As Defined In Section 3.105-2(6))
- iii. Off-Street Parking

C. Accessory Uses With Supplemental Requirements

- i. Accessory Apartment
- i. Minor Home Occupations (As Defined in Section 3-105.1(6))
- ii. Parents Day Out Programs

5. BULK REGULATIONS

A. Minimum Zone Lot Requirements

- i. AREA – 15 Acres
- ii. WIDTH – 250 Feet (In Feet Measured at the Building Line)

B. Max Lot Coverage

- i. Five (5) Percent of Lot Area)

C. Development Area Per Dwelling Or Rooming Unit

- i. 15 Acres

D. Maximum Height

- i. 35 feet

E. Minimum Yard Requirements

- i. Residential Buildings
 - a) FRONT YARD – 50 Feet
 - b) SIDE YARD – 25 Feet
 - c) REAR YARD – 50 Feet

- ii. Community Facility And Other Buildings
 - a) FRONT YARD – 100 Feet
 - b) SIDE YARD – 50 Feet
 - c) REAR YARD – 50 Feet

F. SPECIAL YARD REQUIREMENTS FOR AGRICULTURAL ACTIVITIES

- iii. Within those residential districts where agricultural activities are permitted there shall be provided a minimum yard from all property lines of not less than one hundred (100) feet for all permitted barns and other structures, including feed lots and pens, where animals are maintained.

SECTION 6-104.2: AR-5A ZONE DISTRICT

1. PERMITTED USES

- B. Residential Activities
 - i. Single Family Dwelling

- C. Community Facilities Activities
 - i. Civil Defense Facilities
 - ii. Fire Department Facilities
 - iii. Police Department Facilities
 - iv. Parks, Playgrounds, And Playfields

- D. Essential Public Transport, Utility And Communication
 - i. Pumping Facilities For Water And Sewer Systems
 - ii. Rights-Of-Way For All Modes Of Transportation

- E. Agricultural And Extractive
 - i. Agriculture – General
 - ii. Forest Nursery
 - iii. Plant Nursery
 - iv. Sod Farming

2. USES PERMITTED WITH SUPPLEMENTAL PROVISIONS (SUP)

- A. Child Care Facilities
 - i. Family Child Care Home

3. CONDITIONAL USES

- A. Community Facilities Activities
 - i. Group Child Care Home
 - ii. Civic, Social, Fraternal and Philanthropic Associations
 - iii. Private (non-profit) Clubs, Lodges, Meeting Halls, and Recreation Centers
 - iv. Athletic Associations
 - v. Libraries
 - vi. Recreation Centers and Gymnasiums (Non-Profit)
 - vii. Swimming Pools and Beaches
 - viii. Gas, Telephone, Television, and Water Distribution Lines
 - ix. Major Petroleum and Natural Gas Transmission Lines and Facilities
 - x. Cemeteries, Columbarium, and Mausoleums
 - xi. Electrical and Gas Substations

- xii. Golf Courses
- xiii. Radio, Telephone and Television Towers and Transmission Facilities
- xiv. Water Storage Tanks and Facilities
- xv. Religious Facilities
- xvi. Assisted Living Facilities for Elderly and Handicapped Persons
- xvii. Convalescent Homes
- xviii. Day Care Facilities for Elderly Persons
- xix. Family Care Facilities
- xx. Group Care Facilities
- xxi. Nursing Homes

4. ACCESSORY USES

A. Permitted Uses

- i. Farm Buildings
- ii. Home Child Care
- iii. Private Recreational Facilities

B. Conditional Uses

- i. Bed and Breakfast Establishment
- i. Major Home Occupations (As Defined in Section 3-105.2(6))
- ii. Off-Street Parking

C. Accessory Uses With Supplemental Requirements

- i. Accessory Apartment
- ii. Minor Home Occupations (As Defined in Section 3-105.1(6))
- iii. Parents Day Out Programs

5. BULK REGULATIONS

A. Minimum Zone Lot Requirements

- i. AREA – 5 Acres
- ii. WIDTH – 150 Feet (In Feet Measured at the Building Line)

B. Max Lot Coverage (By All Buildings)

- i. Five (5) Percent of Lot Area)

C. Development Area Per Dwelling Or Rooming Unit

- i. 5 Acres

D. Maximum Height

- i. 35 Feet

E. Minimum Yard Requirements

- i. Residential Buildings

- a) FRONT YARD – 50 Feet
- b) SIDE YARD – 25 Feet
- c) REAR YARD – 20 Feet

- ii. Community Facility And Other Buildings

- a) FRONT YARD – 60 Feet
- b) SIDE YARD – 30 Feet
- c) REAR YARD – 30 Feet

6. SPECIAL YARD REQUIREMENTS FOR AGRICULTURAL ACTIVITIES

Within those residential districts where agricultural activities are permitted there shall be provided a minimum yard from all property lines of not less than one hundred (100) feet for all permitted barns and other structures, including feed lots and pens, where animals are maintained.

SECTION 6-105: PURPOSE AND INTENT OF RS-40 – SINGLE FAMILY RESIDENTIAL DISTRICTS

This district is designed to provide suitable areas for low density residential development characterized by an open appearance. Generally, the residential development will consist of one family dwellings and manufactured homes located on individual lots and accessory structures. This district also includes community facilities, public utilities, and open uses which serve specifically the residents of these districts, or which are benefited by an open residential environment without creating objectionable or undesirable influences upon residential developments. It is the intent of this ordinance that this district be located in areas where full urban services may not be available and may not be economically feasible to provide. It is the express purpose of this ordinance to exclude from this district, all buildings or other structures and uses having commercial characteristics, whether operated for profit or otherwise, except that conditional uses and home occupations specifically provided by these regulations for this district shall be considered as not having such characteristics if they otherwise conform to the provisions of this ordinance.

1. PERMITTED USES

A. Residential Activities

- i. Single Family Dwelling
- ii. Mobile Home Park

B. Community Facilities Activities

- i. Civil Defense Facilities
- ii. Fire Department Facilities
- iii. Police Department Facilities
- iv. Parks, Playgrounds, And Playfields

C. Essential Public Transport, Utility And Communication

- i. Pumping Facilities For Water And Sewer Systems
- ii. Rights-Of-Way For All Modes Of Transportation

2. USES PERMITTED WITH SUPPLEMENTAL PROVISIONS (SUP)

A. Child Care Facilities

- i. Family Child Care Home

3. CONDITIONAL USES

A. Community Facilities Activities

- i. Group Child Care Home

- ii. Civic, Social, Fraternal And Philanthropic Associations
- iii. Private (Non-Profit) Clubs, Lodges, Meeting Halls, And Recreation Centers
- iv. Athletic Associations
- v. Libraries
- vi. Recreation Centers and Gymnasiums (Non-Profit)
- vii. Swimming Pools and Beaches
- viii. Gas, Telephone, Television, and Water Distribution Lines
- ix. Major Petroleum and Natural Gas Transmission Lines and Facilities
- x. Cemeteries, Columbarium, and Mausoleums
- xi. Electrical and Gas Substations
- xii. Golf Courses
- xiii. Radio, Telephone and Television Towers and Transmission Facilities
- xiv. Water Storage Tanks and Facilities
- xv. Religious Facilities
- xvi. Assisted Living Facilities for Elderly and Handicapped Persons
- xvii. Convalescent Homes
- xviii. Day Care Facilities for Elderly Persons
- xix. Family Care Facilities
- xx. Group Care Facilities
- xxi. Nursing Homes

4. ACCESSORY USES

A. Permitted Uses

- i. Home Child Care
- ii. Private Recreational Facilities

B. Conditional Uses

- i. Bed And Breakfast Establishment
- ii. Major Home Occupations (As Defined In Section 3-105.2(6))
- iii. Off-Street Parking

C. Accessory Uses With Supplemental Requirements

- i. Accessory Apartment
- ii. Minor Home Occupations (As Defined In Section 3-105.1(6))
- iii. Parents Day Out Programs

5. BULK REGULATIONS

A. Minimum Zone Lot Requirements

- i. Area – 40,000 Square Feet
- ii. Width – 125 Feet (In Feet Measured At The Building Line)

B. Max Lot Coverage (By All Buildings)

- i. 15 Percent Of Lot Area

C. Development Area Per Dwelling Or Rooming Unit

- i. 40,000 Square Feet

D. Maximum Height

- i. 35 Feet

E. Minimum Yard Requirements

- iii. Residential Buildings
 - d) Front Yard – 50 Feet
 - e) Side Yard – 25 Feet
 - f) Rear Yard – 50 Feet

- iv. Community Facility And Other Buildings
 - d) Front Yard – 60 Feet
 - e) Side Yard – 30 Feet
 - f) Rear Yard – 30 Feet

SECTION 6-106: PURPOSE AND INTENT OF R-20 – ONE - AND TWO-FAMILY RESIDENTIAL DISTRICTS

This district is designed to provide suitable areas for single-family and duplex residential development at medium density. Residential development will consist of single detached dwelling structures and duplexes, except when otherwise permitted as a planned unit, and other structures as are accessory thereto. This district also includes community facilities, public utilities, and open uses which serve specifically the residents of these districts, or that are benefited by an open residential environment without creating objectionable or undesirable influences upon residential developments. Further, it is the intent of this ordinance that this district be located so that the provision of appropriate urban services can be physically and economically facilitated, and so that provision is made for the orderly expansion and maintenance of urban residential development throughout the planning jurisdiction. It is the express purpose of this ordinance to exclude from this district all buildings or other structures and uses having commercial characteristics, whether operated for profit or otherwise, except that conditional uses and home occupations specifically provided by these regulations for this district shall be considered as not having such characteristics if they otherwise conform to the provisions of this ordinance.

1. PERMITTED USES

A. Residential Activities

- i. Single Family Dwelling
- ii. Duplex Dwelling

B. Community Facilities Activities

- i. Civil Defense Facilities
- ii. Fire Department Facilities
- iii. Police Department Facilities
- iv. Parks, Playgrounds, And Playfields

C. Essential Public Transport, Utility And Communication

- i. Pumping Facilities For Water And Sewer Systems
- ii. Rights-Of-Way For All Modes Of Transportation

2. USES PERMITTED WITH SUPPLEMENTAL PROVISIONS (SUP)

A. Child Care Facilities

- i. Family Child Care Home

3. CONDITIONAL USES

A. Community Facilities Activities

- i. Group Child Care Home
- ii. Civic, Social, Fraternal And Philanthropic Associations
- iii. Private (Non-Profit) Clubs, Lodges, Meeting Halls, And Recreation Centers
- iv. Athletic Associations
- v. Libraries
- vi. Recreation Centers And Gymnasiums (Non-Profit)
- vii. Swimming Pools And Beaches
- viii. Gas, Telephone, Television, And Water Distribution Lines
- ix. Major Petroleum And Natural Gas Transmission Lines And Facilities
- x. Cemeteries, Columbarium, And Mausoleums
- xi. Electrical And Gas Substations
- xii. Golf Courses
- xiii. Radio, Telephone And Television Towers And Transmission Facilities
- xiv. Water Storage Tanks And Facilities
- xv. Religious Facilities
- xvi. Assisted Living Facilities For Elderly And Handicapped Persons
- xvii. Convalescent Homes
- xviii. Day Care Facilities For Elderly Persons
- xix. Family Care Facilities
- xx. Group Care Facilities
- xxi. Nursing Homes

4. ACCESSORY USES

A. Permitted Uses

- i. Home Child Care
- ii. Private Recreational Facilities

B. Conditional Uses

- i. Bed and Breakfast Establishment
- ii. Major Home Occupations (As Defined In Section 3-105.2(6))
- iii. Off-Street Parking

- C. Accessory Uses With Supplemental Requirements
 - i. Accessory Apartment
 - ii. Minor Home Occupations (As Defined in Section 3-105.1(6))
 - iii. Parents Day Out Programs

5. BULK REGULATIONS

A. Minimum Zone Lot Requirements

- i. Area – 20,000 Square Feet
- ii. Width – 100 Feet (In Feet Measured At The Building Line)

B. Max Lot Coverage (By All Buildings)

- i. 20 Percent Of Lot Area

C. Development Area Per Dwelling Or Rooming Unit

- i. 10,000 Square Feet

D. Maximum Height

- i. 35 Feet

E. Minimum Yard Requirements

i. Residential Buildings

- a) Front Yard – 35 Feet
- b) Side Yard – 15 Feet
- c) Rear Yard – 20 Feet

ii. Community Facility And Other Buildings

- a) Front Yard – 40 Feet
- b) Side Yard – 25 Feet
- c) Rear Yard – 25 Feet

F. SPECIAL REQUIREMENTS PERTAINING TO DUPLEX DWELLINGS WITHIN R-20 ZONE DISTRICTS

- 1. No property proposed for the location of duplex dwellings shall be reclassified to the R-20 Zone District, unless such district is overlain by a Residential Planned Unit Development.

SECTION 6-107: PURPOSE AND INTENT OF RS-15 – SINGLE FAMILY RESIDENTIAL DISTRICTS (AMENDED BY ORD. 649 – 11/2/2006)

This district is designated to provide suitable areas in a range of for medium density residential development. Generally, the residential development will consist of one family dwellings and accessory structures. This district also includes community facilities and public utilities, and open uses which serve specifically the residents of this district, or which are benefited by an open residential environment. Further, it is the intent of this ordinance that this district be located so that the provision of appropriate urban services will be physically and economically facilitated and so that provision is made for the orderly expansion and maintenance of urban residential development within the urban area. In order to permit maximum flexibility in the design solutions and ownership mechanisms available within these districts while maintaining necessary control over the development process. It is the express purpose of this ordinance to exclude from this district all buildings and other structures and uses having commercial characteristics, whether operated for profit or otherwise, except that conditional uses and home occupations specifically provided for in these regulations for this district shall be considered as not having such characteristics if they otherwise conform to the provisions of this ordinance.

1. PERMITTED USES

A. Residential Activities

- i. Single Family Dwelling

B. Community Facilities Activities

- i. Civil Defense Facilities
- ii. Fire Department Facilities
- iii. Police Department Facilities
- iv. Parks, Playgrounds, And Playfields

C. Essential Public Transport, Utility And Communication

- i. Gas, Telephone, Television, And Water Distribution Lines
- ii. Pumping Facilities For Water And Sewer Systems
- iii. Rights-Of-Way For All Modes Of Transportation

2. USES PERMITTED WITH SUPPLMENTAL PROVISIONS (SUP)

A. Child Care Facilities

- i. Family Child Care Home

3. CONDITIONAL USES

A. Community Facilities Activities

- i. Group Child Care Home
- ii. Civic, Social, Fraternal and Philanthropic Associations
- iii. Private (non-profit) Clubs, Lodges, Meeting Halls, and Recreation Centers
- iv. Athletic Associations
- v. Libraries
- vi. Recreation Centers and Gymnasiums (Non-Profit)
- vii. Swimming Pools and Beaches
- viii. Major Petroleum and Natural Gas Transmission Lines and Facilities
- ix. Cemeteries, Columbarium, and Mausoleums
- x. Electrical and Gas Substations
- xi. Golf Courses
- xii. Radio, Telephone and Television Towers and Transmission Facilities
- xiii. Water Storage Tanks and Facilities
- xiv. Religious Facilities
- xv. Assisted Living Facilities for Elderly and Handicapped Persons
- xvi. Convalescent Homes
- xvii. Day Care Facilities for Elderly Persons
- xviii. Family Care Facilities
- xix. Group Care Facilities
- xx. Nursing Homes

4. ACCESSORY USES

A. Permitted Uses

- i. Home Child Care
- ii. Private Recreational Facilities

B. Conditional Uses

- i. Bed And Breakfast Establishment
- ii. Major Home Occupations (As Defined In Section 3-105.2(6))
- iii. Off-Street Parking

C. Accessory Uses With Supplemental Requirements

- i. Accessory Apartment
- ii. Minor Home Occupations (As Defined In Section 3-105.1 (6))
- iii. Parents Day Out Programs

5. BULK REGULATIONS

A. Minimum Zone Lot Requirements

- i. Area – 15,000 Square Feet
- ii. Width – 75 Feet (In Feet Measured At The Building Line)

B. Max Lot Coverage (By All Buildings)

- i. 25 Percent Of Lot Area

C. Development Area Per Dwelling Or Rooming Unit

- i. 15,000 Square Feet

D. Maximum Height

- i. 35 Feet

E. Minimum Yard Requirements

- i. Residential Buildings
 - a) Front Yard – 30 Feet
 - b) Side Yard – 10 Feet
 - c) Rear Yard – 20 Feet
- ii. Community Facility And Other Buildings
 - a) Front Yard – 40 Feet
 - b) Side Yard – 20 Feet
 - c) Rear Yard – 20 Feet

SECTION 6-108: PURPOSE AND INTENT OF RS-10 – SINGLE FAMILY RESIDENTIAL DISTRICTS (AMENDED BY ORD. 649 – 11/2/2006)

This district is designated to provide suitable areas in a range of for medium density residential development. Generally, the residential development will consist of one family dwellings and accessory structures. This district also includes community facilities and public utilities, and open uses which serve specifically the residents of this district, or which are benefited by an open residential environment. Further, it is the intent of this ordinance that this district be located so that the provision of appropriate urban services will be physically and economically facilitated and so that provision is made for the orderly expansion and maintenance of urban residential development within the urban area. In order to permit maximum flexibility in the design solutions and ownership mechanisms available within these districts while maintaining necessary control over the development process, any RS-10 District shall in all instances be overlain by a Planned Overlay Development District. It is the express purpose of this ordinance to exclude from this district all buildings and other structures and uses having commercial characteristics, whether operated for profit or otherwise, except that conditional uses and home occupations specifically provided for in these regulations for this district shall be considered as not having such characteristics if they otherwise conform to the provisions of this ordinance.

1. PERMITTED USES

A. Residential Activities

- i. Single Family Dwelling

B. Community Facilities Activities

- i. Civil Defense Facilities
- ii. Fire Department Facilities
- iii. Police Department Facilities
- iv. Parks, Playgrounds, And Playfields

C. Essential Public Transport, Utility And Communication

- i. Gas, Telephone, Television, And Water Distribution Lines
- ii. Pumping Facilities For Water And Sewer Systems
- iii. Rights-Of-Way For All Modes Of Transportation

2. USES PERMITTED WITH SUPPLMENTAL PROVISIONS (SUP)

A. Child Care Facilities

- i. Family Child Care Home

3. CONDITIONAL USES

A. Community Facilities Activities

- i. Group Child Care Home
- ii. Civic, Social, Fraternal And Philanthropic Associations
- iii. Private (Non-Profit) Clubs, Lodges, Meeting Halls, And Recreation Centers
- iv. Athletic Associations
- v. Libraries
- vi. Recreation Centers And Gymnasiums (Non-Profit)
- vii. Swimming Pools And Beaches
- viii. Major Petroleum And Natural Gas Transmission Lines And Facilities
- ix. Cemeteries, Columbarium, And Mausoleums
- x. Electrical And Gas Substations
- xi. Golf Courses
- xii. Radio, Telephone And Television Towers And Transmission Facilities
- xiii. Water Storage Tanks And Facilities
- xiv. Religious Facilities
- xv. Assisted Living Facilities For Elderly And Handicapped Persons
- xvi. Convalescent Homes
- xvii. Day Care Facilities For Elderly Persons
- xviii. Family Care Facilities
- xix. Group Care Facilities
- xx. Nursing Homes

4. ACCESSORY USES

A. Permitted Uses

- i. Home Child Care
- ii. Private Recreational Facilities

B. Conditional Uses

- i. Bed And Breakfast Establishment
- ii. Major Home Occupations (As Defined In Section 3-105.2(6))
- iii. Off-Street Parking

C. Accessory Uses With Supplemental Requirements

- i. Accessory Apartment
- ii. Minor Home Occupations (As Defined In Section 3-105.1(6))

iii. Parents Day Out Programs

5. BULK REGULATIONS

A. Minimum Zone Lot Requirements

- i. Area – 10,000 Square Feet
- ii. Width – 60 Feet (In Feet Measured At The Building Line)

B. Max Lot Coverage (By All Buildings)

- i. 40 Percent Of Lot Area

C. Development Area Per Dwelling Or Rooming Unit

- i. 10,000 Square Feet

D. Maximum Height

- i. 35 Feet

E. Minimum Yard Requirements

- i. Residential Buildings
 - a) Front Yard – 20 Feet
 - b) Side Yard – 7.5 Feet
 - c) Rear Yard – 20 Feet
- ii. Community Facility And Other Buildings
 - a) Front Yard – 30 Feet
 - b) Side Yard – 15 Feet
 - c) Rear Yard – 20 Feet

F. SPECIAL REQUIREMENTS PERTAINING TO THE SIZE AND LOCATION OF LOTS WITHIN RS-10 DISTRICTS

- i. No RS-10 Zoning District shall be created after the adoption of this amendment, unless such district is overlain by a Planned Overlay District approved in accordance with the standards established in Article 10, of this ordinance. Lots proposed for location within the RS-10 zoning district shall adhere to the following criteria pertaining to their number and location.

SECTION 6-109: PURPOSE AND INTENT OF RS-8 – SINGLE FAMILY RESIDENTIAL DISTRICTS

This district is designated to provide suitable areas in a range of for medium density residential development. Generally, the residential development will consist of one family dwellings and accessory structures. This district also includes community facilities and public utilities, and open uses which serve specifically the residents of this district, or which are benefited by an open residential environment. Further, it is the intent of this ordinance that this district be located so that the provision of appropriate urban services will be physically and economically facilitated and so that provision is made for the orderly expansion and maintenance of urban residential development within the urban area. In order to permit maximum flexibility in the design solutions and ownership mechanisms available within these districts while maintaining necessary control over the development process, any RS-8 District shall in all instances be overlain by a Planned Overlay District and shall only be located within the Town Center Overlay District (TCOD). It is the express purpose of this ordinance to exclude from this district all buildings and other structures and uses having commercial characteristics, whether operated for profit or otherwise, except that conditional uses and home occupations specifically provided for in these regulations for this district shall be considered as not having such characteristics if they otherwise conform to the provisions of this ordinance.

1. Permitted Uses

A. Residential Activities

- i. Single Family Dwelling

B. Community Facilities Activities

- i. Civil Defense Facilities
- ii. Fire Department Facilities
- iii. Police Department Facilities
- iv. Parks, Playgrounds, And Playfields

C. Essential Public Transport, Utility And Communication

- i. Pumping Facilities For Water And Sewer Systems
- ii. Rights-Of-Way For All Modes Of Transportation

2. Conditional Uses

A. Community Facilities Activities

- i. Family Child Care Home
- ii. Civic, Social, Fraternal And Philanthropic Associations

- iii. Private (Non-Profit) Clubs, Lodges, Meeting Halls, And Recreation Centers
- iv. Athletic Associations
- v. Libraries
- vi. Recreation Centers And Gymnasiums (Non-Profit)
- vii. Swimming Pools And Beaches
- viii. Gas, Telephone, Television, And Water Distribution Lines
- ix. Major Petroleum And Natural Gas Transmission Lines And Facilities
- x. Cemeteries, Columbarium, And Mausoleums
- xi. Electrical And Gas Substations
- xii. Golf Courses
- xiii. Radio, Telephone And Television Towers And Transmission Facilities
- xiv. Water Storage Tanks And Facilities
- xv. Religious Facilities
- xvi. Assisted Living Facilities For Elderly And Handicapped Persons
- xvii. Convalescent Homes
- xviii. Day Care Facilities For Elderly Persons
- xix. Family Care Facilities
- xx. Group Care Facilities
- xxi. Nursing Homes

3. Accessory Uses

A. Permitted Uses

- i. Home Child Care
- ii. Private Recreational Facilities

B. Conditional Uses

- i. Bed And Breakfast Establishment
- ii. Major Home Occupations (As Defined In Section 3-105.2(6))
- iii. Off-Street Parking

C. Accessory Uses With Supplemental Requirements

- i. Accessory Apartment
- ii. Minor Home Occupations (As Defined In Section 3-105.1(6))
- iii. Parents Day Out Programs

4. Bulk Regulations

A. Minimum Zone Lot Requirements

- i. Area – 8,000 Square Feet
 - ii. Width – 50 Feet (In Feet Measured At The Building Line)
- B. Max Lot Coverage (By All Buildings)
 - i. 45 Percent Of Lot Area
- C. Development Area Per Dwelling Or Rooming Unit
 - i. 8,000 Square Feet
- D. Maximum Height
 - i. 35 Feet
- E. Minimum Yard Requirements
 - i. Residential Buildings
 - a) Front Yard – 20 Feet
 - b) Side Yard – 5 Feet
 - c) Rear Yard – 20 Feet
 - ii. Community Facility And Other Buildings
 - a) Front Yard – 30 Feet
 - b) Side Yard – 15 Feet
 - c) Rear Yard – 20 Feet
- F. Maximum Impervious Surface Ratio (As Percent Of Lot Area)
 - i. 70 Percent Of Lot Area
- G. Special Requirements Pertaining To The Size And Location Of Lots Within Rs-8 Districts
 - i. No RS-8 Zoning District shall be created after the adoption of this amendment, unless such district is overlain by a Planned Overlay District approved in accordance with the standards established in Article 10, of this ordinance. Lots proposed for location within the RS-8 zoning district shall adhere to the following criteria pertaining to their number and location.
 - ii. RS-8 zone districts may only be located within the Town Center Overlay District.

SECTION 6-110: PURPOSE AND INTENT OF RS-5 – SINGLE FAMILY RESIDENTIAL DISTRICTS

This district is designated to provide suitable areas in a range of for medium density residential development. Generally, the residential development will consist of one family dwellings and accessory structures. This district also includes community facilities and public utilities, and open uses which serve specifically the residents of these districts, or which are benefited by an open residential environment. Further, it is the intent of this ordinance that this district be located so that the provision of appropriate urban services will be physically and economically facilitated and so that provision is made for the orderly expansion and maintenance of urban residential development within the urban area. In order to permit maximum flexibility in the design solutions and ownership mechanisms available within these districts while maintaining necessary control over the development process, any RS-5 District shall in all Instances be overlain by a Planned Overlay District and shall only be located within the Town Center Overlay District (TCOD). It is the express purpose of this ordinance to exclude from this district all buildings and other structures and uses having commercial characteristics, whether operated for profit or otherwise, except that conditional uses and home occupations specifically provided for in these regulations for this district shall be considered as not having such characteristics if they otherwise conform to the provisions of this ordinance.

1. Permitted Uses

A. Residential Activities

- i. Single Family Dwelling

B. Community Facilities Activities

- i. Civil Defense Facilities
- ii. Fire Department Facilities
- iii. Police Department Facilities
- iv. Parks, Playgrounds, And Playfields

C. Essential Public Transport, Utility And Communication

- i. Pumping Facilities For Water And Sewer Systems
- ii. Rights-Of-Way For All Modes Of Transportation

2. Conditional Uses

A. Community Facilities Activities

- i. Family Child Care Home

- ii. Civic, Social, Fraternal And Philanthropic Associations
- iii. Private (Non-Profit) Clubs, Lodges, Meeting Halls, And Recreation Centers
- iv. Athletic Associations
- v. Libraries
- vi. Recreation Centers And Gymnasiums (Non-Profit)
- vii. Swimming Pools And Beaches
- viii. Gas, Telephone, Television, And Water Distribution Lines
- ix. Major Petroleum And Natural Gas Transmission Lines And Facilities
- x. Cemeteries, Columbarium, And Mausoleums
- xi. Electrical And Gas Substations
- xii. Golf Courses
- xiii. Radio, Telephone And Television Towers And Transmission Facilities
- xiv. Water Storage Tanks And Facilities
- xv. Religious Facilities
- xvi. Assisted Living Facilities For Elderly And Handicapped Persons
- xvii. Convalescent Homes
- xviii. Day Care Facilities For Elderly Persons
- xix. Family Care Facilities
- xx. Group Care Facilities
- xxi. Nursing Homes

3. Accessory Uses

A. Permitted Uses

- i. Home Child Care
- ii. Private Recreational Facilities

B. Conditional Uses

- i. Bed And Breakfast Establishment
- ii. Major Home Occupations (As Defined In Section 3-105.2(6))
- iii. Off-Street Parking

C. Accessory Uses With Supplemental Requirements

- i. Accessory Apartment
- ii. Minor Home Occupations (As Defined In Section 3-105.1(6))
- iii. Parents Day Out Programs

4. Bulk Regulations

A. Minimum Zone Lot Requirements

- i. Area – 5,000 Square Feet
- ii. Width – 40 Feet (In Feet Measured At The Building Line)

B. Max Lot Coverage (By All Buildings)

- i. 50 Percent Of Lot Area

C. Development Area Per Dwelling Or Rooming Unit

- i. 5,000 Square Feet

D. Maximum Height

- i. 35 Feet

E. Minimum Yard Requirements

- i. Residential Buildings
 - a) Front Yard – 15 Feet
 - b) Side Yard – 3 Feet
 - c) Rear Yard – 20 Feet
- ii. Community Facility And Other Buildings
 - a) Front Yard – 30 Feet
 - b) Side Yard – 15 Feet
 - c) Rear Yard – 20 Feet

F. Maximum Impervious Surface Ratio (As Percent Of Lot Area)

- i. 70 Percent Of Lot Area

G. Special Requirements Pertaining To The RS-5 Zone District

- i. No RS-5 zoning district shall be created after the adoption of this amendment, unless such district is overlain by a Planned Overlay District approved in accordance with the standards established in Article 10 of this ordinance.
- ii. RS-5 zone districts may only be located within the Town Center Overlay District.

SECTION 6-111: PURPOSE AND INTENT OF RM-20 – MULTI-FAMILY RESIDENTIAL DISTRICTS

This district is designed to provide suitable areas for high density residential development where sufficient urban facilities are available to serve higher concentrations of resident populations, most particularly within suitably designated sub-districts of the Town Center Overlay District. This district generally will be characterized by two (2) and three (3) story condominium or apartment style buildings, and multi-story senior living structures. This district is also intended to permit community facilities and public utility installations complimentary to and compatible within a high density residential environment. It is the express purpose of this ordinance to exclude from these districts all buildings and other structures and uses having commercial characteristics, whether operated for profit or otherwise, except that conditional uses and home occupations specifically provided for in these regulations by these districts shall be considered as not having such characteristics if they otherwise conform to the provisions of this ordinance.

1. Permitted Uses

A. Residential Activities

- i. Multi-Family Dwelling
- ii. Lodging House

B. Community Facilities Activities

- i. Civil Defense Facilities
- ii. Fire Department Facilities
- iii. Police Department Facilities
- iv. Parks, Playgrounds, And Playfields

2. Conditional Uses

A. Community Facilities Activities

- i. Civic, Social, Fraternal And Philanthropic Associations
- ii. Private (Non-Profit) Clubs, Lodges, Meeting Halls, And Recreation Centers
- iii. Athletic Associations
- iv. Libraries
- v. Cemeteries, Columbarium, And Mausoleums
- vi. Electrical And Gas Substations
- vii. Golf Courses

- viii. Radio, Telephone And Television Towers And Transmission Facilities
- ix. Religious Facilities
- x. Assisted Living Facilities For Elderly And Handicapped Persons
- xi. Convalescent Homes
- xii. Day Care Facilities For Elderly Persons
- xiii. Family Care Facilities
- xiv. Group Care Facilities
- xv. Nursing Homes

3. Uses Permitted With Supplemental Provisions (SUP)

A. Child Care Facilities

- i. Child Care Center
- ii. Family Child Care Home
- iii. Group Child Care Home

B. Commercial Activities

- i. Financial, Insurance And Real Estate Services
- ii. Convenience Retail Sales And Services
- iii. Professional Services – Medical
- iv. Professional Services – Non-Medical

4. Accessory Uses

A. Permitted Uses

- i. Home Child Care
- ii. Off-Street Parking
- iii. Private Recreational Facilities

B. Conditional Uses

- i. Major Home Occupations (As Defined In Section 3-105.2(6))

C. Accessory Uses With Supplemental Requirements

- i. Accessory Apartment
- ii. Bed And Breakfast Establishment
- iii. Minor Home Occupations (As Defined In Section 3-105.1(6))
- iv. Parents Day Out Programs

5. Bulk Regulations

A. Minimum Zone Lot Requirements

- i. Area – 5,000 Square Feet

- ii. Width – See Section 7.101-1 – Development Standards For Multi-Family Development
- B. Max Lot Coverage (By All Buildings)
 - i. 60 Percent Of Lot Area
- C. Development Area Per Dwelling Or Rooming Unit
 - i. 2,100 Square Feet
- D. Maximum Height
 - i. 35 Feet
- E. Minimum Yard Requirements
 - i. Residential Buildings
 - a) Front Yard – 20 Feet
 - b) Side Yard – 5 Feet
 - c) Rear Yard – 20 Feet
 - ii. Community Facility And Other Buildings
 - a) Front Yard – 30 Feet
 - b) Side Yard – 20 Feet
 - c) Rear Yard – 20 Feet
- F. Maximum Impervious Surface Ratio (As Percent Of Lot Area)
 - i. 70 Percent of Lot Area
- G. Commercial Uses Within The RM-20 Zone District
 - i. The Commercial Uses permitted within the RM-20 zone district shall be limited to 2,500 square feet per establishment.
 - ii. The Sale of Gasoline is not permitted in the RM-20 zone district.
- H. Development Standards For Multi-Family Dwellings
 - i. All Multi-Family Dwelling developments must also adhere to all Development Standards for Multi-Family Developments as stated in Section 7.101-1 of this zoning ordinance.

SECTION 6-112: PURPOSE AND INTENT OF RM-12 – MULTI-FAMILY RESIDENTIAL DISTRICTS

This district is designed to provide suitable areas for higher density residential development where sufficient urban facilities are available prior to development. This district will be characterized by multi-family housing and structures accessory, thereto. This district is intended also to permit community facilities and public utility installations which are necessary to service and do service specifically the residents of this district, or which are benefited by and compatible with a higher density residential environment. It is the express purpose of this ordinance to exclude from this district all buildings or other structures and uses having commercial characteristics and not planned as an integral part of a total residential development, whether operated for profit or otherwise, except that conditional uses and home occupations specifically provided for in these regulations for this district shall be considered as not having such characteristics if they otherwise conform to the provisions of this ordinance.

1. Permitted Uses

A. Residential Activities

- i. Multi-Family Dwelling
- ii. Lodging House

B. Community Facilities Activities

- i. Civil Defense Facilities
- ii. Fire Department Facilities
- iii. Police Department Facilities
- iv. Parks, Playgrounds, And Playfields

C. Essential Public Transport, Utility And Communication

- i. Pumping Facilities For Water And Sewer Systems
- ii. Rights-Of-Way For All Modes Of Transportation

2. Conditional Uses

A. Community Facilities Activities

- i. Civic, Social, Fraternal And Philanthropic Associations
- ii. Private (Non-Profit) Clubs, Lodges, Meeting Halls, And Recreation Centers
- iii. Athletic Associations
- iv. Libraries
- v. Recreation Centers And Gymnasiums (Non-Profit)

- vi. Swimming Pools And Beaches
- vii. Gas, Telephone, Television, And Water Distribution Lines
- viii. Major Petroleum And Natural Gas Transmission Lines And Facilities
- ix. Cemeteries, Columbarium, And Mausoleums
- x. Electrical And Gas Substations
- xi. Golf Courses
- xii. Radio, Telephone And Television Towers And Transmission Facilities
- xiii. Water Storage Tanks And Facilities
- xiv. Religious Facilities
- xv. Assisted Living Facilities For Elderly And Handicapped Persons
- xvi. Convalescent Homes
- xvii. Day Care Facilities For Elderly Persons
- xviii. Family Care Facilities
- xix. Group Care Facilities
- xx. Nursing Homes

3. Uses Permitted With Supplemental Provisions (Sup)

A. Child Care Facilities

- i. Child Care Center
- ii. Family Child Care Home
- iii. Group Child Care Home

B. Commercial Activities

- i. Financial, Insurance And Real Estate Services
- ii. Convenience Retail Sales And Services
- iii. Professional Services – Medical
- iv. Professional Services – Non-Medical

4. Accessory Uses

A. Permitted Uses

- i. Home Child Care
- ii. Off-Street Parking
- iii. Private Recreational Facilities

B. Conditional Uses

- i. Major Home Occupations (As Defined In Section 3-105.2(6))

C. Accessory Uses With Supplemental Requirements

- i. Accessory Apartment
- ii. Bed And Breakfast Establishment
- iii. Minor Home Occupations (As Defined In Section 3-105.1(6))

- iv. Parents Day Out Programs

5. **Bulk Regulations**

A. Minimum Zone Lot Requirements

- i. Area – 5,000 Square Feet
- ii. Width – See Section 7.101-1 – Development Standards For Multi-Family Development

B. Max Lot Coverage (By All Buildings)

- i. 60 Percent Of Lot Area

C. Development Area Per Dwelling Or Rooming Unit

- i. 3,600 Square Feet

D. Maximum Height

- i. 35 Feet

E. Minimum Yard Requirements

i. Residential Buildings

- a) Front Yard – 20 Feet
- b) Side Yard – 7.5 Feet
- c) Rear Yard – 20 Feet

ii. Community Facility And Other Buildings

- a) Front Yard – 30 Feet
- b) Side Yard – 20 Feet
- c) Rear Yard – 20 Feet

F. Maximum Impervious Surface Ratio (As Percent Of Lot Area)

- i. 50 Percent Of Lot Area

G. Commercial Uses Within The Rm-12 Zone District

- i. The Commercial Uses permitted within the RM-12 zone district shall be limited to 2,500 square feet per establishment.
- ii. The Sale of Gasoline is not permitted in the RM-12 zone district.

H. Development Standards For Multi-Family Dwellings

- i. All Multi-Family Dwelling developments must also adhere to all Development Standards for Multi-Family Developments as stated in Section 7.101-1 of this zoning ordinance.

SECTION 6-113: PURPOSE AND INTENT OF RM-8 – MULTI-FAMILY RESIDENTIAL DISTRICTS

This district is designed to provide suitable areas for higher density residential development where sufficient urban facilities are available prior to development. This district will be characterized by multi-family housing and structures accessory, thereto. This district is intended also to permit community facilities and public utility installations which are necessary to service and do service specifically the residents of this district, or which are benefited by and compatible with a higher density residential environment. It is the express purpose of this ordinance to exclude from this district all buildings or other structures and uses having commercial characteristics and not planned as an integral part of a total residential development, whether operated for profit or otherwise, except that conditional uses and home occupations specifically provided for in these regulations for this district shall be considered as not having such characteristics if they otherwise conform to the provisions of this ordinance.

1. Permitted Uses

A. Residential Activities

- i. Multi-Family Dwelling
- ii. Lodging House

B. Community Facilities Activities

- i. Civil Defense Facilities
- ii. Fire Department Facilities
- iii. Police Department Facilities
- iv. Parks, Playgrounds, And Playfields

C. Essential Public Transport, Utility And Communication

- i. Pumping Facilities For Water And Sewer Systems
- ii. Rights-Of-Way For All Modes Of Transportation

2. Conditional Uses

A. Community Facilities Activities

- i. Civic, Social, Fraternal And Philanthropic Associations
- ii. Private (Non-Profit) Clubs, Lodges, Meeting Halls, And Recreation Centers
- iii. Athletic Associations
- iv. Libraries
- v. Recreation Centers And Gymnasiums (Non-Profit)
- vi. Swimming Pools And Beaches

- vii. Gas, Telephone, Television, And Water Distribution Lines
- viii. Major Petroleum And Natural Gas Transmission Lines And Facilities
- ix. Cemeteries, Columbarium, And Mausoleums
- x. Electrical And Gas Substations
- xi. Golf Courses
- xii. Radio, Telephone And Television Towers And Transmission Facilities
- xiii. Water Storage Tanks And Facilities
- xiv. Religious Facilities
- xv. Assisted Living Facilities For Elderly And Handicapped Persons
- xvi. Convalescent Homes
- xvii. Day Care Facilities For Elderly Persons
- xviii. Family Care Facilities
- xix. Group Care Facilities
- xx. Nursing Homes

3. Uses Permitted With Supplemental Provisions (SUP)

A. Child Care Facilities

- i. Child Care Center
- ii. Family Child Care Home
- iii. Group Child Care Home

B. Commercial Activities

- i. Financial, Insurance And Real Estate Services
- ii. Convenience Retail Sales And Services
- iii. Professional Services – Medical
- iv. Professional Services – Non-Medical

4. ACCESSORY USES

A. Permitted Uses

- i. Home Child Care
- ii. Off-Street Parking
- iii. Private Recreational Facilities

B. Conditional Uses

- i. Major Home Occupations (As Defined In Section 3-105.2(6))

C. Accessory Uses With Supplemental Requirements

- i. Accessory Apartment

- ii. Bed And Breakfast Establishment
- iii. Minor Home Occupations (As Defined In Section 3-105.1(6))
- iv. Parents Day Out Programs

5. Bulk Regulations

A. Minimum Zone Lot Requirements

- i. Area – 5,400 Square Feet
- ii. Width – See Section 7.101-1 – Development Standards For Multi-Family Development

B. Max Lot Coverage (By All Buildings)

- i. 60 Percent Of Lot Area

C. Development Area Per Dwelling Or Rooming Unit

- i. 5,400 Square Feet

D. Maximum Height

- i. 35 Feet

E. Minimum Yard Requirements

i. Residential Buildings

- a) Front Yard – 20 Feet
- b) Side Yard – 7.5 Feet
- c) Rear Yard – 20 Feet

ii. Community Facility And Other Buildings

- a) Front Yard – 30 Feet
- b) Side Yard – 20 Feet
- c) Rear Yard – 20 Feet

F. Maximum Impervious Surface Ratio (As Percent Of Lot Area)

- i. 50 Percent Of Lot Area

G. Commercial Uses Within The RM-8 Zone District

- i. The Commercial Uses permitted within the RM-8 zone district shall be limited to 2,500 square feet per establishment.
- ii. The Sale of Gasoline is not permitted in the RM-8 zone district.

H. Development Standards For Multi-Family Dwellings

- i. All Multi-Family Dwelling developments must also adhere to all Development Standards for Multi-Family Developments as stated in Section 7.101-1 of this zoning ordinance.

SECTION 6-114: PURPOSE AND INTENT OF R-MHP – MANUFACTURED HOME PARK RESIDENTIAL DISTRICTS

This district is designed to provide suitable areas for manufactured home parks where sufficient urban facilities are available prior to development. Manufactured homes and buildings necessary to support the residential occupancy of these structures are permitted. This district is intended also to permit community facilities and public utility installations which are necessary to service and do service specifically the residents of this district, or which are benefited by and compatible with a residential environment. It is the express purpose of this ordinance to exclude from this district all buildings or other structures and uses having commercial characteristics and not planned as an integral part of a total residential development, whether operated for profit or otherwise, except that conditional uses and home occupations specifically provided for in these regulations for this district shall be considered as not having such characteristics if they otherwise conform to the provisions of this ordinance.

1. Permitted Uses

- A. Residential Activities
 - i. Mobile Home Park

- B. Community Facilities Activities
 - i. Civil Defense Facilities
 - ii. Fire Department Facilities
 - iii. Police Department Facilities
 - iv. Parks, Playgrounds, And Playfields

- C. Essential Public Transport, Utility And Communication
 - i. Pumping Facilities For Water And Sewer Systems
 - ii. Rights-Of-Way For All Modes Of Transportation

2. Conditional Uses

- A. Community Facilities Activities
 - i. Child Care Center
 - ii. Group Child Care Home
 - iii. Civic, Social, Fraternal And Philanthropic Associations
 - iv. Private (Non-Profit) Clubs, Lodges, Meeting Halls, And Recreation Centers
 - v. Athletic Associations
 - vi. Libraries
 - vii. Recreation Centers And Gymnasiums (Non-Profit)
 - viii. Swimming Pools And Beaches
 - ix. Gas, Telephone, Television, And Water Distribution Lines

- x. Major Petroleum And Natural Gas Transmission Lines And Facilities
- xi. Cemeteries, Columbarium, And Mausoleums
- xii. Electrical And Gas Substations
- xiii. Golf Courses
- xiv. Radio, Telephone And Television Towers And Transmission Facilities
- xv. Water Storage Tanks And Facilities
- xvi. Religious Facilities
- xvii. Assisted Living Facilities For Elderly And Handicapped Persons
- xviii. Convalescent Homes
- xix. Day Care Facilities For Elderly Persons
- xx. Family Care Facilities
- xxi. Group Care Facilities
- xxii. Nursing Homes

3. Uses Permitted With Supplemental Provisions (Sup)

- A. Child Care Facilities
 - i. Family Child Care Home

4. Accessory Uses And Activities

- A. Permitted Uses
 - i. Home Child Care
 - ii. Private Recreational Facilities

- B. Conditional Uses
 - i. Major Home Occupations (As Defined In Section 3-105.2(6))
 - ii. Off-Street Parking

- C. Accessory Uses With Supplemental Requirements
 - i. Minor Home Occupations (As Defined In Section 3-105.1(6))
 - ii. Parents Day Out Programs

5. Bulk Regulations

- A. Minimum Development And Lot Size Requirements
 - i. Minimum Development Size - 5 Acres - See Section 7-102.1(4)
 - ii. Minimum Lot Size – 5,000 Square Feet – See Section 7-102.1(7)

- B. Max Lot Coverage (See Section 7.102.1(6)(C))
 - i. Manufactured Home – 25 Percent
 - ii. Manufactured Home And Accessory Structures – 50 Percent

- C. Development Area Per Dwelling Or Rooming Unit
 - i. 5,000 Square Feet – See Section 7-102.1(7)

- D. Maximum Height
 - i. 30 Feet Or Two (2) Stories

- E. Minimum Yard Requirements
 - i. Residential Buildings
 - a) No Yards Required For Individual Lots - See Section 7.102.1(5)(B)
 - b) Periphery Of Development
 - i. Front Yard – See Section 6-103.3(D)(7)(B)
 - ii. Side Yard – 30 Feet – See Section 6-103.3(D)(7)(A)
 - iii. Rear Yard – 30 Feet - See Section 6-103.3(D)(7)(A)

 - i. Community Facility and Other Buildings
 - a) Front Yard – 30 Feet
 - b) Side Yard – 20 Feet
 - c) Rear Yard – 20 Feet

- F. Maximum Impervious Surface Ratio (As Percent Of Lot Area)
 - i. 60 Percent of Lot Area

- G. Development Standards For Manufactured Home Parks
 - i. All Manufactured Home Park developments must also adhere to all Development Standards for Manufactured Homes Parks as stated in Section 7.102.1 of this zoning ordinance.

6. Special Requirements Pertaining To The R-MHP Zone District

- A. No R-MHP Zoning District shall be created after the adoption of this amendment, unless such district is overlain by a Planned Overlay District approved in accordance with the standards established in Article 10, of this ordinance.

ARTICLE 7: SUPPLEMENTAL DESIGN PROVISIONS

SECTIONS

7-101: DEVELOPMENT STANDARDS FOR MULTI-FAMILY DWELLINGS

7-102: DEVELOPMENT STANDARDS FOR MANUFACTURED HOME PARKS

7-103: DEVELOPMENT STANDARDS FOR ATTACHED DWELLINGS

7-101: Development Standards for Multi-Family Dwellings

1. Purpose

The special provisions set forth herein are intended to provide design criteria for multi-family dwellings when located within two (2) or more buildings on a zone lot or portion of a zone lot.

2. Master Site Development Plan Required

It is the express purpose of these provisions to establish design criteria and to provide for implementation of these provisions by Planning Commission review of the Master Development Plan required for all such development by Article 17, Subsection 17-103.3.

3. Design Criteria, General

It is the intent that multi-family dwellings where they are permitted:

A. May be appropriately intermingled with other types of housing;

B. Developments not located within the Town Center Overlay District shall not contain more than six (6) dwelling units per floor on a single unbroken frontage.

C. Shall constitute groupings making efficient economical, comfortable, and convenient use of land and open space, and serving the public purposes of zoning by means alternative to conventional arrangements of yards and buildable areas.

4. Design Criteria, Detailed

A. Each dwelling unit shall be provided with reasonable visual and acoustical privacy. For developments not located within the Town Center Overlay District, a fence at least six (6) feet in height shall enclose the boundary of each multi-family development site. A detail of the proposed fence is to be presented with the site development plan. The aesthetic and protective nature of the proposed fence shall be considered an integral element of the overall site design and shall be reviewed as part of the design review process. Where in the

judgment of the Planning Commission alternative measures such as landscaping or placing of berms are found to provide equal or superior protection, these measures may be substituted for the fence. (Amended by Ordinance No. 509, August 16, 2001)

- A. Paved pedestrian walkways shall be provided for convenient and safe access to all living units and recreational facilities from the streets, driveways, parking courts or garages and for convenient circulation and access to all facilities.
- B. The appearance and character of the site shall be preserved and enhanced by retaining and protecting existing trees and other site features to the maximum extent feasible. Prior to any site clearing or development activity the developer shall submit a landscape plan along with the site development plan. Where necessary to provide both internal and external privacy and to screen out objectionable features such as noise or automobile lights, additional new plant material shall be added.
- C. Existing trees, shrubs, evergreens, and ground cover shall be retained to the extent that they enhance the project, are effective as a screen planting or are useful in protecting slopes from erosion.
- D. An adequate amenity package for occupants of the apartment shall be provided. The amenity package shall as a minimum include the following:
 - i. For developments not located within the Town Center Overlay District, exterior sitting areas with a total minimum area of twenty (20) square feet per bedroom, easily accessible by paved walkways to the residents such facilities are designed to serve. Generally, such facilities shall be located no more than seven hundred fifty (750) feet from any residential building it is to serve. All sitting areas shall be equipped, with benches, picnic tables and other passive recreational facilities. All such sites shall be suitably landscaped to enhance their intended function. (Amended by Ordinance No. 509, August 16, 2001)
 - ii. Play lots and/or playgrounds with a total minimum area of one hundred (100) square feet per bedroom. For RPUD developments located within the Town Center Overlay District, play lots and playgrounds shall be provided at the minimum rate of fifty (50) square feet per bedroom. These areas shall be provided with playground equipment sufficient to meet the needs of children

expected to reside within the complex. The individual pieces of playground equipment shall be specified on the site plan. All recreational equipment provided shall be durable commercial grade equipment which shall meet all Consumer Product Safety Commission safety guidelines as well as the ASTM F1487-93, public use playground standard.

- iii. The playground shall be served by paved pedestrian walks linking individual buildings to the recreational facility. Additional sitting areas may be substituted for playgrounds on a square foot for square foot basis when the development is planned for occupancy only by elderly adults. (Amended by Ordinance No. 509, August 16, 2001)
 - iv. For developments not located within the Town Center Overlay District, club house facilities shall be located within the development. A minimum floor area of two thousand (2,000) square feet shall be required for any development. In developments containing two hundred (200) or more dwelling units ten (10) square feet of additional floor area shall be provided for each unit thereafter. (Amended by Ordinance No. 509, August 16, 2001)
 - v. Centralized refuse (garbage) disposal facilities shall be provided. All dumping cart/bins shall be opaquely screened by either wood or masonry and landscaped.
 - vi. Street and area lights lighting the entire development.
- E. All private drives, parking areas or other vehicular ways used for the common access for two (2) or more residences shall be suitably paved and maintained as a condition approval of the project.
- F. All dwelling units shall be positioned so as to assure the availability of adequate fire protection. All buildings shall have a fire hydrant located within one hundred fifty (150) feet of the furthest point of each dwelling unit. A flow of two thousand five hundred gallons per minute (2,500 GPM) for one hour duration with a residual pressure of twenty pounds per square inch (20 psi) shall be available to all dwellings. As an alternative to upgrading water mains to fully meet these flow standards, multi-family dwellings may be provided internal protection in the form of sprinkling systems. In the event such systems are provided, the required fire flow may be reduced by fifty (50) percent from that required without such systems.

G. Every building utilized for multi-family dwellings shall be accessible to fire apparatus by way of access roadways with all-weather driving surfaces of not less than twenty (20) feet of unobstructed width, with adequate roadway turning radius capable of supporting the imposed loads of fire apparatus and having a minimum vertical clearance of thirteen feet six inches (13' 6"). The required width of the access roadway shall not be obstructed in any manner, including the parking of vehicles. No parking signs or other appropriate notice, or of approved obstructions inhibiting parking, may be required and if installed shall be maintained. No barriers may be placed within the development which would prevent emergency vehicles from pulling around or between buildings.

5. Required Improvements

The following shall be required:

A. Internal Streets

- i. In general, internal drives or travel ways located within any multifamily development shall be privately constructed and maintained.
- ii. The pavement width and geometric design standards of all internal drives or travel ways located within any multi-family development shall be as specified within the subdivision regulations. In any instance where an internal travel way is proposed for dedication as a public street, the pavement design shall meet or exceed that required in the subdivision regulations

B. Public Street Access

For planned overlay district developments located within the Town Center Overlay District, design of street access points shall be as established by the specific master plan, as approved by the Board of Commissioners. (Added by Ordinance No. 509, August 16, 2001)

- i. Reference the Fairview Subdivision Regulations to determine the minimum distance between access points along public street frontage.
- ii. The minimum distance between the center line of an access point and the nearest curb line or street line of a public street intersection shall be one hundred (100) feet.

C. Storage of Waste

All refuse disposal areas shall be maintained in such manner as to meet county and city health requirements and shall be screened from view.

D. Service Buildings

Service buildings housing laundry, sanitation or other facilities for use by the occupants shall be permanent structures complying with the applicable codes.

E. Sanitary Sewage Requirements

All development projects approved under this section shall be served by public sanitary sewage systems.

F. Water Metering Requirements

A master meter shall be provided for all multi-family developments which are held under a single ownership. Individual meters shall be provided multi-family dwelling units which are held by individual owners (i.e. condominium units).

G. Utilities Requirement

All cables serving electrical, telephone, television and street lighting shall be placed under ground.

H. Mail Delivery

Centralized mail delivery facilities shall be provided for all multi-family complexes. Each centralized mail location shall be built to USPS specifications with a concrete or asphalt pad and covered roof over and extending three (3) feet on all sides of the Cluster Box Unit. Adequate lighting shall be provided at each unit. Two (2) dedicated parking spaces shall be provided with easy access to each centralized mail unit. The number of required parking spaces shall increase at a rate of one (1) required space per 50 dwelling units served. The aesthetic and protective nature of the centralized mail delivery facility shall be considered an integral element of the overall site design and shall be reviewed as part of the design review process.

6. Parking Space and Traffic Circulation Requirements

A. For developments not located within the Town Center Overlay District, two (2) off street parking spaces shall be provided for each dwelling unit. (Amended by Ordinance No. 509, August 16, 2001)

B. Off-street parking may be grouped in bays, either adjacent to streets or in the interior of blocks. Such parking areas shall be generally located in

close proximity to the dwelling units they are designed to serve. At least one (1) parking space per dwelling unit shall be located so as to provide a maximum walking distance of two hundred (200) feet from the nearest entrance of the dwelling unit it is to serve. Where appropriate, common driveways, parking areas, walks, and steps shall be maintained and lighted for night use. Screening of parking and service areas shall be achieved through ample use of trees, shrubs, hedges, and screening walls.

- C. Each building shall be physically separated from the highway or street by a curb or planting strip at least eight (8) feet wide against unchanneled motor ingress and egress. The complex shall have not more than two (2) access ways to any highway or street without special approval by the Planning Commission.

7. Open Space Requirements

Any common open space provided within a development of multi-family dwellings shall:

- A. Meet the requirements for quality and improvement established in Article 10, Subsection 10-207.7.
- B. Be protected by private covenants and restrictions as outlined in Article 10, Subsection 10-207.7, which will insure the improvement and continued maintenance of all such properties.
- C. Serve as recreational area and open space only.

8. Density Permitted

The density, or number of dwelling units permitted within a given area, shall be computed utilizing the development area per dwelling unit for the district in which the multi-family dwellings are to be located. In any instance where a particular development is located in more than one district, the density shall be separately computed for each district and no density may be transferred between districts.

9. Yard and Building Spacing Requirements

For developments not located within the Town Center Overlay District, within any development approved under the provisions of this section, the following yard requirements shall apply: (Amended by Ordinance No. 509, August 16, 2001)

- A. For units located entirely within the interior of the site no yards as such are required, however, buildings shall be spaced so that the minimum distance between such buildings shall be the greater of thirty (30) feet or the separation required by adopted building and fire codes.
- B. All buildings located along the periphery of the site shall be setback as provided in Section 6-103.3.G of the Fairview Zoning Ordinance (Special Yards and Setbacks Along District Boundaries).

7-102: Development Standards for Manufactured Home Parks

1. Purpose

The regulations contained herein are intended to apply to all manufactured home developments as defined by this ordinance. Provided, however, in any instance, whether such developments involve the subdivision and sale of lots or land space for placing of manufactured homes such developments shall be reviewed and approved under the provisions for Planned Overlay Districts (See Article 10).

2. Master Site Development Plan Required

It is the express purpose of these provisions to establish design criteria and to provide for implementation of these provisions by Planning Commission review of the Master Development Plan required for all such development by Article 17, Subsection 17-103.2.

3. Design Criteria, General

- A. No part of a manufactured home development shall be used for nonresidential purposes, except such uses as are required for the direct servicing and well-being of residents and for the management and maintenance of the development.
- B. Nothing contained in this section shall be deemed as prohibiting the sale of a manufactured home or of the site or lot on which such dwelling is located, provided that all provisions of this ordinance pertaining to such use are met.
- C. A fence at least six (6) feet in height shall enclose the boundary of each manufactured home development site. A detail of the proposed fence is to be presented with the site development plan. The aesthetic and protective nature of the proposed fence shall be considered an integral element of the overall site design and shall be reviewed as part of the design review process. Where in the judgment of the Planning Commission alternative measures such as landscaping or placing of

berms are found to provide equal or superior protection, these measures may be substituted for the fence.

- D. The appearance and character of the site shall be preserved and enhanced by retaining and protecting existing trees and other site features to the maximum extent feasible. Prior to any site clearing or development activity the developer shall submit a landscape plan along with the site development plan. Where necessary to provide both internal and external privacy and to screen out objectionable features such as noise or automobile lights, additional new plant material shall be added.
- E. Existing trees, shrubs, evergreens, and ground cover shall be retained to the extent that they enhance the project, are effective as a screen planting or are useful in protecting slopes from erosion.

4. Minimum Development Size and Density Permitted

No manufactured home development shall be approved which contains less than five (5) acres in area or has less than ten (10) manufactured home spaces. The density permitted within any manufactured home development shall be as specified in Section 6-114.5.

5. Dimensional Requirements for Parks

- A. Buffer yards and setbacks meeting the requirements of Article 6, Subsection 6-103.3G, shall be provided along the periphery of all manufactured home developments in addition to yards required for individual manufactured homes.
- B. Within the interior portions of the manufactured home development, no yards, except as required to meet the spacing standards of Subpart 6, (Spacing of manufactured homes and site coverage), of this section are required.
- C. No building or structure erected or stationed in a manufactured home park shall have a height greater than two (2) stories or thirty (30) feet.

6. Spacing of Manufactured Homes and Site Coverage

- A. Manufactured homes shall be so harbored on each space such that there shall be at least a twenty (20) foot clearance between manufactured homes; for manufactured homes parked end-to-end, the end-to-end clearance may be less than twenty (20) feet, but not less

than fifteen (15) feet. No manufactured home shall be located closer than twenty (20) feet from any building within the park.

- B. There shall be a minimum distance of ten (10) feet between the nearest edge of any manufactured home and an abutting access street.
- C. No manufactured home stand shall occupy an area in excess of twenty-five (25) percent of the respective lot area. The total area occupied by the manufactured home and its accessory structures shall not exceed fifty (50) percent of the respective lot area.

7. The Manufactured Home Lot

- A. The limits of each manufactured home lot shall be marked on the ground by suitable means. Location of lot limits on the ground shall be the same as shown on accepted plans. The minimum area of a manufactured home lot shall be five thousand (5,000) square feet or the area required to meet other provisions of this section.
- B. The manufactured home stands shall be improved to provide adequate support for the placement and tie-down of the manufactured home.
- C. Each manufactured home lot shall be provided with an outdoor living and service area. Such area shall be improved as necessary to assure reasonable privacy and comfort. The minimum outdoor living area shall not be less than two hundred (200) square feet of contiguous area.
- D. Tenant storage shall be provided for each manufactured home, either on the individual lot or site of the dwelling or in a centralized storage facility.
- E. Manufactured homes shall be anchored and supported so as to meet or exceed the standards established in the currently adopted Building Code and any applicable State Laws.

8. Utilities and Other Services

The following shall be required:

A. Internal Streets

- i. In general, internal drives or travelways located within any manufactured home development shall be privately constructed and maintained.

- ii. The pavement width and geometric design standards of all internal drives or travelways located within any manufactured home development shall be as specified within the subdivision regulations. In any instance where an internal travelway is proposed for dedication as a public street, the pavement design shall meet or exceed that required in the subdivision regulations

B. Public Street Access

- i. The minimum distance between access points along public street frontage, center line to center line shall be two hundred (200) feet.
- ii. The minimum distance between the center line of an access point and the nearest curb line or street line of a public street intersection shall be one hundred (100) feet.

C. Emergency Access

Every manufactured home or building located within a manufactured home development shall be accessible to fire apparatus by way of access roadways with all-weather driving surfaces of not less than twenty (20) feet of unobstructed width, with adequate roadway turning radius capable of supporting the imposed loads of fire apparatus and having a minimum vertical clearance of thirteen (13) feet-six (6) inches. The required width of the access roadway shall not be obstructed in any manner, including the parking of vehicles. No parking signs or other appropriate notice, or of approved obstructions inhibiting parking, may be required and if installed shall be maintained. No barriers may be placed within the development which would prevent emergency vehicles from pulling around or between buildings.

D. Storage of Waste

Centralized refuse (garbage) disposal facilities shall be provided. All dumping cart/bins shall be opaquely screened by either wood or masonry and landscaped.

E. Service Buildings

Service buildings housing laundry, sanitation or other facilities for use by the occupants shall be permanent structures complying with the applicable codes.

F. Water Requirements

Each manufactured home site shall be provided with a connection to a public water supply on trunk lines not less than six (6) inches in diameter. A master meter shall be provided for all manufactured home developments which are held under a single ownership. Individual

meters shall be provided manufactured home units which are held by individual owners (i.e. fee simple or condominium units).

G. Fire Hydrant Requirements

Each manufactured home development shall be equipped with fire hydrants capable of providing required fire flow. Hydrants shall be spaced so that the farthest point of any manufactured home, measured by the most directly accessible route, is no more no more than four hundred (400) feet from a hydrant.

H. Sanitary Sewer Requirements

Each manufactured home site shall be provided with a connection to a public sanitary sewer line.

I. Utilities Requirement

All cables serving electrical, telephone, television and street lighting shall be placed under ground.

J. Mail Delivery

All manufactured home complexes shall develop a plan for mail delivery which meets the criteria developed by the local post office. This plan shall be presented with the master development plan.

9. Parking Space and Traffic Circulation Requirements

A. Two (2) off street parking spaces shall be provided for each dwelling unit.

B. Off-street parking may be grouped in bays, either adjacent to streets or in the interior of blocks. Such parking areas shall be generally located in close proximity to the dwelling units they are designed to serve. At least one (1) parking space per dwelling unit shall be located so as to provide a maximum walking distance of two hundred (200) feet from the nearest entrance of the dwelling unit it is to serve. Where appropriate, common driveways, parking areas, walks, and steps shall be maintained and lighted for night use. Screening of parking and service areas shall be achieved through ample use of trees, shrubs, hedges, and screening walls.

C. All private drives, parking areas or other vehicular ways used for the common access for two (2) or more residences shall be suitably paved and maintained as a condition of approval of the project.

- D. Paved pedestrian walkways shall be provided for convenient and safe access to all living units and recreational facilities from the streets, driveways, parking courts or garages and for convenient circulation and access to all facilities.

10. Recreation Facilities

An adequate amenity package for occupants of the manufactured home development shall be provided. The amenity package shall as a minimum include the following:

- A. Play lots and/or playgrounds with a total minimum area of one hundred (200) square feet per manufactured home dwelling. These areas shall be provided with playground equipment sufficient to meet the needs of children expected to reside within the complex.

The individual pieces of playground equipment shall be specified on the site plan. All recreational equipment provided shall be durable commercial grade equipment which shall meet all Consumer Product Safety Commission safety guidelines as well as the ASTM F1487-93, Public Use Playground Standard. The playground shall be served by paved pedestrian walks linking individual buildings to the recreational facility. Additional sitting areas may be substituted for playgrounds on a square foot for square foot basis when the development is planned for occupancy only by elderly adults.

- B. Club house facilities shall be located within the development. A minimum floor area of two thousand (2,000) square feet shall be required for any development. In developments containing two hundred (200) or more dwelling units ten (10) square feet of additional floor area shall be provided for each unit thereafter.

- C. All multi-family complexes containing one hundred (100) or more dwelling units shall provide swimming pool facilities for the residents.

7-103: Development Standards for Attached Dwellings

1. Purposes

The provisions set forth herein are intended to apply to all attached dwellings, as defined by this ordinance, whether such units are popularly described as town houses, atrium houses, or by any other name. The specific provisions appearing below shall apply to all attached dwellings regardless of the district in which such may be located. It is the express purpose of these provisions to establish design criteria and to provide for

implementation of these provisions by Planning Commission review of a Master Development Plan, as specified in Article 17, Subsection 17-103.2.

2. Design Criteria, General

It is intended that attached dwellings where they are permitted:

- A. May be appropriately intermingled with other types of housing;
- B. Shall not form long, unbroken lines of row housing; and
- C. Shall constitute groupings making efficient economical, comfortable, and convenient use of land and open space, and serving the public purposes of zoning by means alternative to conventional arrangements of yards and buildable areas.

3. Design Criteria, Detailed

- A. The density, or number of dwelling units permitted within a given area, shall be computed utilizing the development area per dwelling unit for the district in which the attached dwellings are to be located. In any instance where a particular development is located in more than one district the density shall be separately computed for each district and no density may be transferred between districts.
- B. The minimum zone lot for any single family attached dwelling not located within a development approved under the provisions of Subsection 5-104.3 (above) or a planned unit development shall be as required to meet basic district provisions.
- C. The maximum lot coverage and impervious surface ratios set forth for the district may be exceeded for a given lot within a development of attached dwellings. However, such ratios shall apply to the project when considered in aggregate (i.e. total building coverage divided by total gross development site area). In any instance where a development may lie within two or more zoning districts the coverage ratio for each district shall apply to all development within it. No transfer of bulk or site coverage shall be permitted among zoning districts.
- D. Minimum width for the portion of the lot on which an attached dwelling is to be constructed shall be twenty-two (22) feet.

- E. Not more than six (6) contiguous dwellings shall be built in a row with the same or approximately the same front line, and not more than twelve (12) dwellings shall be contiguous.
- F. Street sidewalks and on-site walks shall be provided for convenient and safe access to all living units from streets, driveways, parking courts, or garages and for convenient circulation and access to all facilities.

4. Access

Access and circulation shall adequately provide for firefighting equipment, service deliveries, furniture moving vans, and refuse collection; and pedestrian access shall be provided at the rear of each attached dwelling.

5. Parking

Parking shall be provided in accordance with Article 11, Parking, Loading and Access Regulations, of this ordinance. Off-street parking may be grouped in bays, either adjacent to streets or in the interior of blocks. Such parking areas shall generally be located in close proximity to the dwelling units they are designed to serve. At least one (1) parking space per dwelling unit shall be located so as to provide a maximum walking distance of two hundred (200) feet from the nearest entrance of the dwelling unit it is to serve.

Where appropriate, common driveways, parking areas, walks and steps shall be maintained and lighted for night use. Screening of parking and service areas shall be encouraged through ample use of trees, shrubs, hedges and screening walls.

6. Open Space Requirements

Attractive outdoor sitting areas shall be provided, appropriate in size, type and number to the needs of the residents. Active recreation areas shall be provided which are appropriate for the needs of the residents. Well-equipped playgrounds of adequate size and number shall be provided where it is anticipated that children will occupy the development. Any common open space provided within a development of attached dwellings shall:

- A. Meet the requirements for quality and improvement established in Article 10, Subsection 10-207.7.
- B. Be protected by private covenants and restrictions as outlined in Article 10, Subsection 10- 207.7, which will insure the improvement and continued maintenance of all such properties.

C. Serve as recreational area and open space only.

D. Be transferred to the private maintenance trust at a time and in the manner specified by the Planning Commission as a condition of approval of the project.

7. Yard Requirements

The basic yard provisions established for the district within which the development is located shall apply along all portions of such lots as may abut the periphery, excepting any portion of such lots as may involve the use of party walls. Along all points of attachment on party walls the provisions of Section 6-103.3(6) shall be followed.

ARTICLE 8: COMMERCIAL DISTRICT REGULATIONS

SECTIONS

8-101: PURPOSES OF COMMERCIAL DISTRICTS

8-102: USES AND STRUCTURES

8-103: BULK REGULATIONS

8-104: PURPOSES AND INTENTS OF CG – COMMERCIAL-GENERAL DISTRICTS

8-105: PURPOSES AND INTENTS OF CI – COMMERCIAL-INTERCHANGE DISTRICTS

8-106: INTENTIONALLY LEFT BLANK

8-107: PURPOSES AND INTENTS OF CMU, COMMERCIAL - MIXED USE DISTRICTS

8-108: INTENTIONALLY LEFT BLANK

8-109: INTENTIONALLY LEFT BLANK

8-110: PURPOSES AND INTENTS OF OG, OFFICE GENERAL DISTRICTS

8-111: PURPOSES AND INTENTS OF MSMU, MAIN STREET MIXED USE DISTRICT

8-112: SUPPLEMENTAL DESIGN PROVISIONS

8-101: PURPOSES OF COMMERCIAL DISTRICTS

8-101.1 General Purposes

The commercial districts established by this ordinance are designed to promote and protect the health, safety, morals, convenience, order, prosperity, and other aspects of the general welfare. These goals include, among others, the following:

1. To provide sufficient space, in appropriate locations in proximity to established residential areas, for local retail and service trades catering specifically to the recurring shopping needs of the occupants of nearby residences.
2. To protect both retail and service developments and nearby residences against fire, explosions, toxic and noxious matter, radiation, and other hazards, and against offensive noise, vibration, smoke, dust and other particulate matter, odorous matter, heat, humidity, glare, and other objectionable influences.
3. To protect both retail and service developments and nearby residences against congestion, by regulating the intensity of retail and service developments consistent with their marketing functions, by restricting those types of establishments which generate heavy traffic, and by providing for off-street parking and loading facilities.

4. To provide sufficient and appropriate space, and in particular sufficient area, to meet the needs of the area's expected future need for planned commercial floor space, including the need for off-street parking space in areas where a large proportion of customers come by automobile, and to encourage the tendency of commercial establishments to concentrate in integrated planned developments, to the mutual advantage of both consumers and merchants.
5. To provide sufficient space in appropriate locations for commercial districts to satisfy specific functional needs of the area, and in particular the need for medical services, and the needs of the general public traveling along major thoroughfares.
6. To provide sufficient space in appropriate locations for the mixture of compatible residential and restricted commercial developments where standards for development will provide protection for the environmental essentials of either.
7. To provide appropriate locations for transitional uses intervening between commercial developments and residential areas, and thereby alleviate the friction inherent between dissimilar activities.
8. To provide sufficient space in appropriate locations for all types of commercial and miscellaneous service activities.
9. To provide freedom of architectural design, in order to encourage the development of more attractive, efficient, and economic building forms, within appropriate standards which ensure that buildings are in character with their surroundings.
10. To promote the most desirable use of land and direction of building development in accord with a well-considered plan, to promote stability of commercial development, to strengthen the economic base of the area, to protect the character of the districts and their peculiar suitability for particular uses, to conserve the value of land and buildings.

8-102: USES AND STRUCTURES

8-102.1 General Provisions

Principal uses of buildings or other structures and land have been classified and combined into major classes and activity types in Article III, of this ordinance. The procedure for interpreting the classes and type of activities is provided in Article 3, Use Regulations. The following sections provide information regarding uses and structures which are classified as "principal permitted" (P), "permitted with supplemental provisions" (SUP) or "conditional" (C) uses within the various commercial districts. The supplemental design provisions with which (SUP) and (C) uses and activities are required to comply appear in Article 4 (Supplemental Use Regulations).

8-102.2 Principal Permitted Uses (P)

Principal permitted uses are permitted as a matter of right within the district indicated, subject to the general requirements established for the district wherein the use is located.

8-102.3 Use Permitted with Supplemental Provisions (SUP)

A use permitted with supplemental provisions is an activity, use or structure which is permitted subject to a finding by the City Planner that the specific standards indicated for the use in question have been met. Only those uses and structures so indicated in Article 4, Section 4-101, may be allowed within the districts indicated.

8-102.4 Conditional Uses (C)

A conditional use is an activity, use, or structure which may require large land area, have unique operating, traffic generating or other characteristics that may tend to dominate or adversely affect the area more than do other uses permitted within the same zone district. Because the impacts of these uses cannot be satisfactorily predetermined for every possible location within a zone district, these land uses are permitted only upon approval by the Board of Zoning Appeals. Each conditional use is subject to a finding by the Board of Zoning Appeals that the specific standards indicated for the use in question have been met. Only those uses and structures so indicated in the following sections, may be allowed within the districts indicated.

8-102.5 Accessory Uses

In addition to the principal activities expressed above, each activity type shall be deemed to include activities customarily associated with, and appropriate, incidental, and subordinate to the principal activity when such accessory activity is located on the same zone lot as such principal activity and meets the further conditions set forth in Article 4, Section 4-102. Accessory uses designated within

each zone district sections, as follows, are permitted as a matter of right and no permit is required to conduct the activity in question. Those accessory uses designated with the letters “ASP” do require a permit obtained from the Fairview City Planning Department. Permits for accessory uses designated “ASP” shall be issued upon demonstration that the activity in question meets the requirements established for such activity Article 4, Section 4-102.

8-102.6 Temporary Uses

The temporary uses and structures specified in Article 4, Section 4-103, as permissible within commercial districts may be permitted for the limited time periods indicated for each such use or activity.

8-102.7 Uses Not Permitted

Any uses or structures not allowable as permitted uses, conditional uses, temporary uses or accessory uses are prohibited within the various commercial districts.

8-103: BULK REGULATIONS – APPLICABLE TO ALL COMMERCIAL DISTRICTS

8-103.1 General

The minimum lot dimensions, maximum lot coverage, minimum front, rear, interior and street side yards, maximum building heights and minimum separation between buildings on the same zone lot within any base commercial district shall be as listed in Section 8-104 through Section 8-111. For certain uses, alternative bulk regulations may be specified in this section or other sections of this zoning ordinance. Bulk regulations for Planned Overlay Districts shall be as specified in Article 10.

8-103.2 Lot Dimensions

No lot shall be created and no building permit or zoning approval shall be issued for any lot that does not meet the minimum dimensional requirements as listed in Sections 8-104 through Section 8-111, unless otherwise provided as part of a Planned Unit Development (PUD).

1. **Reduction in Lot Area Prohibited**

No lot, even though it may consist of one (1) or more adjacent lots of record, shall be reduced in area so that yards, lot width, building area, or other requirements of the zoning ordinance are not maintained. This section shall not apply when a portion of a lot is acquired for a public purpose.

2. Lot Frontage

All lots shall have a minimum of fifty (50) feet of frontage on a publicly dedicated and maintained street, except that lots located along the terminus of a cul-de-sac shall have a minimum of thirty-five (35) feet of frontage. Within the Town Center Overlay District, minimum required lot frontages shall be established by the governing Master Plan as approved by the Board of Commissioners. (Amended by Ordinance 509, August 16, 2001)

8-103.3 Height Regulations

1. General Exception to Height Regulations

The height limitation contained in the district regulations does not apply to spires, belfries, cupolas, radio towers, water tanks, ventilators, chimneys, or other appurtenances usually required to be placed above the roof level and not intended for human occupancy.

8-103.4 Yard Regulations

1. Permitted Obstructions in Required Yards

In all commercial districts, the following shall not be considered obstructions when located within a required yard except and comply with the provisions of Section 8-103.5(Obstructions Prohibited at Street Intersections).

A. Arbors and trellises.

B. Awnings or canopies projecting from a building wall over a required yard not more than six (6) feet, and having no supports other than provided by the wall or its integral parts.

C. Chimneys projecting not more than three (3) feet into, and not exceeding two (2) percent of the area, of the required yard.

D. Driveways subject to other specific provisions of this ordinance related directly thereto.

E. Eaves, gutters, or down spouts, projecting into or over required yards not more than twenty-four (24) inches or twenty (20) percent of the width of such yard, whichever is the lesser distance.

F. Fire escapes or staircase, the riser area of which shall be at least fifty (50) percent open, and whose vertical projection downward onto a required yard does not exceed thirty (30) percent of the area of such yard.

- G. Flagpoles, having only one structural ground member.
- H. Fountains.
- I. Mailboxes.
- J. Open terraces, including natural plant landscaping.
- K. Retaining walls.
- L. Sculpture or other similar objects of art.
- M. Street furniture such as, but not limited to benches, drinking fountains, trash receptacles, ash trays, light standards, or directional signs.
- N. Vents necessary for use of fallout shelters constructed below grade of such yards, but excluding all other parts of such shelters.
- O. Walls or fences not exceeding six (6) feet in height measured from finish grade level at any point along the length of, and on any side of, such walls or fences, and not roofed or structurally part of a building.

2. Measurement of Yard Width

In all commercial districts, the width or depth of a yard shall be measured perpendicular to lot lines.

3. Accessory Off-Street Parking in Required Yards

Accessory off-street parking may be permitted within the required yards of commercial districts only to the extent set forth below. Within any area where permitted such parking areas shall: Be properly maintained and have no obstructions thereon, except as permitted by Subpart 1, of this section, and shall not obstruct the visibility triangle as required by Subsection 8-103.5.

A. Accessory Off-Street Parking in Required Front Yards (Amended by Ordinance 509, August 16, 2001)

Within any commercial district not located within the Main Street Mixed Use Sub-district of the Town Center Overlay District, permitted or required accessory off-street parking may be permitted within ten (10) feet of the front lot line. Within the Main Street Mixed Use Sub-district of the Town Center Overlay District, off-street parking shall be prohibited between the

building and the front lot line. Off-street parking areas in that sub-district shall be located either to the rear or side of buildings.

B. Accessory Off-Street Parking in Side Yards

In all commercial districts, accessory off-street parking may be located within eight (8) feet of any side lot line, except when such yard is adjacent to a residential district. (See Subpart 5, of this section, for special provisions applicable along residential district boundaries).

C. Accessory Off-Street Parking and Loading in Rear Yards (Amended by Ordinance 509, August 16, 2001)

Within the Town Center Overlay District, parking and loading areas may occur back to the rear property line if so authorized by the enacting PUD. Except as provided by Subpart 6, of this section, in all commercial districts, accessory off-street parking or loading may be located within ten (10) feet of any rear lot line except when such yard is adjacent to a residential district. (See Subpart 6, of this section, for special provisions applicable along residential district boundaries).

4. Special Provisions for Through Lots

In all commercial districts no rear yard is required for a through lot. In lieu thereof a front yard shall be required for each frontage.

5. Special Provisions Applying to Required Yards and Building Setbacks Along District Boundaries Coincident with Side or Rear Lot Line of Zone Lot in any Residential District (Amended by Ordinance 509, August 16, 2001)

In all commercial districts, except those associated with a corresponding Planned Overlay District located within the Town Center Overlay District; and along such portion of the boundary of a commercial district which coincides with a lot line of a zone lot in any residential district the following yard provisions shall apply. The open space may be utilized for parking. Within the Town Center Overlay District, minimum required lot frontages shall be established by the governing Master Plan as approved by the Board of Commissioners.

A. Special Front Setback

Regardless of the front yard provisions established for any commercial district, no building located on any zone lot adjacent to any residential district shall not extend closer to the street than the average of the distances of the buildings located within one hundred (100) feet of the lot whereon the commercial activity is located; provided that no

building shall be required to setback more than twice the minimum front yard applicable within the commercial district.

B. Special Side and Rear Yards

Along all portions of the boundary of any commercial zone lot where such lot abuts or is contiguous to any residential zone lot without an intervening public street, an open area, unobstructed from the ground to the sky, shall be provided within the commercial district, said area being at least twenty (20) feet in width or depth. Such open area shall not be used for accessory off-street parking, or accessory off-street loading, or for storage or processing of any kind.

6. Special Provisions for Party Walls

In commercial districts, side or rear yard requirements may be waived along the side or rear adjacent to another commercially zoned lot if the following conditions are met:

- A. At all points of attachment adjoining buildings shall be separated from each other by a four (4) hour wall in accordance with the currently adopted Building Code and Fire Code.
- B. A party wall may bisect the dividing line of two (2) adjacent lots so that one-half (1/2) of the party wall is located on each of the properties, provided that the owners of each property sign a covenant running with the land and granting an easement on the property to the owners of the adjoining property for the purpose of maintaining, reconstructing or protecting the party wall.
- C. In the event of the construction of a building on the lot line, the wall along the lot line, if it is not constructed as a party wall between two (2) buildings, shall be built in such a manner that it will meet all requirements of Subpart A, of this section, without regard to the wall or building on the adjoining property.
- D. No wall constructed within ten (10) feet of a property line shall have less than a four (4) hour fire rating and shall have such additional ratings as required by the currently adopted Building Code and Fire Code.

8-103.5 Obstructions Prohibited at Street Intersections (Amended by Ordinance 509, August 16, 2001)

On a corner lot, no fence, wall, hedge, or other planting or structure that will materially obstruct vision between a height of two and one-half (2 1/2) feet and ten (10) feet above the center line grades of the intersecting streets shall be erected, placed, or maintained within the triangular area formed by the street lines at such corner lots and a straight line joining such street lines at points which are thirty-five (35) feet distance from the intersection of the street lines and measured along said street lines. In case of rounded street lines at the intersecting streets, such measurement shall be made from the point of intersection of the tangents of the curve constituting the rounding. The above requirements shall not apply to development located within the Town Center Overlay District wherein setbacks from intersections shall be established by the governing Master Plan, as approved by the Board of Commissioners.

8-103.6 Requirements for Fire Lanes (Amended by Ordinance 509, August 16, 2001)

Unless specified by the City of Fairview and/or International Fire Codes, all commercial buildings shall have fire lanes with a minimum width of ten (10) feet and shall be located adjacent to the front and rear entrances of all buildings. Such fire lanes shall be positioned directly adjacent to emergency water facilities designed for fire protection and shall be paved with an all-weather surface capable of supporting the imposed loads of fire apparatus. The required fire lanes shall not be obstructed in any manner, including the parking of vehicles. Installation of No Parking signs or other appropriate notice, or of approved obstructions inhibiting parking, may be required and if installed shall be maintained. The owner or his representative of a building which is adjacent to the fire lane shall be responsible for keeping the fire lane free of obstructions.

8-103.7 Requirements for Sidewalks

Street sidewalks and on-site walks shall be provided for convenient, ADA compliant, and safe access to all commercial buildings and amenities from streets, driveways, or parking areas and for convenient circulation and access to all facilities.

Standards for Walkways

The following design standards for walkways shall apply within all commercial developments.

- A. Walkways, a minimum of six (6) feet in width, shall be provided along all public right- of- ways along the zoned lot lines and to all buildings and amenities. At a minimum these walkways shall connect along all public streets and from all street crossings to the major points of building entry.
- B. Walkways shall be provided along the full length of the building on any side which provides building access to the public or where public parking is available, to provide safe and comfortable pedestrian access to the building.
- C. All walkways within public right- of- ways- shall be built to Fairview Street and Sidewalk Standards.
- D. Internal walkway surfaces shall be designed to be visually attractive and distinguishable from driving surfaces through use of durable, low maintenance materials such as pavers, bricks, or scored concrete to enhance pedestrian safety and comfort.

Sidewalk Requirement Variance

Where approved by the Planning Commission, a waiver of City required sidewalks may be requested in circumstances where sidewalk installation may not be reasonable, suitable or effective. Should a waiver be granted, a payment in lieu of sidewalk construction shall be remitted to the City's Sidewalk Maintenance, Repair, and Installation Fund. The valuation of any funds remitted to the City of Fairview shall not be less than 75% of the engineered construction costs, as determined by current published average unit prices.

8-104: PURPOSES, INTENTS AND CLASSIFICATIONS OF COMMERCIAL ZONING DISTRICTS

The commercial zoning districts identified in subsection 8-104(1) of this Section are fully separate from one another and are designed to identify and include like or similar commercial site uses. Any property or site that is annexed into the city limits to be used for commercial or retail activities or zoned, rezoned, or proposed for commercial or retail use, or that is used for commercial or retail activities not otherwise permitted within this ordinance, shall be zoned one (1) of the commercial zoning classifications identified in this section.

1. Commercial Zoning Districts

- C1: Restaurant
Transient Habitation (Hotels, Commercial Extended Stay, etc.)
Retail Sales
General Business and Communications
Banking, Financial, Insurance, and Real Estate Services
Health, Fitness and Same Day Medical Care Facilities
Professional Services
Indoor Entertainment and Amusement Services

- C2: Community Assembly
Religious Facilities
Health Care Facilities
Child Care Facilities
Administrative Services
Cultural and Recreational Facilities
Educational Facilities

- C3: Essential Public Transport, Communication and Utility Services
Outdoor Material and Equipment Sales and Repair
Warehousing, Goods, Transport and Storage
Wholesale Sales
Animal Care and Veterinary Services
Automotive and Marine Craft Sales, Service and Repair

- C4: Outdoor Entertainment and Amusement Services
Group Assembly and Commercial Outdoor Recreation

- C5: Extensive Impact Facilities
Intermediate Impact Facilities
Special Institutional Care Facilities
Special Personal and Group Care Facilities
- C6: Check Cashing and Case Advance Enterprises
Tobacco Shops
- C7: Food Truck
Transient Restaurant and Food Services
Transient Retail

2. RESERVED

3. RESERVED

4. Accessory Uses

A. Permitted Uses

- i. Accessory Storage
- ii. Administrative Office
- iii. Private Recreational Facilities

5. Bulk Regulations

A. Minimum Zone Lot Requirements

- i. Area – 10,000 square feet

B. Maximum Lot Coverage - (As % of Total Lot Area)

- i. 50 percent

C. Maximum Impermeable Surface Ratio (As % of Total Lot Area)

- i. 80 percent

D. Maximum Height

- i. 35 feet

E. Minimum Yard Requirements

- i. Front Yard – 30 Feet
- ii. Side Yard – 10 Feet
- iii. Rear Yard – 20 Feet

8-105: PURPOSES AND INTENTS OF CI – COMMERCIAL-INTERCHANGE DISTRICTS

This district is designed to provide adequate space at major freeway interchanges for uses that are directly related to the needs of the motoring public. Due to the extremely hazardous condition found at the I-40/Highway 96, Interchange, it has been determined that the uses and activities permitted must be carefully evaluated relative to traffic generation and other site specific characteristics, including access, that have a direct bearing on the health, safety and welfare of the motoring public. Community facilities and utilities necessary to serve these districts, or necessary for the general community welfare are also permitted. Bulk limitations established for uses in these districts are designed to recognize the market need of the uses and activities that are permitted. Appropriate locations for this district are near major transportation interchanges in clustered development patterns and not patterns of striped commercial development extending in a continuous manner along major traffic arteries. (Amended by Ordinance No. 513, November 15, 2001)

1. Permitted Uses

A. Community Facilities Activities

- i. Administrative Services
- ii. Community Assembly
- iii. Cultural and Recreational Facilities
- iv. Educational Facilities
- v. Essential Public Transport, Communication and Utility Services

B. Commercial Activities

- i. Automotive Parking
- ii. Banking, Financial, Insurance, and Real Estate Services
- iii. Convenience Retail Sales and Services
- iv. General Business and Communications
- v. General Retail Trader
- vi. Restaurant – Full Service
- vii. Restaurant – Fast Food
- viii. Transient Habitation

2. Uses Permitted with Supplemental Provisions (SUP)

A. Community Facilities Activities

- i. Health Care Facilities

B. Commercial Activities

- i. Animal Care and Veterinary Services

3. Conditional Uses

A. Community Facilities Activities

- i. Child Care Facilities
- ii. Extensive Impact Facilities
- iii. Intermediate Impact Facilities
- iv. Religious Facilities
- v. Special Institutional Care Facilities
- vi. Special Personal and Group Care Facilities
- vii. Waste Disposal Operations

B. Commercial Activities

- i. Automotive and Marine Craft Sales, Service and Repair
- ii. Entertainment and Amusement Services – Limited

4. Accessory Uses

A. Permitted Uses

- i. Accessory Storage
- ii. Administrative Office
- iii. Private Recreational Facilities

5. Bulk Regulations

A. Minimum Zone Lot Requirements

- i. Area – 10,000 square feet

B. Maximum Lot Coverage - (As % of Total Lot Area)

- i. 50 percent

C. Maximum Impermeable Surface Ratio (As % of Total Lot Area)

- i. 80 percent

D. Maximum Height

- i. 35 feet

E. Minimum Yard Requirements

- i. Front Yard – 30 Feet
- ii. Side Yard – 10 Feet
- iii. Rear Yard – 20 Feet

8-106: INTENTIONALLY LEFT BLANK

8-107: PURPOSES AND INTENTS OF CMU, COMMERCIAL - MIXED USE DISTRICTS

These districts are designed primarily to provide sufficient space in appropriate locations for establishments and uses engaged in wholesale trade, the warehousing of a wide variety of products or materials, manufacturing processes having the highest performance standards and the least objectionable characteristics, and services ancillary thereto. As these districts tend to generate relatively large volumes of heavy vehicular traffic and have other characteristics detrimental to residential environments, their locations are removed from the proximity of residential districts insofar as possible. Where these districts must necessarily abut residential areas, requirements designed to lessen incompatible features of commercial development are stipulated. In addition, a selection of consumer retail trade establishments, consumer service uses, and community facilities and utilities, considered necessary to service the principal uses in these districts or necessary for the general community welfare, are permitted.

1. Permitted Uses

A. Community Facilities Activities

- i. Administrative Services
- ii. Community Assembly
- iii. Cultural and Recreational Facilities
- iv. Educational Facilities
- v. Essential Public Transport, Communication and Utility Services

B. Commercial Activities

- i. Automotive Parking
- ii. Banking, Financial, Insurance, and Real Estate Services
- iii. Convenience Retail Sales and Services
- iv. General Business and Communications
- v. General Retail Trader
- vi. Outdoor Material and Equipment Sales and Repair
- vii. Professional Services – Medical
- viii. Professional Services – Non-Medical
- ix. Restaurant – Full Service
- x. Restaurant – Fast Food
- xi. Self-Service Storage
- xii. Transient Habitation
- xiii. Warehousing, Goods, Transport, and Storage
- xiv. Wholesale Sales

2. Uses Permitted with Supplemental Provisions (SUP)
 - A. Community Facilities Activities
 - i. Child Care Facilities
 - ii. Health Care Facilities
 - iii. Religious Facilities
 - iv. Special Personal and Group Care Facilities
 - B. Commercial Activities
 - i. Animal Care and Veterinary Services
 - C. Manufacturing Activities
 - i. Manufacturing-Limited
3. Conditional Uses
 - A. Community Facilities Activities
 - i. Extensive Impact Facilities
 - ii. Intermediate Impact Facilities
 - iii. Special Institutional Care Facilities
 - B. Commercial Activities
 - i. Automotive and Marine Craft Sales, Service and Repair
 - ii. Entertainment and Amusement Services – Limited
 - iii. Group Assembly and Commercial Outdoor Recreation
4. Accessory Uses
 - A. Permitted Uses
 - i. Accessory Storage
 - ii. Administrative Office
 - iii. Private Recreational Facilities
5. Bulk Regulations
 - A. Minimum Zone Lot Requirements
 - i. Area – 10,000 square feet
 - B. Maximum Lot Coverage - (As % of Total Lot Area)
 - i. 50 percent
 - C. Maximum Impermeable Surface Ratio (As % of Total Lot Area)
 - i. 80 percent
 - D. Maximum Height
 - i. 35 feet

E. Minimum Yard Requirements

- i. Front Yard – 30 Feet
- ii. Side Yard – 10 Feet
- iii. Rear Yard – 20 Feet

8-108: INTENTIONALLY LEFT BLANK

8-109: INTENTIONALLY LEFT BLANK

8-110: PURPOSES AND INTENTS OF OG, OFFICE GENERAL DISTRICTS

These districts are designed to provide suitable areas for medium to large scale office and community service facilities within free standing structures or multi-building complexes located along major arterial streets, at major intersections, and within the Town Center Overlay District, particularly the Government Core sub-district. This district is designed to permit either single or mixed-occupancy facilities at a range of intensities with building types generally comparable to the scale and bulk of high density multi-family structures. This district is intended to permit a broad range of administration service, community assembly, educational, health care, religious assembly, banking, financial, insurance and real estate service activities, along with a limited range of office-related general business and communication services.

1. Permitted Uses

A. Community Facilities Activities

- i. Administrative Services
- ii. Community Assembly
- iii. Educational Facilities
- iv. Essential Public Transport, Communication and Utility Services

B. Commercial Activities

- i. Banking, Financial, Insurance, and Real Estate Services
- ii. Professional Services – Medical
- iii. Professional Services – Non-Medical

2. Uses Permitted with Supplemental Provisions (SUP)

A. Community Facilities Activities

- i. Child Care Facilities

3. Conditional Uses

A. Community Facilities Activities

- i. Cultural and Recreational Facilities
- ii. Health Care Facilities
- iii. Intermediate Impact Facilities
- iv. Religious Facilities
- v. Special Personal and Group Care Facilities

4. Accessory Uses

A. Accessory Uses With Supplemental Regulations

- i. Accessory Day Care
- ii. Employee Cafeteria

5. Bulk Regulations

A. Minimum Zone Lot Requirements

- i. The Office General (OG) Zone District Does Not Have A Minimum Lot Size.

B. Maximum Lot Coverage - (As % of Total Lot Area)

- i. 40 percent

C. Maximum Impermeable Surface Ratio (As % of Total Lot Area)

- i. 75 percent

D. Maximum Height

- i. 45 feet – A maximum of three (3) stories in height.

E. Minimum Yard Requirements

- i. Front Yard – 30 Feet
- ii. Side Yard – 10 Feet
- iii. Rear Yard – 20 Feet

6. OG Zone District Requirements in the Town Center Overlay

- A. Front, Side, and Rear Yard requirements for the Office General (OG) zone district, when located within the Town Center Overlay District, shall be established as part of a Planned Overlay District that is approved by the Board of Commissioners.

8-111: PURPOSES AND INTENTS OF MSMU, MAIN STREET MIXED USE DISTRICT

This district is designed to provide for the complete integration of commercial retail and consumer service, financial and professional office, amusement, eating and drinking establishments, and higher intensity residential uses within the Main Street Mixed Use sub-district of the Town Center Overlay District. It is the clear intention that multiple land uses be integrated into mixed use structures that are designed to a pedestrian scale and oriented directly to the street. The segregation of uses, while permitted, is to be discouraged in favor of structures designed for retail, consumer service, restaurants and other comparable activities located at the street level, with office and residential uses located on the second and third stories of structures.

The building setback, bulk and design standards for this district are intended to create an attractive, active and engaging street environment for the use and convenience of the pedestrian. Buildings are intended to be built generally to the sidewalk line along the majority of a block face. Building facades oriented to the street should be designed to a high architectural standard, with sensitive articulation of walls, an abundance of (clear) glass area and easily identifiable main entrances oriented to the street. Service areas and loading docks should be oriented away from the street and to the greatest extent possible, screened from public view. Drive-through facilities should be located to the side or rear of buildings and not towards the public street. Sidewalks widths along storefronts should be of sufficient width to encourage outdoor activities and pedestrian interaction, and should contain street trees and high quality street furniture such benches, trash receptacles and bicycle stands of comparable character and quality.

It is the expressed intention of this district to discourage on-site vehicular parking lots located between the street and the building, and to emphasize the careful placement and arrangement of joint-use parking lots oriented to the rear or side of buildings. The parking requirements associated with uses located within this urban district may be lower than comparable uses located in a suburban setting given the availability of on-street parking, the close proximity of residential neighborhoods and the emphasis on pedestrian and bicycle mobility in lieu of the automobile.

1. Permitted Uses
 - A. Residential Activities
 - i. Multi-Family Dwelling

- B. Community Facilities Activities
 - i. Administrative Services
 - ii. Child Care Facilities
 - iii. Community Assembly
 - iv. Educational Facilities
 - v. Essential Public Transport, Communication and Utility Services
 - vi. Religious Facilities

- C. Commercial Activities
 - i. Automotive Parking
 - ii. Banking, Financial, Insurance, and Real Estate Services
 - iii. Convenience Retail Sales and Services
 - iv. General Business and Communications
 - v. Professional Services – Medical
 - vi. Professional Services – Non-Medical
 - vii. Restaurant, Full Service
 - viii. Transient Habitation

- 2. Uses Permitted with Supplemental Provisions (SUP)
 - A. Commercial Activities
 - i. General Retail Trader

- 3. Conditional Uses
 - A. Community Facilities Activities
 - i. Cultural and Recreational Facilities
 - ii. Intermediate Impact Facilities

 - B. Commercial Activities
 - i. Entertainment and Amusement Services – Limited

- 4. Accessory Uses
 - A. Permitted Uses
 - i. Accessory Storage
 - ii. Administrative Office
 - iii. Private Recreational Facilities
 - iv. Residential Occupancy

 - B. Accessory Uses With Supplemental Regulations
 - i. Production for Retail Sale

5. Bulk Regulations
 - A. Minimum Zone Lot Requirements
 - i. The Main Street Mixed-Use Zone District Does Not Have A Minimum Lot Size.
 - B. Maximum Lot Coverage - (As % of Total Lot Area)
 - i. 70 percent
 - C. Maximum Impermeable Surface Ratio (As % of Total Lot Area)
 - i. 90 percent
 - D. Maximum Height
 - i. 45 feet – A maximum of three (3) stories in height.
 - E. Minimum Yard Requirements
 - i. Front Yard – 0 Feet
 - ii. Side Yard – 0 Feet
 - iii. Rear Yard – 0 Feet
6. Building Setback, Bulk and Façade Standards for the Main Street Mixed Use District (Added by Ordinance 509, August 16, 2001)

The special design provisions set forth herein are intended to create an attractive, safe and pedestrian oriented Main Street Mixed Use (MSMU) area within the Town Center.

A. Design Criteria

- i. Front Yard Setbacks

Buildings built to the front property line are strongly encouraged. Front building walls shall be located no more than fifteen (15) feet from the front property line.
- ii. Street Wall as a Percentage of Lot Frontage

Buildings built to the front sidewalk line shall be the predominant character of the Main Street Mixed Use area. A minimum of fifty (50) percent of the each lot frontage shall be comprised of building wall built up to or within fifteen (15) feet of the front property line.
- iii. Building Heights at the Street Line

Buildings heights shall not exceed three (3) stories; the maximum street facade elevation shall be forty-five (45) feet as measured from the finished sidewalk grade to the top of wall (including parapets).

iv. Street Wall Glazing

A minimum of fifty (50) percent and a maximum of eighty-five (85) percent of a street facing building facade shall be comprised of transparent glass area. Ground floor store levels should provide prominent display windows easily viewed from the sidewalk. Blank walls oriented to the street shall not exceed fifty (50) feet in length.

v. Street Facade Design

Building designs that provide an attractive appearance and an interactive relationship with the sidewalk shall be required. Encouraged are facade designs that promote outdoor activity and contain interesting architectural features such as awnings, columns, porches, decorative stoops, courtyards, terraces and upper story balconies. Building facades comprised predominantly of natural looking materials such a brick, stone, stucco and painted wood are encouraged in lieu of synthetic materials such a vinyl coated elements and aluminum siding.

i. Sidewalk Standards

Sidewalks located between the street curb line and a front building wall should be a minimum of eight (8) feet in width. A minimum clearance of seven (7) feet shall be maintained at all times along the frontage of the sidewalk and to and from the main doorway(s) into business establishments.

8-112: SUPPLEMENTAL DESIGN PROVISIONS

8-112.1 Density, Height, Lot Size, and Open Space Requirements Applicable to Residential Activities

The provisions of this section apply to any residential building or mixed building located on any zone lot or portion of a zone lot in any commercial district. The following requirements shall not apply to development located within the Town Center Overlay District wherein requirement shall be established by the governing Master Plan, as approved by the Board of Commissioners. (Amended by Ordinance 509, August 16, 2001)

1. Provisions Applicable to Residential Buildings

Within those commercial districts where residential uses are permitted, the height, density, bulk, lot size and open space provisions applicable to the RM-8 District (See Section 6-114) shall apply to all residential buildings located upon any zone lot or portion of a zone lot. The supplemental provisions appearing in Article 7, Section 7-101.1 – Development Standards for Multi-Family Dwellings, shall apply to all residential buildings located in any commercial district.

2. Provisions Applicable to Mixed Buildings

The provisions appearing below shall apply to all vertical and/or horizontal mixed buildings where such are permitted within any commercial district.

A. Maximum Bulk Permitted

For any mixed building permitted within any commercial district the height, density, bulk, lot size and open space provisions applicable to the RM-8, District (See Section 6-114) shall apply.

B. Calculation of Residential Density Permitted in Mixed Use Buildings

To determine the residential density permitted within any mixed use building, the following procedure shall be utilized.

- i. The zone lot upon which the mixed use building is located will be apportioned as to its nonresidential-residential components. (Example: If twenty-five (25) percent of a mixed building is to be utilized for commercial purposes and seventy-five (75) percent of the lot area will be used in calculating the residential density permitted).
- ii. The residential density permitted will then be calculated in a like manner as for any zone lot located within said district.

- iii. In no instance, however, shall the total building bulk permitted be increased beyond that established for the district within which the mixed building is located.

8-112.2 Development Standards for Commercial Complexes

The provisions of this section are applicable to all commercial complexes, as defined by this Ordinance (see Article 2, Section 2-102). The intent of this provision is to assure coordination of certain critical design elements within commercial complexes by Planning Commission review of the master development plan required for all such development by Article 17, Section 17-103.2. Provided, however, that in any instance where this use is located within a planned unit development this requirement may be fulfilled by submission of the plans required by that section.

1. Parking and Access Control

The parking and access control provisions contained in Article 11, Section 11-102.8, "Joint Parking Facilities", shall apply within all commercial complexes.

2. Design Standards

The following design standards shall apply to all site development plans submitted for property located within any commercial complex.

- A. Site features such as landscaping, site fences, walls, dumpsters and recycle containers shall be coordinated into a unitary design and shall otherwise comply with all provisions of found within the Fairview Design Review Manual.
- B. Buildings shall incorporate similar design elements, such as surface materials, color, roof treatment, windows and doors on all sides of the building(s) to achieve a unity of design. The sides of a building that face a public street shall include elements such as windows, doors, color, texture, landscaping and wall treatment to provide visual interest and prevent development of a long continuous blank wall.
- C. All buildings within a multi-building complex shall achieve a unity of design by use of similar architectural elements, such as roof form, exterior building materials, colors and window pattern.
- D. Site drainage shall be designed to incorporate all buildings and structures included with the total development site.

E. A "Common Signage Plan" meeting the standards established in Article 12, Section 12-110, shall be required for all commercial complexes.

3. Standards for Internal Walkways

The following design standards for internal walkways shall apply within all commercial complexes.

A. Internal walkway surfaces shall be designed to be visually attractive and distinguishable from driving surfaces through use of durable, low maintenance materials such as pavers, bricks, or scored concrete to enhance pedestrian safety and comfort.

ARTICLE 9: INDUSTRIAL DISTRICT REGULATIONS

SECTIONS

9-101: PURPOSES OF INDUSTRIAL DISTRICTS

9-102: USES AND STRUCTURES

9-103: BULK REGULATIONS

9-104: PURPOSES AND INTENDS OF IR – INDUSTRIAL RESTRICTIVE DISTRICTS

9-105: PURPOSES AND INTENDS OF IG – INDUSTRIAL GENERAL DISTRICTS

9-106: PURPOSES AND INTENDS OF IS – INDUSTRIAL SPECIAL DISTRICTS

9-107: SUPPLEMENTAL PROVISIONS FOR INDUSTRIAL SPECIAL DISTRICTS

9-101: PURPOSES OF INDUSTRIAL DISTRICTS

9-101.1 General Purposes

The industrial districts established by this ordinance are designed to promote and protect the health, safety, morals, convenience, order, prosperity, and other aspects of the general welfare. These goals include, among others, the following:

1. To provide sufficient space, in appropriate locations, to meet the needs of the area for all types of distributive, industrial and related activities, with due allowance for the need for choice of suitable sites.
2. To protect distributive, industrial and related activities, as well as residential and related activities by providing for the separation of these uses, and, as far as possible, provide that appropriate space needs for distributive and industrial activities are available by prohibiting the use of such space for residential purposes.
3. To encourage industrial development which is free from danger of fire, explosions, toxic or noxious matter, radiation, smoke, dust or other particulate matter, and other hazards, and from offensive noise, vibration, odorous matter, heat, humidity, glare, and other objectionable influences, by permitting such development in areas where this ordinance restricts the emission of such nuisances, without regard to the industrial products and processes involved.
4. To protect adjacent residential and commercial areas, and to protect the labor force in other establishments engaged in less offensive types of industrial and related activities, by restricting those industrial activities which involve danger of fire, explosions, toxic or noxious matter, radiation, smoke, dust, or other particulate matter, and other hazards, or create offensive noise, vibration, heat, humidity, glare, and other objectionable influences, by permitting such development in areas where this ordinance restricts the

emission of such nuisances, without regard to the industrial products or processes involved.

5. To protect industrial activities and related developments against congestion, as far as is possible and appropriate in each area, by limiting the bulk of buildings in relation to the land around them and to one another, and by requiring space off public ways for parking and loading facilities associated with such activities.
6. To promote the most desirable use of land and direction of building development, to promote stability of industrial and related development, to strengthen the economic base of the area, to protect the character of these districts and their peculiar suitability for particular uses, to conserve the value of land and buildings, and to protect the City's tax revenues.
7. To protect adjacent residential and commercial districts from any negative impacts attributable to sites devoted to industrial activities.

9-102: USES AND STRUCTURES

9-102.1 General Provisions

Principal uses of buildings or other structures and land have been classified and combined into major classes and activity types in ARTICLE III, of this ordinance. The procedure for interpreting the classes and type of activities is provided in Article 3, Section 3-101.2, presents uses and structures which are classified as "principal permitted" **(P)**, "permitted with supplemental provisions" **(SUP)** or "conditional" **(C)** uses within the various industrial districts. The supplemental design provisions with which **(SUP)** and **(C)** uses and activities are required to comply appear in Article 4, Section 4-104 Supplemental Use Regulations.

9-102.2 Principal Permitted Uses (P)

Principal permitted uses are permitted as a matter of right within the district indicated, subject to the general requirements established for the district wherein the use is located.

9-102.3 Use Permitted with Supplemental Provisions (SUP)

A use permitted with supplemental provisions is an activity, use or structure which is permitted subject to a finding by the City Planner that the specific standards indicated for the use in question have been met. Only those uses and structures so indicated under each zoning district may be allowed within the districts indicated.

9-102.4 Conditional Uses (C)

A conditional use is an activity, use, or structure which may require large land area, have unique operating, traffic generating or other characteristics that may tend to dominate or adversely affect the area more than do other uses permitted within the same zone district. Because the impacts of these uses cannot be satisfactorily predetermined for every possible location within a zone district, these land uses are permitted only upon approval by the Board of Zoning Appeals. Each conditional use is subject to a finding by the Board of Appeals that the specific standards indicated for the use in question have been met. Only those uses and structures so indicated under each zoning district, may be allowed within the districts indicated.

9-102.5 Accessory Uses

In addition to the principal activities expressed above, each activity type shall be deemed to include activities customarily associated with, and appropriate, incidental, and subordinate to the principal activity when such accessory activity is located on the same zone lot as such principal activity and meets the further conditions set forth in Article 4, Section 4-102. Accessory uses designated with the Letter "P" are permitted as a matter of right and no permit is required to conduct the activity in question. Those accessory uses designated with the letters "ASP" do require a permit obtained from the Office of the City Planner. Permits for accessory uses designated "ASP" shall be issued upon demonstration that the activity in question meets the requirements established for such activity Article 4, Section 4-102.

9-102.6 Temporary Uses

The temporary uses and structures specified in Article 4, Section 4-103, as permissible within industrial districts may be permitted for the limited time periods indicated for each such use or activity.

9-102.7 Uses Not Permitted

Any uses or structures not allowable as permitted uses, conditional uses, temporary uses or accessory uses are prohibited within the various industrial districts.

9-103: BULK REGULATIONS

9-103.1 General

The minimum lot dimensions, maximum lot coverage, minimum front, rear, interior and street side yards, maximum building heights and minimum separation between buildings on the same zone lot within any base industrial district shall be as listed in the following sections and the additional bulk regulations specified in this section. For certain uses, alternative bulk regulations may be specified in this section or other sections of this zoning ordinance.

9-103.2 Lot Dimensions

No lot shall be created and no building permit or zoning approval shall be issued for any lot that does not meet the following minimum dimensional requirements.

1. Lot Area

A. Reduction in Lot Area Prohibited

No lot, even though it may consist of one or more adjacent lots of record, shall be reduced in area so that yards, lot width, building area, or other requirements of the zoning ordinance are not maintained. This section shall not apply when a portion of a lot is acquired for a public purpose.

2. Lot Frontage

All lots shall have a minimum of fifty (50) feet of frontage on a publicly dedicated and maintained street or a permanent access easement as defined and regulated by this ordinance, except that lots located along the terminus of a cul-de-sac shall have a minimum of thirty-five (35) feet of frontage.

9-103.3 Height Regulations

1. General Exception to Height Regulations

The height limitation contained in the district regulations does not apply to spires, belfries, cupolas, radio towers, water tanks, ventilators, chimneys, or other appurtenances usually required to be placed above the roof level and not intended for human occupancy.

9-103.4 Yard Regulations

1. Permitted Obstructions in Required Yards

In all industrial districts, the following shall not be considered obstructions when located within a required yard.

A. Arbors and trellises.

B. Awnings or canopies projecting from a building wall over a required yard not more than six (6) feet, and having no supports other than provided by the wall or its integral parts.

C. Chimneys projecting not more than three (3) feet into, and not exceeding two (2) percent of the area, of the required yard.

- D. Driveways subject to other specific provisions of this ordinance related directly thereto.
- E. Eaves, gutters, or down spouts, projecting into or over required yards not more than twenty-four (24) inches or twenty (20) percent of the width of such yard, whichever is the lesser distance.
- F. Fire escapes or staircases, the riser area of which shall be at least fifty (50) percent open, and whose vertical projection downward onto a required yard does not exceed thirty (30) percent of the area of such yard.
- G. Flagpoles, having only on structural ground member.
- H. Fountains.
- I. Mailboxes.
- J. Open terraces, including natural plant landscaping.
- K. Retaining walls.
- L. Sculpture or other similar objects of art.
- M. Street furniture such as, but not limited to, benches, drinking fountains, trash receptacles, ash trays, light standards, or directional signs.
- N. Vehicular parking areas, unless otherwise specifically prohibited by applicable sections of this ordinance.
- O. Vents necessary for use of fallout shelter constructed below grade of such yards, but excluding all other parts of such shelters.
- P. Walls or fences not exceeding six (6) feet in height measured from finish grade level at any point along the length of, and on any side of, such walls or fences, and not roofed or structurally part of a building.

2. Measurement of Yard Width or Depth

In all industrial districts, the width or depth of a required yard shall be measured perpendicular to straight lot lines, or for curved lot lines, in such a way that such yard is bounded by the arc of a curve which is concentric with such curved lot line.

3. Uses of Required Yard Areas

The following uses may be made of yard areas, provided such uses are otherwise permissible in this district.

A. Landscaping

All required yard areas not occupied by driveways or sidewalks shall be devoted to landscaping, as found in the Fairview Design Review Manual.

B. Driveways

Driveways may be located within any required yard; provided, however, that no more than fifty (50) percent of the area of any required yard may be used as a driveway.

C. Sidewalks

Sidewalks may be located within any required yard; provided, however, that no more than fifty (50) percent of the area of any required yard may be used as a sidewalk.

D. Parking

Within all industrial districts any yard may be used for off-street parking or loading.

However, such areas shall not be used for storage or processing of any kind. No parking shall be permitted within ten (10) feet of the front property line.

4. Restrictions on Outside Storage Within Areas Other Than Required Yards

A. Outside Storage Within I-R

Within the I-R, Districts, no stocks, merchandise or material (with the exception of automobiles, tractors and other transportation, excavation or agriculturally related vehicles) may be stored upon any open area situated on any zone lot. If located adjacent to a residential zone district then the requirements in Section 9-103.4(6)(A) apply.

B. Outside Storage Within I-G and I-S Districts

Within the I-G and I-S Districts, outside storage may be permitted only within areas designated for such upon an approved site development plan.

5. Special Yard Provisions Applying Along Railroad Right-of-Way

In all industrial districts, other provisions of this ordinance notwithstanding, along such portion of a rear or side lot line which coincides with a boundary of a railroad right-of-way, no rear or side yard shall be required.

6. Special Provisions Applying to Required Yards and Building Setbacks Along District Boundaries Coincident with Side or Rear Lot Lines of Zone Lots Located, in Any Residential District

A. Required Yards Along District Boundaries Coincident with Side or Rear Lot Lines

Within I-R and I-G, Industrial Districts, along such portion of the boundary of the industrial district which coincides with a side or rear lot line of a zone lot in any residential district, an open area unobstructed from the ground to the sky shall be provided within the industrial district. Within I-R Districts, this area shall be thirty (30) feet in width and within I-G Districts, the width shall be fifty (50) feet. No portion of this open area shall be used for off-street parking, off-street loading or for storage or processing of any kind. No portion of this open area shall be paved, graveled or used for parking or as an access way of any type, unless required for the construction of a fire access road by the Fire Department.

B. Special Front Setback

Regardless of the front yard provisions established for any industrial district, no building located on any zone lot adjacent to any residential district shall extend closer to the street than the average of the distances of the buildings located within one hundred (100) feet, of the lot whereon the industrial activity is located; provided that no building shall be required to setback more than twice the minimum front yard applicable within the industrial district.

C. Screening Along Residential District Boundaries

To assist in the prevention of the transmission of light and noise from within any industrial district into any abutting residential district, screening shall be required where such district abuts or is contiguous to, or across a street from any residential district. Such screening shall be provided within the industrial district, but not within a public street or alley, along the entire property boundary adjacent to a residential zone district. Transitional screening which meets the standards found in the Fairview Design Manual, shall be located in this open area.

7. Special Provisions for Party Walls

Within I-R and I-G, Industrial Districts, side or rear yard requirements may be waived along the side or rear adjacent to another commercial or industrial zoned lot.

- A. At all points of attachment, adjoining buildings shall be separated from each owner by a fire rated wall constructed in accordance with the currently adopted Building Code for the City of Fairview.
- B. A common or party wall may bisect the dividing line of two (2) adjacent lots so that one-half (1/2) of the wall is located on each of the properties, provided that the owners of each property sign a covenant in the form of an easement running with the land granting to the owner of the adjoining property the right to maintain, reconstruct and protect the wall.
- C. In the event of the construction of a building on the lot line, the wall along the lot line if not constructed as a part or common wall between two (2) buildings, shall be constructed as a four (4) hour wall and meet all requirements of the Standard Building Code, without regards to any construction that may exist or be proposed on the adjoining property.
- D. All walls constructed within ten (10) feet, of a property line, shall have a four (4) hour fire rating and shall comply with all requirements of the Standard Building Code.

9-103.5 Obstructions Prohibited at Street Intersections

On a corner lot, no fence, wall, hedge, or other planting or structure that will materially obstruct vision between a height of two and one-half (2 1/2) feet and ten (10) feet above the center line grades of the intersecting streets shall be erected, placed, or maintained within the triangular area formed by the street lines at such corner lots and a straight line joining such street lines at points which are thirty-five (35) feet distance from the intersection of the street lines and measured along said street lines. In case of rounded street lines at the intersecting streets, such measurement shall be made from the point of intersection of the tangents of the curve constituting the rounding.

9-103.6 Requirements for Fire Lanes

Fire lanes that meet the currently adopted Fire Code shall be located adjacent to the front and rear entrances of all commercial or industrial buildings. Such fire lanes shall be positioned directly adjacent to emergency water facilities designed for fire protection and shall be paved with an all-weather surface capable of supporting the imposed

loads of fire apparatus. The required fire lanes shall not be obstructed in any manner, including the parking of vehicles. Installation of No Parking signs or other appropriate notice, or of approved obstructions inhibiting parking, may be required and if installed shall be maintained. The owner or his representative of a building which is adjacent to the fire lane shall be responsible for keeping the fire lane free of obstructions.

9-104: PURPOSES AND INTENDS OF IR – INDUSTRIAL RESTRICTIVE DISTRICTS

This class of district is intended to provide space for a wide range of industrial and related uses which conform to a high level of performance criteria and have the least objectionable characteristics. These districts may provide a buffer between other districts and other industrial activities which have more objectionable influences. Except as specified in Article 4, Subsection 4-102.2, (Residential Occupancy in Connection with Nonresidential Activity) new residential activities are excluded. Community facilities and commercial establishments which provide needed services for industry and are complementary thereto are permitted.

1. Permitted Uses

A. Community Facility Activities

- i. Administrative Services
- ii. Essential Public Transport and Communication and Utility Service

B. Commercial Activities

- i. Automotive Parking
- ii. Professional Services – Medical
- iii. Restaurant – Full Service
- iv. Restaurant – Fast Food
- v. Self Service Storage
- vi. Wholesale Goods

C. Manufacturing Activities

- i. Manufacturing - Limited
- ii. Manufacturing – General

2. Uses Permitted with Supplemental Provisions (SUP)

A. Commercial Activities

- i. Animal Care and Veterinary Services

3. Conditional Uses

A. Community Facility Activities

- i. Child Care Facilities
- ii. Community Assembly
- iii. Extensive Impact Facilities
- iv. Intermediate Impact Facilities
- v. Religious Facilities
- vi. Special Institutional Care Facilities

B. Commercial Activities

- i. Automotive and Marine Craft Sales, Service, and Repair

4. Bulk Regulations

A. Minimum Zone Lot Requirements

- i. Area - 40,000 square feet
- ii. Lot Width – (Measured at the Building Line) – 100 feet

B. Maximum Lot Coverage By Buildings (As % of Total Lot Area)

- i. 50 percent

C. Maximum Impermeable Surface Ratio (As % of Total Lot Area)

- i. Lots Two (2) Acres of Less – 80 Percent
- ii. Lots Greater Than Two (2) Acres – 70 Percent

D. Maximum Height

- i. 50 feet

E. Minimum Yard Requirements

- i. Front Yard – 20 Feet

- ii. Side Yard – 10 Feet

- a) If Adjacent to Residential Zone District Reference Section 9-103.4(6).

- b) If Constructed With Party Walls Reference Section 9-103.4(7)

- iii. Rear Yard – 20 Feet

- a) If Adjacent to Residential Zone District Reference Section 9-103.4(6).

9-105: PURPOSES AND INTENDS OF IG – INDUSTRIAL GENERAL DISTRICTS

This class of district is intended to provide space for the types of industrial activities which by reason of volume of raw materials or freight, scale of operation, type of structures required, or other similar characteristics require locations relatively well segregated from nonindustrial uses. Except as specified in Article 4, Section 4-102.2, (Residential Occupancy in Connection with Nonresidential Activity) new residential activities are excluded. Commercial establishments and community facilities which provide needed services for industry and are complementary thereto are permitted.

1. Permitted Uses

A. Community Facility Activities

- i. Administrative Services
- ii. Essential Public Transport and Communication and Utility Service

B. Commercial Activities

- i. Automotive Parking
- ii. Outside Materials and Equipment Sales and Repair
- iii. Professional Services – Medical
- iv. Restaurant – Full Service
- v. Restaurant – Fast Food
- vi. Self Service Storage
- vii. Warehousing, Goods Transport, and Storage
- viii. Wholesale Goods

C. Manufacturing Activities

- i. Manufacturing - Limited
- ii. Manufacturing – General

2. Uses Permitted with Supplemental Provisions (SUP)

A. Commercial Activities

- i. Animal Care and Veterinary Services

3. Conditional Uses

A. Community Facility Activities

- i. Child Care Facilities
- ii. Community Assembly
- iii. Extensive Impact Facilities
- iv. Intermediate Impact Facilities
- v. Religious Facilities
- vi. Special Institutional Care Facilities

- B. Commercial Activities
 - i. Adult Entertainment Establishments
 - ii. Automotive and Marine Craft Sales, Service, and Repair

- C. Manufacturing Activities
 - i. Manufacturing – Basic Industry

- 4. Bulk Regulations
 - A. Minimum Zone Lot Requirements
 - i. Area - 40,000 square feet
 - ii. Lot Width – (Measured at the Building Line) – 100 feet

 - B. Maximum Lot Coverage By Buildings (As % of Total Lot Area)
 - i. 50 percent

 - C. Maximum Impermeable Surface Ratio (As % of Total Lot Area)
 - i. Lots Two (2) Acres of Less – 80 Percent
 - ii. Lots Greater Than Two (2) Acres – 70 Percent

 - D. Maximum Height
 - i. 50 feet

 - E. Minimum Yard Requirements
 - i. Front Yard – 20 Feet

 - ii. Side Yard – 10 Feet
 - a) If Adjacent to Residential Zone District Reference Section 9-103.4(6).

 - b) If Constructed With Party Walls Reference Section 9-103.4(7)

 - i. Rear Yard – 20 Feet
 - a) If Adjacent to Residential Zone District Reference Section 9-103.4(6).

9-106: PURPOSES AND INTENDS OF IS – INDUSTRIAL SPECIAL DISTRICTS

This class of district is intended to provide suitable areas for intense, potentially noxious and/or dangerous industrial operations, including open land operations. It is specifically intended that all newly created districts be so located as to prevent possible negative impact upon adjoining uses. To this end, these districts are to be protected from encroachment by other activities.

1. Permitted Uses

A. Community Facility Activities

- i. Administrative Services
- ii. Essential Public Transport and Communication and Utility Service

B. Commercial Activities

- i. Automotive Parking
- ii. Scrap Operations
- iii. Warehousing, Goods Transport and Storage
- iv. Wholesale Goods

C. Manufacturing Activities

- i. Manufacturing - Limited
- ii. Manufacturing – General
- iii. Manufacturing – Basic Industry
- iv. Manufacturing – Hazardous

2. Conditional Uses

A. Community Facility Activities

- i. Extensive Impact Facilities
- ii. Intermediate Impact Facilities
- iii. Religious Facilities
- iv. Special Institutional Care Facilities

B. Agricultural and Extractive

- i. Feed Lots and Stockyards
- ii. Mining and Quarrying

3. Bulk Regulations

A. Minimum Zone Lot Requirements

- i. Area - 40,000 square feet
- ii. Lot Width – (Measured at the Building Line) – 150 feet

B. Maximum Lot Coverage By Buildings (As % of Total Lot Area)

- i. 50 percent

C. Maximum Impermeable Surface Ratio (As % of Total Lot Area)

- i. Lots Two (2) Acres or Less – 80 Percent
- ii. Lots Greater Than Two (2) Acres – 70 Percent

D. Maximum Height

- i. 50 feet

E. Required Yards Within I-S Districts

Due to the potentially noxious activities which may be permitted within IS Districts, special yard provisions are required.

i. Provisions Applicable to Zone Lots Occupied by Any Activity Classified as Hazardous Manufacturing

In its review of any application for approval of a hazardous manufacturing activity proposed for location within an I-S District, the Board of Commissioners shall establish yards and building separations sufficient to protect the health, safety and economic benefit of persons owning or occupying nearby property. As an absolute minimum such yards shall be as indicated below. Screening shall be provided as established in Section 9-103.4(6)(C) of this ordinance.

a) Use Adjoins Residential Property

Along any rear or side lot line which adjoins residential property, whether such property is presently occupied for residential purposes or only zoned for such use, an open area unobstructed from the ground to the sky at least two hundred (200) feet wide, shall be provided within the industrial district. Such open area shall not be paved nor used for off-street parking, loading, or storage or processing of any kind.

b) Use Adjoins Commercial or Industrial Property

Along any lot line which adjoins property, either classified or presently utilized for commercial or industrial purposes, an open area at least one hundred-fifty (150) feet wide, shall be provided. Such area may be utilized for off-street parking or loading, but shall not be used for storage or processing of any kind.

- ii. Zone Lots Occupied by Other Than Hazardous Manufacturing Activities
Yards for zone lots located within I-S Districts, and occupied by other than hazardous manufacturing activities may be as provided for I-G Districts.

9-107: SUPPLEMENTAL PROVISIONS FOR INDUSTRIAL SPECIAL DISTRICTS

9-107.1 Operation and Intent

The I-S, Special Industrial District, is intended to provide a mechanism for managing a wide variety of high impact, potentially noxious and/or dangerous, but necessary uses or activities which seek to locate within the Planning Jurisdiction. Certain of the potential uses that may locate within the district have associated with them some special impact or uniqueness related to materials, processes or products which cannot be evaluated as to effect on the surrounding area or environment in advance of the use being proposed for a particular location. At the time an application is filed for approval of an I-S District, a review of the location, design configuration and its impact will be conducted. This evaluation shall consider the proposed use, the Master Development Plan required for all such development by Article 17, Subsection 17-103.2, and all operational and environmental data required to be submitted.

The express goal of this review is to determine appropriate design criteria and environmental safeguards to be applied to such use in order to protect the health and safety of the public at large. The review will formulate a basis for a detailed recommendation to the Board of Commissioners as to the conditions under which the proposed use may be permitted to locate within the municipal boundaries through creation of an I-S, Special Industrial District.

9-107.2 Development Plans and Review Process

1. Procedure for Submission and Review

The process for review and approval of any I-S, Special Industrial District, consists of three (3) progressive elements:

- A. Review and recommendation of the Master Development Plan required for all such development by Article 17, Subsection 17-103.2, and all operational and environmental data required by Section 9-107.2(2) below.
- B. Consideration by the Board of Commissioners of the requested I-S District, as specified in Subpart 4, of this section.
- C. Review and approval of a Final Site Development Plan as specified in Article 17, Section 17-103.3.

2. Operational Data Required

Sufficient information shall be presented to fully divulge the operational nature, intensity and ultimate extent of the proposed activity. This information shall include, but not be limited to, the following:

- A. Nature of materials to be utilized and processes involved in the proposed operation, to specifically include a detailed listing of types and expected quantities of all materials classified as hazardous by the Federal Department of Environmental Protection or by the Tennessee Department of Health and Environment.
 - B. Average number of vehicles entering and leaving the site on a daily basis and the anticipated route(s) of travel.
 - C. Detailing of types and current status of all Federal and State permits required for operation of the proposed facility.
 - D. Detailing of all safety and protective measures to be utilized in connection with the operation as well as an indication of the system proposed for dealing with complaints.
 - E. A general indication of the anticipated duration of the proposed use and, details of plans and methodologies proposed for removal of the activity and/or reclamation of the site.
 - F. A listing of the type and quantity of emissions expected to be released from the site.
 - G. Effects of the proposed use on ground water and air quality.
 - H. Effects on surface water run-off and potential for any contamination of the same.
 - I. A detailed listing of soils and geological conditions found upon the site.
3. Planning Commission Recommendation
 The Planning Commission shall consider the Master Development Plan and forward a detailed recommendation concerning its disposition to the Board of Commissioners. This recommendation may contain suggestions for specific conditions and/or limitations to be applied to the use should the Board of Commissioners approve the zoning request.
4. Action by Board of Commissioners
 After review and recommendation by the Planning Commission, the applicant may proceed to the Board of Commissioners with the proposal. At the meeting of the Board where the proposal is presented, the Master Development Plan along with the action recommended by the Planning shall be presented for review. The Board of Commissioners may approve or disapprove the proposal, or in an instance where the Planning Commission

has recommended approval with conditions or recommendations for alterations, the Board may establish specific conditions within the purview of this ordinance for approval.

Upon action by the Board of Commissioners approving the Master Development Plan and the proposed change in zoning classification, the applicant may proceed to prepare and present to the Planning Commission a Final Site Development Plan, as specified in Article 17, Section 17-103.2. In no event shall a building permit be issued for any portion of a development subject to this procedure until a final site development plan has been approved.

In the event that the action by the Board of Commissioners is a conditional approval, such conditions shall be agreed to in writing by the applicant before the zoning approval shall become final. Moreover, such acceptance by the applicant shall cause the activity to be continuously subject to compliance with the conditions set out in the grant of approval (and accepted by the applicant) and any violation of these conditions shall be deemed a violation of this ordinance, as set out in Article 17.

5. Special Information Required for Final Site Development Plan

Following the action by the Board of Commissioners creating the I-S District, the applicant may proceed to prepare and present for review by the Planning Commission a Final Site Development Plan as specified in Article 17, Section 17-103.3. Additionally, all such plans shall contain the following:

A. Approved State and Federal Permits

Copies of all permits required by State and Federal law for operation of the facility shall be provided.

B. Site Restoration or Reclamation Plan

Depending upon the nature of the proposed use, a site restoration or reclamation plan may be required as a condition of zoning approval. Where such is required, said plan shall accompany the final development plan. Adequate provision, as determined by the city attorney, shall be made to assure implementation of said plan regardless of the future financial capabilities of the applicant.

6. Review of Approval Action

In the event that any Final Site Development plan shall be disapproved, such action shall, upon request by the applicant be reviewed by the Board of Commissioners. The Board shall consider the report submitted by the Planning Commission and such other information as it may require in order

to determine whether such development in its view meets the test of substantial compliance and complies with other standards of review, herein, established. Should the Board of Commissioners uphold the Planning Commission in its action, it shall notify the applicant that final approval of the development plan is denied. Should the Board of Commissioners override the Planning Commission's recommendation to disapprove the plan, it shall notify both the applicant and the Planning Commission of its decision and the action of the Board of Commissioners approving the plan shall become final.

9-107.3 Site Location and Design

1. General Location Criteria

The provisions of this section shall apply in determining the suitability of any site proposed for classification as an I-S, Special Industrial District.

- A. The proposed site will be located in areas apart from concentrations of residential developments and community facilities where concentrations of people will be present.
- B. The proposed use will not pollute or deteriorate air quality, surface or subterranean water, or any other natural features.
- C. The proposed site will not be located in an area that could contaminate the source of an existing public water supply.
- D. The proposed site will be free of sinkholes, caves, caverns, or other karst features that would present significant potential for surface collapse or significant degradation to local ground water resources.
- E. The proposed site will be adequately served by public utilities and services to ensure a safe operation.
- F. The proposed use will not result in the transportation of dangerous products or wastes through areas of population concentrations which would endanger community safety.
- G. The proposed site will have direct access from a road classified as an arterial or collector on the Major Thoroughfare Plan.
- H. The proposed lot shall be sufficient so that no danger occurs to the adjoining uses.

- I. The proposed site will not be located within a one hundred (100) year floodplain or wetland.

2. General Site Design Criteria

- A. No excavation or filling shall be made within any portion of the yard areas required by Section 9-103.4.
- B. Provisions shall be made for the disposal of surface water falling on or crossing the site at all times, during and after completion of the operations. The operations shall not obstruct the normal flow of any public drain, or abrogate the riparian rights of any other party to a stream or drain.
- C. The depth of excavation and the materials to be used for fill shall not have any adverse effect on the supply, quality or purity of ground water or wells.
- D. A layer of clean earth at least two (2) feet thick, shall be deposited and thoroughly compacted over all fill to bring the surface to the finished surface grade as shown on the topographic plan filed with the application.
- E. The finished surface of the site shall bear the proper relationship to that of adjoining properties.
- F. The installation of roads, parking areas, buildings, structures and operational facilities and equipment shall be located on the site so that adjoining properties will not be adversely affected.
- G. The operation shall be conducted so as not to create a nuisance or cause undue noise, vibration, dust, odor, or candescence to adjacent properties.
- H. The proposed site must have a public supply of water available, capable of providing the required fire flow to fire hydrants on site.

9-107.4 Expansion of Facilities or Changes in Operational Characteristics

Any approval of an I-S, Special Industrial District, is specifically limited to the uses(s), facilities and operations presented and approved in the plans provided for by this section. Any expansion of the facilities or change in the materials, services or products shall only be accomplished after approval of an Amended Master Development Plan.

ARTICLE 10: OVERLAY DISTRICTS

SECTIONS

10-101: OPERATION AND INTENT OF OVERLAY DISTRICTS

10-201: PLANNED OVERLAY DISTRICT DEVELOPMENTS

10-202: DEFINITIONS

10-203: SUBMITTAL AND REVIEW PROCEDURES GOVERNING PLANNED OVERLAY DISTRICTS

10-204: RESERVED

10-205: RESERVED

10-206: GENERAL DEVELOPMENT STANDARDS

10-207: DEVELOPMENT STANDARDS FOR PLANNED OVERLAY DISTRICTS

10-301: FLOODPLAIN DISTRICT REGULATIONS

10-302: DEFINITIONS

10-303: GENERAL PROVISIONS

10-304: ADMINISTRATION

10-305: PROVISIONS FOR FLOOD HAZARD REDUCTION

10-306: VARIANCE PROCEDURES

10-401: TCOD, TOWN CENTER OVERLAY DISTRICT (Added by Ordinance No. 509, August 16, 2001)

10-101 OPERATION AND INTENT OF OVERLAY DISTRICTS

10-101.1 Purpose and Intent

Overlay districts are hereby established as a means of addressing specific aspects of land use control or development that transcend conventional zoning district provisions. Included are overlay district provisions that permit greater design flexibility; an overlay to protect areas subject to flooding; and an overlay district designed to regulate the location of adult entertainment establishments

10-101.2 Applicability

An overlay district shall represent a mapped geographic area depicted upon the Official Zoning Map. Overlay districts may be applied to the districts so indicated by this ordinance and may encompass one or more of those districts. Unless expressly stated to the contrary in this article, all lands encumbered by an overlay district shall conform to all other applicable provisions of this ordinance.

10-201 PLANNED OVERLAY DISTRICT DEVELOPMENTS

10-201.1 General Provisions

1. Intent and Purpose

The planned overlay district regulations are an alternative zoning process that allows for the development of land in a well-planned and coordinated manner. This procedure is intended to provide opportunities

for more efficient utilization of land than would otherwise be the case under the conventional provisions of this ordinance. The planned overlay district provisions permit a greater mixing of land uses not easily accomplished by the application of conventional zoning district boundaries, or a framework for coordinating the development of land with the provision of adequate roadways and public services. In return, the planned overlay districts require a high standard for the protection and preservation of environmentally sensitive lands, well planned living, working and shopping environments and timely provision of essential utilities and streets.

2. Consistency with the Comprehensive Plan and Area Development Plans

No planned overlay district development shall be approved unless all plans for development are found to be consistent with the then current issue of the Comprehensive Plan for the city and any adopted special development plan for the specific area in which it is proposed. The Planning Commission, in their review and consideration of a planned unit development, shall generally consider the following with regards to the proposed development:

- A. Will be consistent with the currently effective Comprehensive Plan as well as any special development plan for the specific area.
- B. Is likely to be compatible with development permitted under the general development provisions of the zoning ordinance.
- C. Will not significantly interfere with the use and enjoyment of other land in the vicinity.

3. Application of the District

A. General

A planned overlay district development may be applied over any base zoning district established in Article 5, of this ordinance.

B. Provisions May Be Made Mandatory

In the event that the adopted development plan for an area in which any development is proposed so recommends, the Board of Commissioners shall require that all petitions for reclassifications of land within the area shall be formulated and administered in accordance with this section, including any amendments thereto. As appropriate for their respective areas, adopted master development plans shall also contain recommendations which may differ from or supplement

the provisions of this article respecting new or modified planned unit development districts; design standards for signage, setbacks, parking, and other matters, to be made applicable either area-wide or within particular planned unit development districts, or both. The Board of Commissioners shall not entertain proposals for the reclassification of land within such areas until it has formally acted upon these recommendations.

4. Relation of Planned Overlay District Regulations to General Zoning, Subdivision, or Other Regulations; Variations on Equal Satisfaction of Public Purposes

The planned overlay district development regulations that follow shall apply generally to the initiation and regulation of all planned unit development districts. Where there are conflicts between the special planned unit development regulations herein and general zoning, subdivision, or other regulations or requirements, these regulations shall apply in planned unit development districts.

Where actions, designs, or solutions proposed by the applicant are not literally in accord with applicable planned overlay district development or general regulations, but the Board of Commissioners makes a finding in the particular case that public purposes are satisfied to an equivalent or greater degree, the Board may make specific modification of the regulations in the particular case.

Except as indicated above, notwithstanding procedures and requirements generally in effect, procedures and requirements set forth herein and in guides and standards officially adopted as part of regulations for particular classes of planned unit development districts shall apply in planned unit development districts, to any amendments creating such districts, and to issuance of all required permits therein.

5. Jurisdiction of Planning Commission and Board of Zoning Appeals

Those activities which normally require conditional use permits granted by the Board of Zoning Appeals under various provisions of this ordinance may be permitted within planned unit developments without Board of Zoning Appeals action, provided that such activities are approved initially as part of the Master Development Plan by the Planning Commission and the Board of Commissioners.

6. Ownership and Division of Land

No tract of land may receive approval as a planned overlay district development, unless such tract is under the unified control of a landholder as defined by this ordinance. Unless, otherwise, provided as a condition of approval of a planned unit development, the landholder of an approved planned unit development may divide and transfer parts of such development. The transferee shall complete each such unit, and shall use and maintain it in strict conformance with the adopted Master Development Plan.

A report identifying all property owners within the area of the proposed district and giving evidence of unified control of its entire area shall be submitted along with any application for approval of a Master Development Plan. The report shall state agreement of all present property owners and/or their successors in title:

- A. To proceed with the proposed development according to the regulations in effect when the map amendment creating the planned unit development district becomes effective, with such modifications as are set by the Board of Commissioners in the course of such action.
- B. To provide bonds, dedications, guarantees, agreements, contracts, and deed restrictions acceptable to the Board of Commissioners in the course of such action.
- C. To bind further successors in title to any commitments under a, and b, above.

7. Status of Previously Approved Planned Unit Development Districts

Any Planned Overlay District development which was approved under the provisions of **Ordinance No. 134**, as amended, and is not completely developed at the time of approval of this ordinance may continue under the development plan as approved. In any instance, however, where a change in the approved development plan is proposed such change shall conform to the provisions of this ordinance.

10-202 DEFINITIONS

10-202.1 Application

In the construction of this article, the rules and definitions contained in this section shall be observed and applied, except when the context clearly indicates otherwise:

10-202.2 Terms Defined

ACTUAL CONSTRUCTION - The excavation of a site and/or the placement of building materials in conjunction with the construction of a building or other structure.

OPEN SPACE - A parcel or parcels of land and/or an area of water within the site designated, designed and intended for benefit, use or enjoyment of the occupants of said development. Open Space may contain such complementary structures and improvements as necessary and appropriate for the benefit and enjoyment of the occupants of such development.

DWELLING, ATTACHED - A building located upon one (1) zone lot containing not more than two (2) dwelling units, attached at the side or sides in a series of three or more principal buildings each containing not more than two dwelling units.

DWELLING, DETACHED - A building located upon one (1) zone lot containing not more than two (2) dwelling units, separated from structures on adjacent lots.

DWELLING, SEMI-DETACHED - A building located upon one (1) zone lot containing not more than two (2) dwelling units, attached at the side to not more than one other building containing not more than two (2) dwelling units.

UNIMPROVED OPEN SPACE - A parcel or parcels of land and/or an area of water within the site designated, designed and intended for the protection of the natural landscape or certain specified resources.

LANDHOLDER - The legal or beneficial owner or owners of all the land proposed to be included in a planned unit development. The holder of an option or contract to purchase, a lessee having a remaining term of not less than fifty (50) years in duration, or other person having an enforceable proprietary interest may be considered a "landholder" for the purpose of this ordinance.

IMPROVED OPEN SPACE - A parcel or parcels of land and/or an area of water within the site designated, designed and intended for benefit, active or passive recreational use or enjoyment of the occupants of said development.

UNIMPROVED OPEN SPACE - Open areas located within a planned unit development that are held in some form of common ownership and restricted to use only as vegetative buffers, or other forms of environmental or aesthetic protection. These areas may include floodplains, steep slopes or other environmentally sensitive lands.

10-203 SUBMITTAL AND REVIEW PROCEDURES GOVERNING PLANNED OVERLAY DISTRICT DEVELOPMENTS

10-203.1 Purpose and Intent

The purpose of these provisions is to prescribe a procedure for the review, approval and continued administration of all planned overlay districts provided for by this section.

10-203.2 Pre-application Conference

Prior to filing an application for approval of a planned overlay district development the applicant shall confer with the City Planner concerning policy and procedure relative to the application. The City Planner shall arrange a formal meeting at which the applicant or his representative shall meet with other staff persons who will be involved in reviewing and recommending action on the proposed master development plan.

10-203.3 Application for and Consideration of a Planned Overlay District Development

1. Application for Planning Commission Review and Recommendation
Application for a planned overlay district development shall be made by the landholder of the affected property or his authorized agent to the City Planner in accordance with such written general rules regarding general procedure, form of application, and required information as the Planning Commission may determine, provided they are not inconsistent with the requirements set forth below.

At a minimum, applications should be accompanied by;

- A. A fee established by the Board of Commissioners from time to time;
- B. A Master Development Plan as outlined in this ordinance;
- C. Name, address, contact information of applicant; land owner(s) of parcel(s) seeking planned overlay; and professional architect, planner, or engineer responsible for preparing the Master Development Plan.
- D. A copy of all deeds along with written documents signed by all property owners indicating willingness to abide by the approved development plan.
- E. The substance of covenants, grants of easements or other restrictions to be imposed upon the use of the land, buildings and structures including

the proposed means of assuring the continued maintenance of open space or other common elements and amenities and governing the use and continued protection of the planned development.

- F. Submission of documentation of adequate public facilities including but not limited to traffic studies, environmental studies, and documentation that all relevant utility companies and governmental departments have been consulted and that adequate capacity exists or the applicant has agreed to upgrade the facilities as necessary to adequately serve the proposed development.
- G. The planning staff, Planning Commission, or Board of Commissioners may require additional information to be submitted which may be necessary to make a determination regarding the planned overlay district application.

2. Master Development Plan of a Planned Overlay District

The Master Development Plan for the proposed Planned Development Overlay District shall be comprised of a plan of development which shall include the following minimal information to sufficiently convey or disclose:

- A. Location, shape and size of property or properties involved in the project;
- B. The proposed street network within and adjacent to the project which shall include the location and proposed improvements of any road depicted on the Major Thoroughfare Plan or Comprehensive Plan. The plan shall show all proposed connections or stub-outs to adjacent properties;
- C. The location and layout of proposed lots and an indication of the proposed uses for each non-single family or two-family lot;
- D. The location of open space, pedestrian/bicycle connections, and areas proposed for public use (i.e. school, fire station) along with a description of the proposed amenities and improvements within the development;
- E. The location and size of areas to be utilized for sanitary sewer treatment including preliminary analysis of soils showing the approximate total number of residential lots the soil area(s) can accommodate;
- F. The location and general configuration of storm water detention areas along with general storm water conveyance paths;

- G. For any uses other than one and two-family uses, show the general location and size of proposed buildings, parking areas, loading zones, and screening and a list of permitted uses;
- H. The base zone district(s) proposed for inclusion within the planned unit development and the delineation of each base zone district area with calculated gross area, net area, and corresponding maximum density calculation;
- I. A tabulation of number of total lots proposed for each proposed residential base zone along with minimum lot sizes, minimum building setbacks, and minimum widths for each base zone;
- J. Major landscaping features proposed for the development;
- K. The location and size along with the type and proposed use for any open space included within the proposed development. Such information shall be sufficient to meet the open space requirements outlined elsewhere in this article.
- L. List of exceptions or deviations from the zoning ordinance, subdivision regulations, and design review manual that are otherwise applicable to the base zone district including but not limited to setbacks, lot size, and street design;
- M. A map showing existing conditions including contours (at a maximum of 2-foot intervals), flood plain areas, available utilities, easements, roadways, and public right-of-way within and adjacent to the proposed development;
- N. Architectural renderings, architectural plans or photographs of proposed structures with sufficient clarity to convey the appearance of proposed structures. Additionally, written descriptions of proposed exterior building materials, including siding and roof materials, porches, decks, fences and driveways;
- O. If the planned overlay district development is proposed to be constructed in phases during a period extending beyond a single construction season then a phasing plan shall be delineated on the Master Development Plan. The Phasing Plan shall include:

- i. The approximate date when construction of the project will begin;
- ii. The order in which the phases will be built;
- iii. The minimum area and approximate location of common open space and public improvements that will be required at each phase; and
- iv. A breakdown by phase for subsections [H] and [I] above.

3. Review by Other Departments of City Government

Other departments of the city, as deemed appropriate by the City Planner, shall review the Master Development Plan for the proposed planned unit development.

4. Action by Planning Commission on Application for Planned Overlay District Development

Within thirty (30) days after initial formal submission of all required information and documents outlined above, the Planning Commission shall take action on the application by making any one of the following recommendations to the Board of Commissioners:

A. Recommendation for approval.

B. Conditional recommendation for approval, in which the Planning Commission expressly denotes modifications which must be made a part of the Master Development Plan.

C. Recommendation for denial.

5. Action by Board of Commissioners on Application for a Planned Overlay District Development

The consideration of a planned overlay district by the Board of Commissioners is deemed an amendment to the official zoning map of the City of Fairview and as such the Board of Commissioners shall review applications for planned overlay district developments only after receiving a recommendation from the Planning Commission and then proceed in the manner set forth in Article 17 of this ordinance including a public hearing and proper notice thereof along with a final decision on the application.

In making such a decision, the Board of Commissioners shall consider but not be bound by the recommendation of the planning commission. The Board of Commissioners shall approve, deny, or approve with conditions. The Board of Commissioners may defer the application for a reasonable amount of time if

more information is needed to make an informed decision. Within 30 days after approval of a planned overlay district, the zoning map will be amended to show the planned overlay district accordingly.

10-203.4 Subsequent Site Development Plan and Subdivision Plat Requirements for Approved Planned Overlay District Developments

1. Controlling Document

The approval by the Board of Commissioners of a planned overlay district development application, including the Master Development Plan and all other information provided with the application shall become the controlling documents for future development within the established overlay district.

These controlling documents shall authorize and form the basis for the Planning Commission's consideration and review of subsequent site development plans and subdivision plats that are to be submitted for approval.

The procedure for site development plan review and approval will be required as established in Article 17 of this Ordinance.

The procedure for subdivision platting review and approval will be required as established in the City's Subdivision Regulations.

2. Action by Planning Commission on Site Development Plans and Subdivision Plats

In reviewing site development plans or subdivision plats for development within planned overlay districts, the function of the Planning Commission is twofold. First, the proposed plans must be found to be in substantial compliance with the previously approved application for the planned overlay district including the master development plan. Second, all new information not previously considered must be reviewed to determine its quality and compliance with all substantive requirements of this ordinance and the controlling documents for the planned overlay district.

The Planning Commission may approve the site development plan or subdivision plat if it finds:

- a) That the final plan meets the provisions for substantial compliance with the preliminary plan set forth in Subsection 10-203.5 (below); and,

- b) That the plan complies with all other standards for review which were not considered when the master development plan and application for the planned overlay district was approved.

3. Disapproval

If the Planning Commission finds that the site development plan or subdivision plat does not meet the test for substantial compliance set forth in Subsection 10-203.5, or does not comply with other standards of review it shall disapprove the plan and shall note in their motion for disapproval the grounds on which the plan was disapproved.

10-203.5 Determination of Substantial Compliance

Site development plans or subdivision plats shall be deemed in substantial compliance with the master development plan and other controlling factors as outlined in the approved application for the planned overlay district provided modifications by the applicant do not involve any of the changes outlined below:

1. Violate any provisions of this article unless specifically noted on the previously approved controlling documents of the planned overlay district;
2. Reduce the minimum lot sizes, minimum building setbacks, or minimum lot widths;
3. Involve a reduction of more than five (5) percent of the area shown on the master development plan as reserved for open space;
4. Increase the total square footage of floor area proposed in the master development plan for nonresidential use by more than two (2) percent;
5. Increase in the overall density nor an increase in the density of any specific phase of the development;
6. Changes to roadway alignments or lot layouts that significantly deviate from the approved master development plan;
7. Include any land area that is outside the boundaries of the approved planned overlay district; and,
8. Involve any land use not specified in the approved controlling documents.

In any instance wherein a site development plan or subdivision plat, including minor changes authorized under the provision of Subsection 10-203.8, is found to not meet the test of substantial compliance as set forth herein such plans may only be approved upon adoption of appropriate amendments to the planned overlay district.

10-203.6 Enforcement of the Phasing and Completion of Open Space

The construction and provision of all open spaces, amenities, and recreational facilities which are included on the approved master development plan must proceed at no slower rate than the construction of dwelling units. From time to time the Planning Commission shall compare the actual development accomplished with the approved development schedule. If the Commission finds that the rate of construction of dwelling units or other commercial or industrial structures is substantially greater than the rate at which open spaces, amenities, or recreational facilities have been constructed and provided, then the Planning Commission may take either or both of the following actions:

1. Cease to approve any additional final plats or site development plans;
2. Instruct the City Planner to discontinue issuance of building permits.

In any instance where the above actions are taken the Planning Commission shall gain assurance that the relationship between the construction of dwellings or other structures of a commercial or industrial nature and the provision of common open spaces and public and recreational facilities is brought into adequate balance prior to the continuance of construction.

10-203.7 Building Permits and Use and Occupancy Permits

Building permits and use and occupancy permits shall be issued for uses, buildings and other structures in planned overlay district developments in accordance with this section; otherwise, permits and certificates shall be issued in accordance with the other provisions of this ordinance as applicable.

1. Building Permits

Building permits may be issued for structures, buildings, activities, or uses only in strict compliance with the adopted master development plan and controlling documents of the planned overlay district development, including the conditions of approval.

2. Use and Occupancy Permits

A use and occupancy permit may be issued only when the City Planner determines that the structure, building, activity, or use as a part of a planned overlay district development conforms to the adopted master development plan, including any conditions of its approval.

10-203.8 Modifications to an Adopted Planned Overlay District Development

Following approval of the planned overlay district by the Board of Commissioners, it is possible that as the development of the planned district progresses, modifications to the approved master plan may be necessary for a variety of reasons. Minor modifications only require administrative approval from the City Planner. However, major modifications, as defined below, will be subject to further review by the Planning Commission and Board of Commissioners and will be required to undergo the same review and approval process as the initial application.

A written request from the developer seeking a variation to an approved planned overlay district development shall be submitted to the City Planner. The request shall describe the overall effect of the proposed changes, a modified master development plan, the reasons for seeking such amendment, and provide a written description of how the proposed modifications accomplishes the intent of the planned overlay district as originally proposed. Upon receipt of a complete request, the City Planner will make a written determination on whether the proposed modification is major or minor within thirty (30) days.

Modifications that result in the following will be classified as major:

1. The changes proposed seek to amend a specific condition that was imposed by the Board of Commissioners;
2. Proposed amendment results in the increase in the number of dwelling units in any phase;
3. Increase the total square footage of floor area proposed in the master development plan for nonresidential use by more than two (2) percent;
4. Proposed amendment reduces the minimum lot sizes, minimum building setbacks, or minimum lot widths;
5. The amendment modifies the location and/or number of the development's primary access points;
6. Involve a reduction of more than five (5) percent of the area shown on the master development plan as reserved for open space;
7. Modification of bulk, height restrictions, and exterior building materials and any other development regulations expressly enumerated in the controlling documents and master development plan;
8. Changes to roadway alignments or lot layouts that significantly deviate from the approved master development plan;
9. Include any land area that is outside the boundaries of the approved planned overlay district; and,

10. Involve any land use not specified in the approved controlling documents.

10-203.9 Control of Planned Overlay District Development Following Completion

1. Completion and Acceptance

Upon completion of a planned overlay district development, or when developed in stages, of any portion of said development, the City Planner shall note the formal completion date on the approved master development plan. The formal completion date is the date in which the public infrastructure is formally accepted by the Board of Commissioners as outlined in the Subdivision Regulations.

2. Changes in the Use of Land or Bulk of Structures Within a Planned Development After Completion

After completion of a planned overlay district development, or portion thereof, the use of land and the construction, modification, or alteration of any buildings or structures within the planned development shall be governed by the approved master development plan and other controlling documents, to the extent that such provisions are applicable rather than by any other provisions of this ordinance.

Changes may be made in the approved planned overlay district development, only upon application to the appropriate agency under the procedure below:

- A. Any minor extensions, alterations, or modifications of existing buildings or structures may be authorized by the Planning Commission, if the extensions, alterations or modifications are determined to be consistent with the purposes and intent of the master development plan.
- B. A building or structure that is totally or substantially destroyed may be reconstructed only in compliance with the final development plan, unless an amendment to the final development plan is approved, as set forth below.
- C. Changes in the use of common open space may be authorized by an amendment to the master development plan provided that no amendment approved hereunder may act to abrogate or annul any covenant which provides for the use, operation, or continuance of the common open space.

- D. All other changes in the final development plan must be made by the Board of Commissioners, under the procedures authorized by this ordinance for amendment of the zoning map.
- E. No changes in the final development plan which are approved under this section are to be considered as a waiver of the covenants limiting the use of land, buildings, structures and improvements within the area of the planned development, and all rights to enforce these covenants against any changes permitted by this section are expressly reserved.

10-204 RESERVED

10-205 RESERVED

10-206 GENERAL DEVELOPMENT STANDARDS OF PLANNED OVERLAY DISTRICTS

The following provisions shall be applicable as indicated to all planned overlay district developments.

10-206.1 Relationship to Other Requirements

Unless, otherwise specified in this article, all requirements and standards established by other provisions of this ordinance shall apply to the development and use of properties located within any planned overlay district. In a case of conflict between the provisions of this article and any other provision of this ordinance, the provisions of this article shall apply within planned overlay districts.

10-206.2 Landscaping and Buffering

Within any planned overlay district development, landscaping and buffering shall be provided which meets or exceeds the purposes and intents for such established in the Fairview Design Review Manual. It is intended, however, that within planned overlay district developments, alternative means may be employed to achieve an equal level of protection to that resulting from strict application of the provisions found in the Fairview Design Review Manual. This provision is intended to permit and encourage the use of flexible techniques to achieve a transitional character through site design which minimizes the harmful impact of noise, dust and other debris, motor vehicle headlight glare or other artificial light intrusion, and other objectionable activities or impacts conducted on or created by an adjoining or nearby use.

10-206.3 Parking, Loading and Access

All planned overlay district developments shall be subject to the provisions of Article 11, (Parking, Loading and Access) provided that the Board of Commissioners may permit a variance from off-street parking and loading

requirements in approving an application for a planned overlay district development.

10-206.4 Neighborhood Relationship

A planned overlay district development shall be harmonious and not conflict with surrounding residential neighborhoods. It shall be planned, designed and constructed so as to avoid undue traffic congestion in the surrounding residential area and provide a satisfactory relationship of land use with the surrounding area, making use of landscaping, screening, open space and the placement of buildings where required by accepted land planning principles.

10-206.5 Architectural Compatibility

Architectural features deemed essential to ensure compatibility with surrounding properties shall be incorporated. Architectural compatibility should be limited to those portions of the development which abut adjacent properties or can be seen from the frontage street. Examples of architectural features which may be important for ensuring compatibility include building bulk, height, roof slopes, building orientation, overhangs, porches and exterior materials.

10-206.6 Permitted Land Uses

Land uses permitted within any planned overlay district shall be established by the master development plan and other controlling documents submitted with the application for a planned overlay district and ultimately approved by the Board of Commissioners.

10-206.7 Preservation of Natural Features

Mature trees, vegetative cover, watercourses, stone walls, existing relief and other natural site features should all be preserved to the greatest extent possible. Abrupt changes in natural slope should be avoided. Preservation shall be directed toward:

1. Enhancing the quality of new development;
2. Protecting the natural environment;
3. Providing buffering between new development and surrounding properties; and
4. Preserving the existing neighborhood character.

10-207 SPECIFIC DEVELOPMENT STANDARDS FOR PLANNED OVERLAY DISTRICTS

10-207.1 Minimum Size of Residential Planned Overlay District Developments

No residential planned overlay district developments may contain less than the minimum area as stipulated herein unless the Planning Commission and/or Board of Commissioners find that a tract containing less than this minimum is suitable as a planned unit development by virtue of its historical character, unique scenic qualities, ecological or topographic features. Whenever a residential planned overlay district development is proposed to be located within two (2) or more zoning districts with different required minimum areas, the largest required minimum area shall control.

TABLE 10-207A - MINIMUM SIZE OF RESIDENTIAL PLANNED OVERLAY DISTRICTS	
BASE ZONING DISTRICT	MINIMUM GROSS AREA FOR CREATION OF PLANNED RESIDENTIAL OVERLAY DISTRICT
AR-15A	100 Acres
AR-5A	50 Acres
RS-40	20 Acres
RS-20	10 Acres
RS-15	5 Acres
RM-8	No Minimum
RM-12	No Minimum
RS-8	No Minimum
RS-5	No Minimum
RM-20	No Minimum

10-207.2 Density Permitted within Residential Areas of a Planned Overlay District

The residential density permitted within a planned overlay district development is to be derived from that permitted within the base zoning district which the overlay is to be applied. The maximum number of dwelling units permitted shall be calculated as follows:

1. Basic Density Calculations

The residential density of a planned overlay district development shall be established by the application of the following formula and utilization of table 10-207B to the respective land area within each underlying residential base zone classification. A maximum density shall be assigned to each residential base zone area of the planned overlay district and noted on the Master Development Plan.

Density Formula:

Maximum Dwelling Units Allowed =

Net Area of Underlying Residential Base Zone X Density Factor (found in Table 10-207B) of the underlying base zone district

Note that Net Area = Total Area of Underlying Base Zone – Area to be dedicated as public R.O.W. – Area located within a FEMA special flood hazard zone.

TABLE 10-207B - DENSITY FACTORS FOR RESIDENTIAL PLANNED OVERLAY DISTRICTS	
BASE ZONE DISTRICT	DENSITY FACTOR (dwelling units per acre)
AR-15A	.07
AR-5A	.2
RS-40	1.1
R-20	2.2
RS-15	2.9
RS-10	4.4
RM-8	8.0
RM-12	12.0
RS-8	5.4
RS-5	8.7
RM-20	20.0
Any fractions of .5 or greater shall be rounded to the next whole number.	

2. Assignment of Density

If there are multiple base zone districts proposed for a planned overlay district, each base zone district shall be delineated on the Master Development Plan and the density formula applied to each base zone district area to establish a maximum allowed density for each base zone district area that is delineated.

10-207.3 Minimum Lot Sizes of a Planned Overlay District

1. Residential Base Zones – One and Two-Family Uses:

The minimum size of lots within planned overlay district areas created for single and two-family dwellings may be no smaller than half (50%) of the minimum lot size for the corresponding base zone district, subject to the following restrictions:

- A. At any point where a planned overlay district adjoins a residential zoning district where the minimum required lot size is greater than required by these regulations, the lots located adjacent to the boundary between the two (2) districts shall contain a minimum area of twenty thousand (20,000) square feet unless a dedicated open space area of at least 20' wide is provided along the adjoining boundary line. Additionally, said open space area shall contain a landscaping buffer.
2. Residential Base Zones – Multi-family Areas:
The minimum lot size for residential base zones created for proposed residential uses other than single and two-family uses is the same as the minimum lot size established by the underlying base zone.
3. Non-residential Base Zones:
The minimum lot size for base zones created for proposed uses other than residential is the same as the minimum lot size established by the underlying base zone.

10-207.4 Minimum Building Setbacks of a Planned Overlay District

1. Residential Base Zones – One and Two-Family Uses:
The absolute minimum building setbacks within planned overlay district areas created for single and two-family dwellings are as follows:
Front: 20 feet; Side 7.5 feet; Rear: 10 feet.
2. Residential Base Zones – Multi-family Areas:
The absolute minimum building setbacks for residential base zones created for proposed residential uses other than single and two-family uses is the same as the minimum building setbacks established by the underlying base zone unless otherwise noted on the approved Master Development Plan.
3. Non-residential Base Zones:
The absolute minimum building setbacks for base zones created for proposed uses other than residential is the same as the minimum building setback established by the underlying base zone unless otherwise noted on the approved Master Development Plan.

10-207.5 Bulk Regulations for Mixed Uses (Residential and Non-Residential) on Same Parcel

1. Density – The maximum allowed residential density for mixed use parcels is calculated the same as described previously in this section.
2. Minimum Lot Size – The minimum lot size allowed for mixed use parcels is the greater of the following: a) the underlying base zone, or b) the minimum lot size allowed in Section 10-207.3(1).
3. Minimum Building Setbacks – The minimum building setbacks allowed for mixed use parcels is same as the minimum building setback established by the underlying base zone unless otherwise noted on the approved Master Development Plan.

10-207.6 Standards Along Existing Road Frontage of a Planned Overlay District

If a planned overlay district proposes single or two-family residential uses along an existing road frontage, said uses shall adhere to the following requirements:

1. No proposed lot shall have direct vehicular access to the existing roadway;
2. All proposed residential structures shall be rear-facing or side-facing with respect to the existing roadway;
3. An open space with buffer having a minimum depth of 75 feet from the R.O.W. line of the existing roadway shall be provided;
4. The buffer shall be comprised of adequate landscaping and elevation to screen the rear yards of all lots that back up to the open space area from the existing public R.O.W.

10-207.7 Open Space

Any open space established by an adopted Master Development Plan for a planned overlay district shall be subject to the following:

1. Quality, Use and Improvement of Open Space
Open space must be for amenity, site protection or recreational purposes. The uses authorized for open space must be appropriate to the scale and character of the planned overlay district development considering its size, density, expected population, topography and other factors.

No open space may be put to any use not specified in the approved Master Development Plan, unless such plan has been amended by action of the Board of Commissioners to specifically allow the change of use. No matter how authorized, no change may be considered as a waiver of any of the covenants limiting the use of open space areas, and all rights to enforce these covenants against any use so permitted are expressly reserved.

Open space may, subject to approval by the Planning Commission and Board of Commissioners, consist of improved or unimproved land. All such land shall be designated as to its intended use upon the Master Development Plan, all site development plans and all plats.

2. Conveyance of Open Space

All land shown on the Master Development Plan as open space shall be conveyed under one of the following options:

- A. It may be conveyed to a public agency that will agree to maintain the open space and any buildings, structures, or improvements which have been placed on it.
- B. It may be conveyed to trustees provided in an indenture establishing an association, funded trust, or similar organization meeting the requirements of Subsection 3, below, for the maintenance of the planned development. The open space must be conveyed to the trustees subject to covenants to be approved by the Planning Commission which restrict the open space to the uses specified on the Master Development Plan, and which provide for maintenance of the open space in a manner that assures its continuing use for its intended purposes.

3. Requirements for Maintenance Organization

In any instance where open space is to be conveyed to an organization other than a public agency, the Planning Commission and Board of Commissioners shall require that the landholder provide for and establish an organization for the ownership and maintenance of any open space, and such organization shall not be dissolved nor shall it dispose of any open space, by sale or otherwise except to an organization conceived and established to own and maintain the open space.

In any instance where open space is to be deeded to a maintenance organization, the landholder shall file a declaration of covenants and restrictions that will govern the association. The provisions shall include but not be limited to, the following:

- A. The maintenance organization shall be established, funded and operational before any property is sold.
- B. Membership shall be mandatory for each owner and must run with the land so that any successive purchaser will automatically become a member.

- C. The restrictions covering the use, etc., of the open space shall be permanent, not just for a period of years.
- D. The association(s) shall be responsible for liability insurance, local taxes and the maintenance of all facilities and lands deeded to it.
- E. Property owners shall pay their pro rata share of the cost assessed by the maintenance association; said assessment by the association can become a lien on the owner's property for failure to pay.
- F. The association shall be able to adjust the assessment of fees to meet changing needs.

In the event that the organization established to own and maintain open space, or any successor organization shall at any time after the establishment of the planned overlay district development fail to maintain the open space in reasonable order and condition in accordance with the adopted Master Development Plan, the City Planner may serve written notice upon such organization and/or the owners or residents of the planned overlay district development and hold a public hearing.

After thirty (30) days when deficiencies of maintenance are not corrected, the City Planner may call upon any public or private agency to maintain the open space.

The cost of such maintenance shall be assessed proportionately against the properties within the planned overlay district that have a right of enjoyment of the open space and shall become a special assessment to the property tax or a lien on said properties.

4. Required Open Space Area

A minimum of ten percent (10%) of the total area of a planned overlay district, excluding areas devoted to public R.O.W., nonresidential uses, FEMA flood zones, and areas devoted to waste water disposal (i.e. STEP systems) shall be set aside as open space. At least fifty percent (50%) of this land shall be Improved Open Space, as defined in this chapter. All planned overlay districts that are completely non-residential are exempt from this requirement.

Open space shall be provided which generally is adequate to:

- A. Buffer both internal and external activities from objectionable or conflicting characteristics associated with such uses;

- B. Assure adequate space, light and air along with visual and acoustical privacy;
- C. Assure protection of steep slopes, floodable and other hazardous and/or undesirable building areas, and
- D. Provide space for recreation and enjoyment of the residents/patrons.

5. Open Space Location and Configuration

Where relevant and appropriate, improved and unimproved open space shall be located so as to be readily accessible by residents and users of the development. To the extent practicable, open spaces should provide the following;

- A. Focal points for the development, such as public gathering areas, fountains, etc.
- B. Connectivity within the development so that an interconnected network of open space can be enjoyed by the residents.
- C. An extension and enlargement of presently existing or planned trail, park, or other open area land adjacent to the development.

6. Open Space Designations

All open space shown on a master development plan of any planned overlay district development shall be indicated as to its intended use. In this regard, open space may consist of the following:

A. Unimproved open space

May consist of any of the following:

- Natural slopes of eighteen (18) percent or greater;
- Streams, creeks, major drainage ways (specifically, including all "blue line" streams), and storm water detention areas;
- Areas classified as wetlands;
- Areas classified as Floodplain Districts;
- Sites of paleontological, prehistoric, historic and/or archeological significance, specifically including all sites of historic or prehistoric human activity such as, but not restricted to, buildings, stone walls, mounds, forts, earthworks, burial grounds, structures, villages, mines, caves and all locations which are or may be sources of paleontological remains;
- All areas which present geological hazards specifically including those within unstable geological and karst formations, (including sink holes);
- Areas presenting environmentally or ecologically unique resources, including the habitat of any and all threatened or endangered species of plants or animals;

- Vegetated areas that serve as a buffer between land uses;
- Agricultural or pasture areas; and
- Areas reserved for wastewater disposal (i.e. STEP systems).

B. Improved Open Space

i. Permitted Uses

Improved open space must be suitably improved for its intended use. Active recreation facilities are encouraged. Permitted uses for usable open space may include, but are not limited to:

- Pedestrian, bike and multi-purpose trails (sidewalks along roadways are not considered open space for the purposes described in this article);
- Passive recreation areas, including pocket parks, gazebos, sitting/viewing areas; and
- Active recreation areas, such as playgrounds, athletic fields/courts, multi-use recreational structures, and community swimming pools.

ii. Recreational Equipment in Improved Open Space

All recreational equipment provided within any improved open space shall be durable commercial grade equipment. All equipment shall meet all Consumer Product Safety Commission Safety Guidelines, as well as the ASTM guidelines for the Public Use Playground Standard.

10-207.8 Requirements for Non-residential Areas of Planned Overlay Districts

All non-residential areas of planned overlay districts should adhere to all regulations and requirements applicable to the base zone district for which they are located in within the planned overlay district development unless specifically stated otherwise in this article. This includes all provisions found elsewhere in the Zoning Ordinance and in the Design Review Manual.

10-301 FLOODPLAIN DISTRICT REGULATIONS (Deleted and Replaced by Ordinance 639, September 7, 2006, as amended by Ordinance 819, December 5, 2013).

10-301.1 Statutory Authorization

The Legislature of the State of Tennessee has in Sections 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 Fairview, Tennessee Board of Commissioners, does ordain as follows:

10-301.2 Findings of Fact

The Fairview, Tennessee Board of Commissioners, wishes to maintain eligibility in the National Flood Insurance Program and in order to do so must meet the requirements of 60.3 of the Federal Insurance Administration Regulations found at 44 CFR Ch. 1 (10-1-04 Edition).

Areas of Fairview 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.

These 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.

10-301.3 Statement of Purpose

It is the purpose of these provisions to promote the public health, safety and general welfare, and to minimize public and private losses due to flood conditions in specific areas.

These provisions are designed to:

1. Restrict or prohibit uses which are vulnerable to water or erosion hazards, or which result in damaging increases in erosion, flood heights, or velocities;
2. Require that uses vulnerable to floods, including community facilities, be protected against flood damage at the time of initial construction;
3. Control the alteration of natural floodplains, stream channels, and natural protective barriers involved in the accommodation floodwaters;
4. Control filling, grading, dredging and other development which may increase flood damage or erosion, and;
5. Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.

10-301.4 Objectives

The objectives of these provisions are:

1. To protect human life, health and property;
2. To minimize expenditure of public funds for costly flood control projects;
3. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
4. To minimize prolonged business interruptions;
5. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodable areas;
6. To help maintain a stable tax base by providing for the sound use and development of flood prone areas in such a manner as to minimize blight in flood areas;
7. To ensure that potential homebuyers are notified that property is in a floodable area; and
8. To maintain eligibility for participation in the National Flood Insurance Program.

10-302 DEFINITIONS

Unless specifically defined below, words or phrases used in this article shall be interpreted as to give them the meaning they have in common usage and to give this article it's most reasonable application given its stated purpose and objectives.

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

1. Accessory structures shall not be used for human habitation.
2. Accessory structures shall be designed to have low flood damage potential.
3. Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters.
4. Accessory structures shall be firmly anchored to prevent flotation that may result in damage to other structures.

5. Service facilities such as electrical and heating equipment shall be elevated or flood proofed.

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

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

"New Construction".

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

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

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

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

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

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

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

"Building", means any structure built for support, shelter, or enclosure for any occupancy or storage (See **"Structure"**)

"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.

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

"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.

"Erosion" means the process of the gradual wearing away of landmasses. This peril is not per se covered under the Program.

"Exception" means a waiver from the provisions of this article that relieves the applicant from the requirements of a rule, regulation, order or other determination made or issued pursuant to this article.

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

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

"Existing Structures" see **"Existing Construction"**.

"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).

"Flood" or "Flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from:

1. The overflow of inland or tidal waters;
2. The unusual and rapid accumulation or runoff of surface waters from any source.

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

"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.

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

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

"Flood Insurance Study" is the official report provided by the Federal Emergency Management Agency, evaluating flood hazards and containing flood profiles and water surface elevation of the base flood.

"Floodplain" or "Flood Prone Area" means any land area susceptible to being inundated by water from any source (see definition of **"Flood or Flooding"**).

"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.

"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.

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

"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.

"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.

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

"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.

"Floor" means the top surface of an enclosed area in a building (including basement), i.e., top of slab in concrete slab construction or top of wood flooring

in wood frame construction. The term does not include the floor of a garage used solely for parking vehicles.

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

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

"Highest Adjacent Grade" means the highest natural elevation of the ground surface, prior to construction, adjacent to the proposed walls of a structure.

"Historic Structure" means any structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminary determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
3. Individually listed on the Tennessee inventory of historic places and determined as eligible by states with historic preservation programs which have been approved by the Secretary of the Interior; or
4. Individually listed on a local inventory of historic places and determined as eligible by communities with historic preservation programs certified either:
 - A. By an approved state program as determined by the Secretary of the Interior, or
 - B. Directly by the Secretary of the Interior.

"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.

"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.

"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 article.

"Manufactured Home" means a structure, transportable in one or more sections, which is built on a permanent chassis and designed for use with or without a permanent foundation when attached to the required utilities. The term

"Manufactured Home" does not include a **"Recreational Vehicle"**, unless such transportable structures are placed on a site for one hundred-eighty (180) consecutive days or longer.

"Manufactured Home Park or Subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

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

"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 article, the term is synonymous with National Geodetic Vertical Datum (NGVD) or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

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

"New Construction" means any structure for which the "start of construction" commenced after the effective date of this article or the effective date of the

first floodplain management ordinance and includes any subsequent improvements to such structure.

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

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

"100-Year Flood" see **"Base Flood"**.

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

"Recreational Vehicle" means a vehicle which is:

1. Built on a single chassis;
2. Four hundred (400) square feet or less when measured at the largest horizontal projection;
3. Designed to be self-propelled or permanently towable by a light duty truck; and
4. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

"Regulatory Floodway" 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.

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

"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.

"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.

"State Coordinating Agency" The Tennessee Department of Economic and Community Development, as designated by the Governor of the State of Tennessee at the request of FEMA to assist in the implementation of the National Flood Insurance Program (NFIP) for the state.

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

"Substantial Damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to it's before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

"Substantial Improvement" means any repairs, reconstruction's, rehabilitation's, additions, alterations or other improvements to a structure, taking place during a five (5) year period, in which the cumulative cost equals or exceeds fifty percent of the market value of the structure before the "start of construction" of the improvement. The market value of the structure should be (1) the appraised value of the structure prior to the start of the initial repair or improvement, or (2) in the case of damage, the value of the structure prior to the damage occurring. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed.

For the purpose of this definition, "Substantial Improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the building.

The term does not, however, include either: (1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been pre-identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions and not solely triggered by an improvement or repair project or; (2) Any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure".

"Substantially Improved Existing Manufactured Home Parks or Subdivisions" is where the repair, reconstruction, rehabilitation or improvement of the streets, utilities and pads equals or exceeds 50 percent of the value of the streets, utilities and pads before the repair, reconstruction or improvement commenced.

"Variance" is a grant of relief from the requirements of this article that permits construction in a manner otherwise prohibited by this article where specific enforcement would result in unnecessary hardship.

"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 article is presumed to be in violation until such time as that documentation is provided.

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

10-303 GENERAL PROVISIONS

10-303.1 Application

These provisions shall apply to all areas within the incorporated area of Fairview, Tennessee.

10-303.2 Basis for Establishing the Areas of Special Flood Hazard

The Areas of Special Flood Hazard identified on the City of Fairview, Tennessee, as identified by Federal Emergency Management Agency (FEMA) and in its Flood Insurance Study (FIS) and Flood Insurance Rate Map (FIRM), Community Panel Numbers beginning with 47187C0015F and including panels: 47187C0020F,

47187C0038F, 47187C0039F, 47187C0045F, 47187C0135F, 47187C0151F, 47187C0152F, 47187C0153F, and 47187C0160F, dated September 29, 2006, along with all supporting technical data, are adopted by reference and declared to be a part of this article.

10-303.3 Requirement for Development Permit

A development permit shall be required in conformity with this article prior to the commencement of any development activities.

10-303.4 Compliance

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

10-303.5 Abrogation and Greater Restrictions

These provisions are not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where these provisions conflict or overlap with another regulatory instrument, whichever imposes the more stringent restrictions shall prevail.

10-303.6 Interpretation

In the interpretation and application of these provisions, all provisions shall be: (1) considered as minimum requirements; (2) liberally construed in favor of the governing body, and; (3) deemed neither to limit nor repeal any other powers granted under Tennessee statutes.

10-303.7 Warning and Disclaimer of Liability

The degree of flood protection required by these provisions 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 article does not imply that land outside the Areas of Special Flood Hazard or uses permitted within such areas will be free from flooding or flood damages. This article shall not create liability on the part of the City of Fairview, Tennessee or by any officer or employee thereof for any flood damages that result from reliance on this article or any administrative decision lawfully made hereunder.

10-303.8 Penalties for Violation

Violation of these provisions or failure to comply with any requirements, including violation of conditions and safeguards established in connection with grants of variance shall constitute a misdemeanor punishable as other misdemeanors as provided by law. Each day such violation continues shall be considered a

separate offense. Nothing herein contained shall prevent Fairview, Tennessee from taking such other lawful actions to prevent or remedy any violation.

10-304 ADMINISTRATION

10-304.1 Designation of Ordinance Administrator

The City Planner is hereby appointed as the administrator to implement the provisions of this article.

10-304.2 Permit Procedures

Application for a development permit shall be made to the City Planner 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:

1. Application Stage

- A. Elevation in relation to mean-sea-level of the proposed lowest floor, including basement, of all buildings where Base Flood Elevations (BFE's) are available, or to the highest adjacent grade when applicable under this article.
- B. Elevation in relation to mean-sea-level to which any nonresidential building will be flood proofed where BFE's are available, or to the highest adjacent grade when applicable under this article.
- C. Design certificate from a registered professional engineer or architect that the proposed nonresidential flood proofed building will meet the flood proofing criteria as provided in this section.
- D. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

2. Construction Stage

Within unnumbered A Zones, where flood elevation data are not available, the City Planner shall record the elevation of the lowest floor on the development permit. The elevation of the lowest floor shall be determined as the measurement of the lowest floor of the building relative to the highest adjacent grade.

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

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

Any work undertaken prior to submission of the certification shall be at the permit holder's risk. The City Planner 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.

10-304.3 Duties and Responsibilities of the City Planner

Duties of the City Planner shall include, but not be limited to:

1. Review of all development permits to assure that the permit requirements of this article have been satisfied, and that proposed building sites will be reasonably safe from flooding.
2. Advice to permittee that additional federal or state permits may be required, and if specific federal or state permit requirements are known, require that copies of such permits be provided and maintained on file with the development permit. This shall include Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U. S. C. 1334.
3. Notification to adjacent communities and the Tennessee Department of Economic and Community Development, prior to any alteration or relocation of a watercourse, and submission of evidence of such notification to the Federal Emergency Management Agency (FEMA).
4. For any altered or relocated watercourse, submit engineering data/analysis within six (6) months to the Federal Emergency Management Agency to ensure accuracy of community flood maps

through the Letter of Map Revision process. Assure that the flood carrying capacity within an altered or relocated portion of any watercourse is maintained.

5. Record the elevation, in relation to mean-sea-level or the highest adjacent grade, where applicable of the lowest floor including basement of all new or substantially improved buildings, in accordance with Subsection 10-304.2.
6. Record the actual elevation; in relation to mean-sea-level or the highest adjacent grade, where applicable to which the new or substantially improved buildings have been flood proofed, in accordance with Subsection 10-304.2.
7. When flood proofing is utilized for a structure, the City Planner shall obtain certification of design criteria from a registered professional engineer or architect, in accordance with Subsection 10-304.2.
8. Where interpretation is needed as to the exact location of boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the City Planner shall make the necessary interpretation. Any person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in these provisions.
9. When base flood elevation data or floodway data have not been provided by the Federal Emergency Management Agency then the City Planner shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a Federal, State, or other sources, including data developed as a result of these regulations, as criteria for requiring that new construction, substantial improvements, or other development in Zone A, on the Community FIRM, meet the requirements of this article.

Within unnumbered A Zones, where base flood elevations have not been established and where alternative data is not available, the City Planner shall require the lowest floor of a building to be elevated or flood proofed to a level of at least three (3) feet above the highest adjacent grade (lowest floor and highest adjacent grade being defined in Section 10-302, of these provisions). All applicable data including elevations or flood proofing certifications shall be recorded as set forth in Subsection 10-304.2.

10. All records pertaining to these provisions shall be maintained in the office of the City Planner and shall be open for public inspection. Permits issued under the provisions of this article shall be maintained in a separate file or marked for expedited retrieval within combined files.

10-305 PROVISIONS FOR FLOOD HAZARD REDUCTION

10-305.1 General Standards

In all flood prone areas the following provisions are required:

1. New construction and substantial improvements to existing buildings shall be anchored to prevent flotation, collapse or lateral movement of the structure;
2. Manufactured homes shall be elevated and anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable state requirements for resisting wind forces;
3. New construction and substantial improvements to existing buildings shall be constructed with materials and utility equipment resistant to flood damage;
4. New construction or substantial improvements to existing buildings shall be constructed by methods and practices that minimize flood damage;
5. 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;
6. New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
7. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters;
8. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding;

9. Any alteration, repair, reconstruction or improvements to a building that is in compliance with the provisions of this article, shall meet the requirements of "new construction" as contained in this article; and,
10. Any alteration, repair, reconstruction or improvements to a building that is not in compliance with the provision of this article, shall be undertaken only if said conformity is not further extended or replaced.

10-305.2 Specific Standards

These provisions shall apply to ALL Areas of Special Flood Hazard as provided herein:

1. Residential Construction.

Where base flood elevation data is available, new construction or substantial improvement of any residential building (or manufactured home) shall have the lowest floor, including basement, elevated no lower than one (1) foot above the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls and to ensure unimpeded movement of floodwater shall be provided in accordance with the standards of Section 10-304.2.

Within unnumbered A zones, where base flood elevations have not been established and where alternative data is not available, the City Planner shall require the lowest floor of a building to be elevated or floodproofed to a level of at least three (3) feet above the highest adjacent grade (lowest floor and highest adjacent grade being defined in Section 10-302, of this article). All applicable data including elevations or floodproofing certifications shall be recorded as set forth in Subsection 10-304.2.

2. Nonresidential Construction.

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

Within unnumbered A Zones, where base flood elevations have not been established and where alternative data is not available, the City Planner shall require the lowest floor of a building to be elevated or floodproofed to a level of at least three (3) feet above the highest adjacent grade (lowest floor and highest adjacent grade being defined in Section 10-302, of this article). All applicable data including elevations or floodproofing certifications shall be recorded as set forth in Subsection 10-304.2.

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 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 City Planner as set forth in Subsection 10-304.2.

3. Elevated Building.

All new construction or substantial improvements to existing buildings that include ANY fully enclosed areas formed by foundation and other exterior walls below the base flood elevation, or required height above the highest adjacent grade, shall be 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.

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

- i. Provide a minimum of two openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding;
- ii. The bottom of all openings shall be no higher than one (1) foot above the finish grade; and
- iii. Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.

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

C. The interior portion of such enclosed area shall not be partitioned or finished into separate rooms in such a way as to impede the movement of floodwaters and all such petitions shall comply with the provisions of Subsection 10-305.2, of this article.

4. Standards for Manufactured Homes and Recreational Vehicles

- A. All manufactured homes placed, or substantially improved, on: (1) individual lots or parcels, (2) in expansions to existing manufactured home parks or subdivisions, or (3) in new or substantially improved manufactured home parks or subdivisions, must meet all the requirements of new construction, including elevations and anchoring.
- B. All manufactured homes placed or substantially improved in an existing manufactured home park or subdivision must be elevated so that either:
 - i. When base flood elevations are available the lowest floor of the manufactured home is elevated on a permanent foundation no lower than one (1) foot above the level of the base flood elevation; or,
 - ii. Absent base flood elevations the manufactured home chassis is elevated and supported by reinforced piers (or other foundation elements) at least three (3) feet in height above the highest adjacent grade.
- C. Any manufactured home, which has incurred “substantial damage” as the result of a flood or that has substantially improved, must meet the standards of Subsection 10-305.2, of this article.
- D. All manufactured homes must be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.
- E. All recreational vehicles placed on identified flood hazard sites must either:
 - i. Be on the site for fewer than one hundred (180) consecutive days;
 - ii. 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.
 - iii. The recreational vehicle must meet all the requirements for new construction, including the anchoring and elevation requirements

of Section 10-305.2, if on the site for longer than one hundred-eighty (180) consecutive days.

5. Standards for Subdivisions

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

- A. All subdivision proposals shall be consistent with the need to minimize flood damage.
- B. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.
- C. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards.
- D. Base flood elevation data shall be provided for subdivision proposals and other proposed developments (including manufactured home parks and subdivisions) that are greater than fifty (5) lots and/or five (5) acres in area.

10-305.3 Standards for Areas of Special Flood Hazard with Established Base Flood Elevations and with Floodways Designated

Located within the Areas of Special Flood Hazard established in Subsection 10-303.2, 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:

- 1. Encroachments are prohibited, including earthen fill material, new construction, substantial improvements or other developments within the regulatory floodway. Development may be permitted however, provided it is demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practices that the cumulative effect of the proposed encroachments or new development, when combined with all other existing and anticipated development, shall not result in ANY increase the water surface elevation of the base flood level,

velocities or floodway widths during the occurrence of a base flood discharge at any point within the community. A registered professional engineer must provide supporting technical data and certification thereof.

2. New construction or substantial improvements of buildings shall comply with all applicable flood hazard reduction provisions of Section 10-305.

10-305.4 Standards for Areas of Special Flood Hazard Zones AE with Established Base Flood Elevations but Without Floodways Designated

Located within the Areas of Special Flood Hazard established in Subsection 10-303.2, where streams exist with base flood data provided but where no floodways have been designated, (Zones AE) the following provisions apply:

1. No encroachments, including fill material, new structures or substantial improvements shall be located within areas of special flood hazard, unless certification by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any point within the community. The engineering certification should be supported by technical data that conforms to standard hydraulic engineering principles.
2. New construction or substantial improvements of buildings shall be elevated or flood proofed to elevations established in accordance with Subsection 10 305.2.

10-305.5 Standards for Streams without Established Base Flood Elevations or Floodways (A Zones)

Located within the Areas of Special Flood Hazard established in Subsection 10-303.2, where streams exist, but no base flood data has been provided (A Zones), OR where a Floodway has not been delineated, the following provisions shall apply:

1. When base flood elevation data or floodway data have not been provided in accordance with Section 10-303, then the City Planner shall obtain, review and reasonably utilize any scientific or historic base flood elevation and floodway data available from a Federal, State or other source, in order to administer the provisions of Section 10-305 ONLY if data

is not available from these sources, then the following provisions (2 & 3) shall apply:

2. No encroachments, including structures or fill material, shall be located within an area equal to the width of the stream or twenty feet, whichever is greater, measured from the top of the stream bank, unless certification by registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any point within the community. The engineering certification should be supported by technical data that conforms to standard hydraulic engineering principles.
3. In special flood hazard areas without base flood elevation data, new construction or substantial improvements of existing shall have the lowest floor of the lowest enclosed area (including basement) elevated no less than three (3) feet above the highest adjacent grade at the building site. Openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with the standards of Subsection 10-305.2.

10-305.6 Standards for Areas of Shallow Flooding (AO and AH Zones)

Located within the Areas of Special Flood Hazard established in Section 10-303.2, are areas designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one to three feet (1'-3') where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate; therefore, the following provisions apply:

1. All new construction and substantial improvements of residential and non-residential buildings shall have the lowest floor, including basement, elevated to at least one (1) foot above the flood depth number specified on the Flood Insurance Rate Map (FIRM), in feet, above the highest adjacent grade. If no flood depth number is specified, the lowest floor, including basement, shall be elevated, at least three (3) feet above the highest adjacent grade. Openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with standards of Section 10-305.2.
2. All new construction and substantial improvements of nonresidential 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 (1) foot above the specified FIRM flood level, with walls substantially

impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. If no depth number is specified, the lowest floor, including basement, shall be floodproofed to at least three (3) feet above the highest adjacent grade. A registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this article and shall provide such certification to the City Planner as set forth above and as required in Section 10- 304.2.

3. Adequate drainage paths shall be provided around slopes to guide floodwaters around and away from proposed structures.
4. The City Planner shall certify the elevation or the highest adjacent grade, where applicable, and the record shall become a permanent part of the permit file.

10-305.7 Standards for Areas Protected by Flood Protection System (A-99 Zones)

Located within the areas of special flood hazard established in Section 10-303 are areas of the 100-year floodplain protected by a flood protection system but where base flood elevations and flood hazard factors have not been determined. Within these areas (A-99 Zones), all provisions of Section 10-304, and Section 10-305.1 shall apply.

10-305.8 Standards for Unmapped Streams

Located within Fairview, Tennessee are unmapped streams where areas of special flood hazard are neither indicated nor identified. Adjacent to such streams the following provisions shall apply:

1. In areas adjacent to such unmapped streams, no encroachments including fill material or structures shall be located within an area of at least equal to twice the width of the stream, measured from the top of each stream bank, unless certification by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any point within the locality.
2. When new elevation data is available, new construction or substantial improvements of buildings shall be elevated or floodproofed to elevations established in accordance with Section 10-304 ad 10-305.

10-306 VARIANCE PROCEDURES

The provisions of this section shall apply exclusively to areas of Special Flood Hazard within Fairview, Tennessee.

10-306.1 Board of Zoning Appeals

- 1. The Fairview Board of Zoning Appeals shall hear and decide appeals and requests for variances from the requirements of this section.
- 2. Variances may be issued for the repair or rehabilitation of historic structures (see definition) upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum to preserve the historic character and design of the structure.
- 3. In passing upon such applications, the Board of Zoning Appeals shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this article, and:
 - A. The danger that materials may be swept onto other property to the injury of others;
 - B. The danger to life and property due to flooding or erosion;
 - C. The susceptibility of the proposed facility and its contents to flood damage;
 - D. The importance of the services provided by the proposed facility to the community;
 - E. The necessity of the facility to a waterfront location, in the case of a functionally dependent facility;
 - F. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
 - G. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
 - H. The safety of access to the property in times of flood for ordinary and emergency vehicles;
 - I. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site, and;

- J. The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.
4. Upon consideration of the factors listed above, and the purposes of this article, the Board of Zoning Appeals may attach such conditions to the granting of variances as it deems necessary to effectuate the purposes of this article.
5. Variances shall not be issued within any designated floodway.

10-306.2 Conditions for Variances

1. Variances shall be issued upon a determination that the variance is the minimum relief necessary, considering the flood hazard; and in the instance of a historical building, a determination that the variance is the minimum relief necessary so as not to destroy the historic character and design of the building.
2. Variances shall only be issued upon: 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.
3. Any applicant to whom a variance is granted shall be given written notice that the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance, and that such construction below the base flood level increases risks to life and property.
4. The City Planner shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency upon request.

10-401 TCOD, TOWN CENTER OVERLAY DISTRICT
(Added by Ordinance No. 509, August 16, 2001)

10-401.1 General Provisions

1. General Purpose and Intent

As a result of a comprehensive planning process culminating in the adoption of the long-range General Plan, the citizens of Fairview have identified a need and desire to enhance the sense of “community” by establishing a readily identifiable “town center”, a centralized “place” for the use and enjoyment of all present and future citizens of Fairview. To that end, the Town Center Overlay District is established with the purpose of successfully implementing the development of the Town Center as recommended by the General Plan.

The purpose of the Town Center Overlay District is to identify those properties designated for development and use as the Town Center under special standards and guidelines enumerated by this ordinance. The TCOD is designed to provide guidance and direction to the City through both the short and long-term development review and adoption processes in a well-planned, coordinated and consistent manner, and to provide a basic regulatory framework from which to thereafter administer the ongoing evolution of the Town Center. The TCOD is also intended to provide the City with a long range land use and development framework that is necessary to establish and administer a cost-effective capital budgeting process for the Town Center area.

2. Consistency with the General Plan

The community’s adopted General Plan identifies both a geographical location and a conceptual plan of development for the Fairview Town Center, as depicted in Illustration 10-1. The conceptual Town Center contained within the General Plan is intended to establish the basic land planning and development framework from which to make specific land use, zoning and development approval decisions. As such, the Board of Commissioners may establish specific geographical boundaries and associated zoning for the Town Center as deemed necessary and appropriate provided that such actions are in keeping with the general spirit and intent of the General Plan’s designation of a Town Center. The Planning Commission also shall review and act on development proposals in accordance with the general spirit and intent of the General Plan’s Town Center concept.

3. Enactment of the TCOD

The Town Center Overlay District is intended and designed to be applied to any and/or all properties determined by the Board of Commissioners as being appropriately included within the general area for the Town Center as identified by the adopted General Plan. The Town Center Overlay District shall be enacted by ordinance in accordance with the processes and procedures of Article 10, of this ordinance. Immediately, thereafter, the TCOD boundaries shall be accurately reflected on the City's official zoning map.

**ILLUSTRATION 10-1
TOWN CENTER CONCEPT PLAN**

The TCOD shall be comprised of individual subdistricts that collectively comprise a balanced mixture of civic, commercial, entertainment, residential and institutional land uses deemed by the General Plan as being appropriate and necessary for a viable and healthy community town center. The establishment of subdistricts permits greater flexibility and specificity in the application of zoning districts and their associated range of land uses and development standards. All lands located within the TCOD shall be included within a designated sub-district. The enacting Town Center Overlay district shall include, but is not necessarily limited to the following subdistricts, as depicted in Illustration No. 10-2, the Government Core; Main Street Mixed- Use; Fairview Boulevard Retail; the East Neighborhood; and the West Neighborhood. Following initial establishment of the TCOD and its associated subdistricts, the Board of Commissioners may, thereafter, establish additional subdistricts or, otherwise, amend and alter existing subdistrict boundaries from time to time as deemed appropriate and necessary.

4. Development Objectives of the TCOD

The Town Center is intended to function as the governmental, cultural, commercial, institutional and residential core of the community. Therefore, it is the stated intention of the General Plan and the TCOD to establish and maintain within the designated Town Center a complimentary mixture of governmental, cultural, institutional, retail, consumer service, office and residential land use activities within a well-planned, fully integrated, cohesive, economically viable, and stable environment. It is the further intention of this ordinance to establish a well-balanced and symbiotic arrangement of those activities within a physical context and form that: creates a vibrant activity center that serves to draw the residents of the community together into this centralized

“place”; promotes full pedestrian mobility in a safe, high-quality environment; places greater importance on the quality of the living, working, shopping and recreating experience than on the accommodation of the automobile; accommodates the automobile to the extent necessary to maintain the economic viability of the Town Center, but does so in a manner that mitigates the associated negative impacts on both the aesthetic character of the Town Center and the pedestrian experience within; and achievement of good civic design through the establishment and administration of high quality, pedestrian-scaled design standards for streets, buildings, public spaces, parking areas and amenities that invoke a sense of community pride and permanence.

In anticipation that the Town Center will develop as a series of independent development initiatives occurring over an extended period of time, the TCOD shall include an associated Town Center Infrastructure Plan (TCIP) that is intended and designed to properly direct the location and timing of essential roadway, utility and public open space development in a well-planned, coherent and consistent manner.

ILLUSTRATION 10-2 TCOD SUB-DISTRICTS

5. Development Objectives of TCOD Sub-districts

The following development objectives are established for each of the TCOD subdistricts:

Government Core: This subdistrict is intended to function as the center of government activities for the community. Principle uses and activities intended for the area include the City Hall, the main library, a fire hall and police station, the Chamber of Commerce and the Federal Post Office.

The Government Core is located in the southern sector of the Town Center so as to abut the easterly margins of Bowie Park. In order to protect the natural character of the Park, all development within the Government Core should be conducted in a manner that results in great sensitivity to the integrity and viability of the Park. The primary gateway to the Government Core from Fairview Boulevard should be via a boulevard entry road located directly opposite Chester Road. The southerly terminus of a grand north/south boulevard is intended to form the northerly gateway to the Government Core. To the extent possible, City Hall should be located directly along the north/south axis of the grand boulevard.

Main Street Mixed-Use: This subdistrict is intended for development of a wide range of retail commercial, consumer service, financial, medical

and professional office, food service and high density residential uses developed in the character of a traditional “main street”. The desired urban character of this area is one of pedestrian oriented commercial streets with outdoor public spaces framed by two and three story buildings built predominantly up to the front sidewalk line. This is an area intended for active and festive sidewalk activities, such as that provided by outdoor cafes and occasional retail sales events. As a general rule, consumer related activities are encouraged at a building's street level, with upper floors devoted to uses such as offices, personal services and residential activities. Buildings should be designed sensitively to relate to the street and its pedestrian orientation.

On-street parking should be encouraged, with shared parking lots located discreetly to the rear or side of businesses and screened from the public sidewalks.

Fairview Boulevard Retail: This sub-district is designed to accommodate those types of commercial uses that generally insist on maintaining a high level of highway visibility and vehicular accessibility from Fairview Boulevard, together with those types of consumer retail uses that by their nature require larger building forms generally not in keeping with a pedestrian scaled main street character. Uses considered appropriate for this area may include a community scale grocery store, convenience retail sales and service, and fast food restaurants with or without drive-through window facilities. Activity types such as general business - communication service, automotive or marine craft sales and service, outside material equipment sales and repair yards, or any form of scrap, storage, warehousing, distribution, wholesale sales or industrial activity are not considered appropriate uses anywhere within the Town Center Overlay District.

East Neighborhood: This residential neighborhood is designed for a wide range of housing opportunities at various density levels. Envisioned in this sub-district are single family lots of varying sizes, multi-family dwellings, and senior housing. Also encouraged within this neighborhood at the major gateways and intersections are prominent civic and institutional uses such as religious facilities or community assembly activities. Common open spaces should be well distributed throughout the neighborhood. Designed with a high level of vehicular interconnectivity, residential streets should contain street trees and sidewalks. Service alleys and rear-loaded garages are encouraged to minimize the impact of the automobile and promote a pedestrian oriented community.

West Neighborhood: This residential neighborhood located on the west side of the town center is designed for a combination of single-family residences on a variety of lot sizes and medium density multi-family development. Community facilities such as day care centers and religious facilities may also be accommodated at the major gateways to the neighborhood. Designed with a high level of vehicular interconnectivity, residential streets should contain street trees and sidewalks. Service alleys and rear loaded garages are encouraged to minimize the impact of the automobile and promote a pedestrian oriented community. Common open spaces should be well distributed throughout the neighborhood.

6. Implementation of the TCOD

Following initial application of the Town Center Overlay District to subject properties by the City, property owners shall retain reasonable use and enjoyment of their properties according to the opportunities and privileges afforded by the existing zoning district(s) associated with the property; provided, however, that all subsequent subdivision of lands and development of those lands shall be in full conformance with the stated development objectives of the TCOD, the adopted TCOD Infrastructure Plan, and all other applicable provisions of this ordinance.

Properties located within the designated TCOD may be rezoned only in conjunction with a RPUD or NRPUD overlay district. A proposed base zoning district and its corresponding RPUD or NRPUD Overlay District shall be approved only upon a finding by the Board of Commissioners that both are in general accordance with the Town Center Concept Plan and the associated subdistrict designations of the adopted TCOD. The land use and development standards thereafter applicable to lands located within the TCOD shall be established by the underlying base zone district(s) and the specific terms and conditions of the associated planned unit development overlay district(s). The process and procedures for rezoning properties located within the TCOD shall be in accordance with Article X, of this ordinance.

The following zoning districts may be utilized in conjunction with a RPUD or NRPUD Overlay District (as applicable) to implement the land use and development objectives of the designated TCOD subdistricts:

TABLE 10-401A – TCOD SUB-DISTRICT ZONE DISTRICTS	
TCOD SUB-DISTRICT	QUALIFYING ZONE DISTRICT
Government Core	Office General (OG)
Main Street Mixed Use	Main Street (MSMU)
Fairview Boulevard Retail	Commercial Community (CC)
East Neighborhood	RS-5, RS-8, RM-8, RM-12, RM-20
West Neighborhood	RS-5, RS-8, RM-8

Given the unique character and function associated with the Town Center, the standard land use, bulk, parking and general development criteria typically governed by an applied base zoning district may be modified as specifically noted in this ordinance. In addition to the standard PUD submittal requirements of Subsection 10-203.3, all applications for preliminary or final PUD approvals shall contain sufficient information to accurately represent the proposed character of development, how the proposed development adheres to the basic spirit and intent of the Town Center concept plan, the manner in which the proposal satisfies the stated development objectives of the TCOD, and the relationship the new development with other nearby properties.

7. Town Center Infrastructure Plan

In recognition that the development of a Town Center may occur over an extended period of time as a series of incremental land-development initiatives undertaken by individual land owners, the City hereby adopts in conjunction with the Town Center Overlay District an associated Town Center Infrastructure Plan (TCIP). It is the expressed purpose of the Town Center Infrastructure Plan to establish a basic design framework governing the general location, alignment and/or design of major vehicular ingress-egress points along Fairview Boulevard, major internal streets, pedestrian-way, bicycle, parks and common open space systems; major storm drainage systems, sewer and water trunk lines, and guidelines for the installation of electrical and communication facilities (See Illustration 10-3).

The Town Center Infrastructure Plan shall be administered and implemented via the application of the Planned Unit Development provisions of this ordinance and the Fairview Subdivision Regulations. Each phase of development occurring within the TCOD shall be designed and constructed in a manner consistent with the design objectives of the adopted TCIP.

**ILLUSTRATION 10-3
TOWN CENTER INFRASTRUCTURE PLAN**

A. Fairview Boulevard Access Management

The Town Center Master Plan identifies three (3) major gateway entries to the Town Center from Fairview Boulevard (see Illustration 10-3): a southerly gateway into the Government Core opposite Chester Road; a northerly gateway created by the realignment of Cox Pike; and a mid-point entry gateway located at and along the common boundary between the Main Street Mixed Use and Fairview Boulevard General Retail sub-districts. It is intended that these major gateways will be signalized as warranted by traffic volumes. Boulevard cross-sections with landscaping and sidewalks of a character depicted in Illustration 10-4, are intended for these gateways. Secondary points of ingress and egress from Fairview Boulevard may be authorized by the City as deemed necessary to facilitate efficient and safe traffic movement into and out of the Town Center. Single use driveways from Fairview Boulevard are to be discouraged. All properties fronting or otherwise oriented to Fairview Boulevard should be inter-connected via public streets, cross-access easements and joint use driveways.

B. Major Streets

A Town Center requires a hierarchy of internal streets with cross sections and design standards appropriate to the intensity and character of abutting land uses, pedestrian accessibility and anticipated traffic volumes (See Illustration 10-4). The major street components of the TCIP serve to tie the Town Center together as unifying elements, defining the boundaries of sub-districts and creating strong visual and functional linkages between the major gateways and significant public buildings and open spaces. Whenever possible, streets should be designed to permit parallel on-street parking.

The predominant street within the Town Center should be the grand north/south boulevard connecting the northern Cox Pike gateway with the New City Hall site in the Government Core in the southerly sector. To the greatest extent feasible, the alignment with cross-section design of this boulevard should provide a strong, un-interrupted visual sight line of the City Hall. Illustration 10-4, identifies the preferred design elements for the grand north/south boulevard, as well as a typical gateway boulevard, and a typical residential neighborhood boulevard. Actual roadway design standards shall be established by the Subdivision Regulations as administered by Planning Commission.

C. Pedestrian Ways and Bicycle Facilities

All streets within the TCOD should be constructed with sidewalks to establish pedestrian linkages between the residential neighborhoods

and all other sub-districts of the Town Center, thus creating a pedestrian friendly, fully accessible and walkable community.

Pedestrian ways should also be incorporated into the design of public parks and common open spaces throughout the Town Center, particularly within those spaces associated with natural drainage systems. Bicycle facilities should be incorporated into the design of major streets within the Town Center, as well as in the design of major open space networks so as to provide an alternative to the automobile for trips occurring within the Town Center proper, and to contribute towards the implementation of a community-wide bicycle network as embodied by the adopted General Plan.

ILLUSTRATION 10-4
TYPICAL TOWN CENTER STREET SECTIONS
Grand Blvd.
Main St. - Gateway Blvd.

ILLUSTRATION 10-4
TYPICAL TOWN CENTER STREET SECTIONS
Town Center "Main Street"
Town Center "Avenue"
Town Center "Drive"

ILLUSTRATION 10-4
TYPICAL TOWN CENTER STREET SECTIONS
Residential Blvd.
Residential "Avenue"
Residential "Street"
Residential "Alley"

D. Parks and Common Open Spaces

A Town Center must provide a hierarchy of well-located and appropriately scaled public open spaces for the use and enjoyment of its residents and visitors. Residential neighborhoods should provide for appropriately scaled open space and common use areas for local residents. Publicly accessible open spaces should be established along major waterway and drainage corridors. More formal community open spaces and parks should be strategically located at major focal points throughout the Town Center, such as where the grand north/south boulevard intersects with east/west boulevards. Major open spaces

and public use areas should also be provided along the westerly perimeters of the Government Core to both complement the natural resources and recreational opportunities afforded by Bowie Park, as well as to function as a low intensity buffer zone for the Park itself.

E. Stormwater Facilities

Proper attention must be given to storm water management in an urbanized Town Center environment. As a general rule, streets, alleys and common access roads should be constructed with curb and gutter facilities. The City may require the construction and dedication of regional stormwater detention facilities in strategically located areas of the Town Center. In addition to accumulating stormwater discharges, natural drainage systems also provide practical and cost effective opportunities to weaving open space and pedestrian linkages throughout the urban fabric of the Town Center. To the greatest extent possible, therefore, natural drainage systems and their local ecosystems should be preserved. In selected locations along Fairview Boulevard, prominent drainage systems also should be utilized for the construction of pedestrian/bikeway underpasses to connect existing residential neighborhoods east of Fairview Boulevard with the Town Center open space network.

F. Water and Sewer Facilities

Coincident with the incremental development of the Town Center, major service lines for water and sewer shall be located and sized so as to facilitate development of the Town Center in a well-planned, cost-effective and timely manner. All properties developed in the TCOD shall be serviced by public water and sewer.

G. Electrical and Communication Services

In order to create an attractive and safe living and working environment, the electric and communication service lines shall be installed underground.

8. Phasing of Development

It is presumed that the Town Center will develop incrementally over an extended period of time as a series of construction initiatives undertaken by independent developers and property owners. Therefore, it is necessary that each incremental phase of development occur in a manner that generally adheres to the Town Center concept plan and the Town Center Infrastructure Plan. All site plan approvals and development initiatives associated with the Town Center Overlay District shall be in substantial conformance with the Town Center Infrastructure Plan.

9. Town Center Overlay District Boundary Amendments

Should the City determine that it is necessary and desirable to alter the geographical limits of the TCOD boundary from time to time, the TCOD may be amended under the same procedures and processes of this ordinance governing amendments to an overlay district.

Following adoption of a Town Center Infrastructure Plan by the Board of Commissioners, significant changes to the Plan, including but not limited to the Fairview Boulevard access management program or the alignment of major internal streets, may be authorized by the Board of Commissioners following a recommendation by the Planning Commission.

ARTICLE 11: PARKING, LOADING AND ACCESS REGULATIONS

SECTIONS

11-101: PURPOSES AND APPLICABILITY

11-102: GENERAL PROVISIONS

11-103: OFF-STREET PARKING SPACE REQUIREMENTS

11-104: OFF-STREET PARKING LOT DESIGN STANDARDS

11-105: OFF-STREET LOADING

11-106: ACCESS MANAGEMENT

11-101: PURPOSES AND APPLICABILITY

11-101.1 Purposes

The following regulations on accessory off-street parking spaces are adopted in order to provide needed spaces off the streets for parking in connection with all activities which may be located in the Planning Jurisdiction to reduce traffic congestion resulting from use of the streets as places of storage for automobiles, to protect the character of neighborhoods, to provide for a higher standard of development within the area and thus promote and protect the public health, safety, and general welfare.

11-101.2 Applicability

1. General

For every use, activity, or structure permitted by this ordinance and for all buildings or structures erected in accordance therewith, there shall be provided sufficient space for access and off-street standing, parking, circulation, unloading, and loading of motor vehicles that may be expected to transport its occupants, whether as patrons, residents, customers, employees, guests, or otherwise, to an establishment, activity, or place of residence at any time under normal conditions for any purpose. When a use is expanded, accessory off-street parking and loading shall be provided in accordance with the regulations herein for the area or capacity of such expansion in combination with the previously existing uses, structure, or activity.

2. New and Complying Development

New development occurring after the effective date of this ordinance, and development existing on the effective date of this ordinance and complying with the number of off-street parking spaces required by this article shall be subject to the following provisions.

A. Every use of a building or land hereafter established shall provide the minimum off-street parking and loading spaces as required by this article.

- B. The number of parking and loading spaces required by this article may be reduced when the land use or floor area of a building is changed or reduced to a use or floor area for which fewer parking or loading spaces are required.
- C. When a building is expanded or a land use is changed so as to increase the number of spaces required, the number of such spaces shall be increased.

3. Existing Non-Conforming Development

Developments with legally non-conforming parking and loading areas shall be subject to the following provisions.

A. No Reduction Below Requirements

Existing parking and loading spaces shall not be reduced below the minimum required by this article.

B. Redevelopment Not Increasing Parking Requirements

Zoning permits and certification of zoning compliance may be issued for a change of use or remodeling or structural alterations in developments containing legally non-conforming parking and loading areas, without requiring compliance with this article, provided that such redevelopment does not result in an increase in the number of required parking or loading spaces.

C. Redevelopment Increasing Parking Requirements

Developments with legally non-conforming parking and loading areas shall be subject to the following provisions.

i. Minor Change

Any building expansion or change of use that results in an increase of twenty-five (25) percent or less over the number of parking spaces that would be required under this article for the lot prior to the redevelopment activity shall be required to provide only the additional parking or loading spaces in excess of the number that would be required under this article for the previous development. Only the expanded portion of the parking or loading area shall be required to comply with the provisions of this article.

ii. Major Change

Any building expansion or change of use that results in an increase of more than twenty-five (25) percent over the number of parking spaces that would be required under this article for the lot prior to

the redevelopment activity shall be required to bring the entire development on the lot into full compliance with all of the provisions of this article.

11-102: GENERAL PROVISIONS

11-102.1 Use of Residential Parking Facilities

Facilities accessory to a residential use which are developed in any residential district in accordance with the requirements of this article shall be used solely for the parking of passenger automobiles or commercial vehicles of not more than ten (10) tons gross weight owned by occupants of the dwelling structures to which such facilities are accessory, or by guests of such occupants.

11-102.2 Repair, Service, or Sales Use of Parking Facilities

It shall be unlawful to use any required off-street parking or loading facilities for motor vehicle repair work, service, display, or sales of any kind, except as expressly permitted elsewhere in this article.

11-102.3 Use of Required Parking as Commercial or Public Lot

No area designated as a required parking area in connection with any designated building or use shall be operated as a commercial or public parking lot providing parking spaces for the general public or for the occupants, tenants, customers, clients, or residents of any other use or activity for a fee or other compensation.

11-102.4 Ingress and Egress

All entrances and exits to parking and loading areas from a public right-of-way shall be subject to specific approval of the Planning Commission by approval of a Site Development Plan in accordance with Article XIV, Subsection 18-103.3, in order to ensure the smooth and safe circulation of vehicles to and from the public street system. In no event shall parking and loading spaces be provided in a manner requiring the backing out of vehicles into public rights-of-way.

11-102.5 Location of Parking or Loading Space (Amended by Ordinance 509, August 16, 2001)

For all properties not located within the Town Center Overlay District, all required off-street parking or loading spaces shall be provided on the same parcel of land occupied by the use or building to which it is appurtenant: provided, however, that developments occurring within the Town Center Overlay District where there are, in the judgment of the Planning Commission, practical difficulties in satisfying the requirement for parking space and/or if the public safety or convenience would be better served by another location, the Planning Commission may authorize subject to the following conditions an alternative location.

1. Required accessory off-street parking facilities may be provided elsewhere than on the lot on which the principal use served is located, provided that the property occupied as parking is in the same possession, either by deed, by easement, or by long-term lease which has a term equal to or exceeding the projected life of the facility occupied by the principal use, and further provided that the owner shall be bound by covenants filed on record in the Office of the County Clerk, requiring the owner and his or her heirs and assigns, as well as subsequent owners, heirs, or assigns, to maintain the required number of off-street parking spaces during the existence of such principal use.
2. Pedestrian access shall be available within a walking distance of not more than five hundred (500) feet measured from the nearest point of public access to the building to the nearest part of the accessory parking area.
3. Such separated parking space shall be usable without causing unreasonable traffic congestion, detriment to any residential neighborhood, or hazard to pedestrians or vehicular traffic.

11-102.6 Phasing of Parking Facilities within Industrial Developments

When any manufacturing activity is located within any industrial district, the construction of required parking spaces may be phased as required by occupant loading facilities.

11-102.7 Zoning of Accessory Parking

All accessory parking facilities, whether provided in fulfillment of or in excess of the requirements of this article, and whether located on the same or on a different lot from the principal use as provided in Section 11-102.5, shall be located on the property zoned within the same or a less restrictive zoning district as the principal use served by the parking.

11-102.8 Joint Parking Facilities

Off-Street Parking facilities for different buildings, structures, or uses, or for mixed uses, may be provided and used collectively or jointly in any zoning district in which separate off-street parking facilities for each constituent use would be permitted, subject to the following provisions.

1. A legally sufficient written agreement assuring the perpetual joint usage of said common parking for the combination of uses or buildings is properly drawn and executed by the parties concerned, approved as to form and execution by the City Attorney, and filed with and made part of the application for a building permit.

2. Up to twenty-five (25) percent of the parking spaces required for a theater or other place of evening entertainment, for a church, for multi-family dwelling units, or for a school, may be provided and used jointly by banks, offices, retail stores, repair shops, service establishments, and similar uses not normally open, used, or operated during evening hours, if specifically approved by the Planning Commission and Board of Commissioners; provided, however, that written agreement assuring the retention for such purpose shall be properly drawn and executed by the parties concerned, approved as to form and execution by the City Attorney, filed and made part of the application for a building permit. Such approval may be rescinded by the Board of Commissioners of the City and additional parking shall be obtained by the owners in the event that the Board determines that such joint use is resulting in a public nuisance or otherwise adversely affecting the public health, safety, or welfare.
3. Within the Town Center Overlay District, joint parking facilities are to be encouraged within the Main Street Mixed Use, Government Core and Fairview Boulevard Retail sub-districts under those terms and conditions established by the applicable Planned Unit Development as approved by the Board of Commissioners. Joint parking facilities may be, likewise, permitted within a RPUD associated with the Town Center Overlay district if deemed appropriate by the Board. (Added by Ordinance 509, August 16, 2001)

11-102.9 Variance in the Required Number of Parking and Loading Spaces

The number of parking and loading spaces to be constructed may be less than the number of spaces required herein in the event that the following conditions are met to the satisfaction of the Planning Commission:

1. Evidence is submitted firmly documenting that the special nature of the use, activity, or building proposed requires less parking area or spaces than required by this chapter for the same.
2. The Final Site Development Plan submitted to and approved by the Planning Commission in accordance with Section 17-103.3, indicates that the location and layout of that portion of the parking requirement deemed unnecessary can and will be constructed accordingly in the event that the Planning Commission determines at any time that all or any portion of this parking is necessary in the interest of the public health, safety, and welfare.
3. In no event shall that portion of the required parking or loading which is so designated, but not constructed as provided herein be counted as open space or other unpaved area required by other provisions of this ordinance.

4. For those uses located within the Main Street Mixed Use sub-district of the Town Center Overlay District, two (2) legally designated on-street parking spaces may be substituted for one (1) required off-street parking space provided that the on-street spaces are located directly abutting the use seeking the parking reduction. For an on-street parking space straddling a property or lease line, at least fifty-one (51) percent of the parking space must directly abut the use as measured by an extension of the property or lease line. (Added by Ordinance No, 509, August 16, 2001)

11-103: OFF-STREET PARKING SPACE REQUIREMENTS

11-103.1 Computing Parking Requirements

The number of parking spaces required for a specific development proposal shall be based on the requirements listed in Section 11-103.2, (Number of Parking Spaces Required) and the following provisions.

1. Unlisted Uses
Upon receiving a development application for a use not specifically listed in this section, the City Planner shall apply the parking requirements specified for a listed use most similar to the use for which said permit is requested.
2. Multiple Uses
Lots containing more than one (1) use shall provide parking in an amount equal to the total of the requirements for all uses, unless a shared parking arrangement is approved pursuant to Section 11-102.8, (Joint Parking Facilities).
3. Fractions
When measurements determining the number of required spaces result in fractions, any fraction less than one-half (1/2) shall be disregarded and any fraction of one-half (1/2) or more shall be rounded upward to the next highest full number.
4. Bench Seating
Where seating consisting of benches or pews, the equivalent number of seats shall be determined using the standards of the City's Building Code.
5. Floor Area
For the purpose of computing parking requirements that are based on the amount of square footage in buildings, calculations shall be on a gross floor area basis, unless otherwise specifically indicated.

6. Age Restricted Dwelling Units

Where occupancy is to be primarily persons over the age of sixty (60), the number of parking spaces may be reduced to one (1) space per unit. There must be room on the lot to provide one and one-half (1 1/2) spaces in the future.

11-103.2 Number of Parking Spaces Required

The number of off-street parking spaces shall be provided for the specific unit of measure for the following specified uses within the activity types indicated in Table 11-103A.

1. Due to the extreme variability of parking requirements for certain uses, the requirements for all new structures shall be determined by the Planning Commission as part of the review process of a Site Development Plan based upon pertinent factors with each individual situation. In the case of existing structures the City Planner shall determine the parking requirements.

2. Uses Located Within Commercial Complexes

Where two (2) or more commercial activities are grouped together on a single site or in any other configuration which involves the use of shared or common parking facilities, the parking requirements for such uses shall be calculated as provided in the Table below. For commercial and/or mixed use developments located within the Town Center Overlay District, the City Commission may establish alternative required parking standards specific to the project based on a parking study prepared and submitted by the NRPUD applicant.

TABLE 11-103B – PARKING MULTI-TENANT COMMERCIAL BUILDINGS	
Size of Complex (sq. ft.)	Required Parking Spaces
0 to 400,000	4.0 Spaces for every 1,000 square feet of gross leasable space.
400,001 to 600,000	4.5 Spaces for every 1,000 square feet of gross leasable area.
600,001 to 1,000,000	5.0 Spaces for every 1,000 square feet of gross leasable area.
1,000,001 and Larger	5.5 Spaces for every 1,000 square feet of gross leasable area.

3. Uses Located Within Office Complexes

Where two (2) or more office activities are grouped together on a single site or in any other configuration which involves the use of shared or common parking facilities, the parking requirements for such uses shall be three (3) spaces for every one thousand (1,000) square feet of gross leasable area.

11-104: OFF-STREET PARKING LOT DESIGN STANDARDS

11-104.1 Design Objectives

Parking areas shall be designed with careful regard given to orderly arrangement, topography, amenity of view, ease of access, and as an integral part of the overall site design.

For reasons of use and appearance, it is desirable that parking areas be level or on terraces formed with the slope of the land. Changes in level between such terraces should be formed by retaining walls or landscaped banks.

Efforts shall be made to assure that a parking area does not dominate a site or building. Such efforts may include depressing the level of the parking area, construction of earth berms, dividing large lots into smaller sub-lots, and other similar techniques.

Wherever possible, the size of parking areas visible from the street shall be minimized.

11-104.2 Submission of Site Plan

Any application for a building permit, or for a conditional use permit where no building permit is necessary that requires five (5) or more accessory off-street parking spaces to be provided on a zone lot, shall be accompanied by a Final Site Development Plan drawn to scale and fully dimensioned. Said plan shall show the location design and layout of such parking facilities and shall be approved by the Planning Commission. A site plan drawn to meet the requirements of Article 17, Section 17-103.3, will comply.

There shall be included either as a part of the parking area site plan or as a separate plan a landscaping plan for the parking area. Such landscape plan shall show any trees, shrubs, flowers, or ground covers together with; retaining walls or screens; walkways; and traffic barriers. (See the Fairview Design Review Manual)

11-104.3 Design of Parking Stalls and Maneuvering Spaces

1. Dimensions of Parking Spaces

Except as otherwise provided by this subsection, the minimum dimensions of parking stalls and maneuvering spaces shall be as shown on Table 11-104A

2. Parallel Parking

Parallel parking spaces shall have a minimum length of twenty (20) feet and a minimum width of eight (8) feet. A minimum width of ten (10) feet shall be required if any structure or obstacle that would impede the opening of a car door is within two (2) feet of the curb side of a parallel parking space.

3. Residential Parking

Parking areas designed solely for a single dwelling unit and not sharing a common parking area shall be a minimum of eight (8) feet wide and twenty (20) feet long. Such parking spaces may be located on a driveway or in an enclosed garage and may be placed end to end, but no portion of any parking space shall be located with the right-of-way of a public street or a public alley.

4. Layout

All off-street parking spaces, other than those designed solely for a single dwelling unit and not sharing a common parking area, shall comply with the following design requirements.

- A. Each off-street parking spaces shall open directly onto an aisle or driveway that is not a public street or a public alley.
- B. Aisles and driveways shall not be used for parking vehicles.
- C. Parking spaces shall be designed to permit entry and exit without moving any other vehicle.
- D. No parking space shall be located so as to block access by emergency vehicles.
- E. No off-street parking spaces shall be located within the right-of-way of a public street, public alley or required joint access easement.
- F. For parking areas including ten (10) or more spaces, a minimum queuing distance of twenty (20) feet shall be provided along all access drives between the street right-of-way line and the nearest parking space.

TABLE 11-104A PARKING SPACE AND AISLE DIMENSIONS							
(ALL DIMENSIONS IN FEET)							
Parking Angle	Stall Width	Stall Depth	Aisle Width	Curb Length	Wall Module Width	Interlock Module Width	Stall Depth to Interlock
90 DEGREE PARKING ANGLE – TWO-WAY AISLE							
90°	9.00	17.5	24.0	9.00	61.00	61.0	17.5
60 DEGREE PARKING ANGLE – TWO-WAY AISLE							
60°	8.5	18.0	24.0	9.7	62.0	59.0	19.7
75 DEGREE PARKING ANGLE – ONE-WAY AISLE							
75°	8.5	18.0	22.0	10.4	59.0	57.0	17.5
60 DEGREE PARKING ANGLE – ONE-WAY AISLE							
30°	98.5	18.0	18.0	17.0	54.0	51.0	16.5
45 DEGREE PARKING ANGLE – ONE-WAY AISLE							
45°	8.5	18.0	15.0	12.7	48.0	44.0	18.6
PARALLEL PARKING							
Parallel	8.0	22.0	15.0	22.0	23.0	23.0	23.0

5. Paving Standards

All parking spaces and access drives of parking areas with five (5) or more spaces shall be surfaced with asphalt or concrete, or other hard-surfaced dustless materials, and shall be constructed to provide for adequate drainage.

6. Marking

Parking areas containing five (5) or more spaces shall delineate each space by single or double stripes on each side of the space. Except for parallel parking spaces, stall width shall be measured from the centerline of one stripe to the centerline of the other stripe.

7. Curbs

Curbs shall be provided to prevent any vehicle using a parking area from encroaching on any public right-of-way, required landscaping area or adjacent property.

11-104.4 Handicapped Parking

In each parking facility containing twenty (20) or more spaces, a portion of the total number of parking spaces shall be specifically designated, located and reserved for vehicles licensed by the State for use by the handicapped according to the following provisions.

1. Number of ADA Compliant Spaces

The minimum number of handicapped spaces to be provided shall be a portion of the total number of required parking spaces as determined

from the following schedule. Parking spaces reserved for the handicapped shall be counted toward fulfilling the parking requirement.

TABLE 11-104B ADA PARKING REQUIREMENTS	
TOTAL NUMBER OF PARKING SPACES	NUMBER OF ADA PARKING SPACES
0 - 20	1
20 - 50	2
51 - 100	3
101 - 150	4
151 - 200	5
200+	Two (2) Percent of Total Spaces

2. Minimum Dimensions

All spaces reserved for handicapped parking shall be at least thirteen and one-half (13 1/2) feet in width, measured perpendicular to the angle of parking; provided that the minimum width shall be reduced to nine (9) feet for stalls located adjacent to an area protected and available for handicapped ingress and egress with a minimum width of four and one-half (4 1/2) feet.

3. Location of Spaces

Required handicapped spaces shall be located in close proximity to a main building entrance, and shall be so located that occupants of vehicles located in these spaces can go to the building entrance on a path at least three (3) feet wide and unobstructed by bumpers, curbs or other obstacles to wheelchairs and without going behind parked vehicles.

4. Signs and Markings

Required handicapped spaces shall be marked with the proper signs and pavement markings.

11-104.5 Queuing Requirements for Drive-Through Facilities

In addition to meeting the off-street parking requirements of this section, drive through facilities shall meet the following standards.

1. Minimum Dimensions

Each queue space shall be a minimum of ten (10) feet by twenty (20) feet in size. Unless otherwise indicated, queuing shall be measured from the point of ultimate service to the end of the queuing lane.

2. Design

Each queue lane shall be clearly defined and designed so as not to conflict or interfere with other traffic using the site. A by-pass lane, a minimum of twelve (12) feet wide, shall be provided if a one-way traffic flow is used in

the parking lot. The by-pass lane shall be clearly designated and distinct from the queuing area.

3. Number of Queue Spaces

The minimum number of queue spaces, including the vehicle being serviced, shall be provided as indicated in Table 11-104C.

11-105: OFF-STREET LOADING

11-105.1 Computing Loading Requirements

The number of loading spaces required for a specific development proposal shall be based on the requirements listed in Subsection 11-105.2 (Off-Street Loading Space Requirements), and the following provisions.

TABLE 11-104C REQUIRED QUEUING SPACES	
Activity Type/Land Use	Minimum Queue Spaces
Bank Teller Lane	5
Automated Teller Machine	3
Restaurant Drive-Through	5
Car Wash Stall, Automatic	5
Car Wash Stall, Self-service	3
Oil Change Station	4
Dry Cleaning or Laundry	3
Photograph Lab	4
General Retail	4
Gasoline Pump Island	30 Feet from Each End of Pump Island

1. Unlisted Uses

Upon receiving a development application for a use not specifically listed in this section, the City Planner shall apply the loading requirements specified for a listed use most similar to the use for which said permit is requested.

2. Multiple Uses in a Building

When a building contains more than one (1) use, and where the floor area used for each use is below the minimum for required loading spaces but the aggregate total floor area is greater than the minimum, then off-street loading space shall be provided as if the entire building was used for that use in the building for which the most spaces are required.

3. Fractions

When measurements determining the number of required additional loading spaces beyond the floor area ranges given in Subsection 11-105.2,

(Off- Street Loading Spaces Requirements) result in fractions, any fraction less than one-half (1/2) shall be disregarded and any fraction of one-half (1/2) or more shall be rounded upward to the next highest full number.

11-105.2 Off-Street Loading Space Requirements

The minimum number of off-street loading spaces to be provided for a building shall be as indicated in Table 11-105A.

11-105.3 Loading Area Design Standards

1. Size of Require Berths

The minimum required dimensions of loading spaces, open or enclosed, shall be twelve (12) feet in width by fifty-five (55) feet in length, with a minimum vertical clearance of fifteen (15) feet. Where tractor-trailer units will be using the facility, the minimum length shall be sixty-five (65) feet.

2. Paving Standards

All open off-street loading spaces shall be surfaced with asphalt or concrete, or other hard-surfaced dustless materials, and shall be constructed to provide for adequate drainage.

3. Use of Loading Area

Required off-street loading spaces and associated aisles and maneuvering areas shall be used for vehicle loading only. No sales, storage, display of merchandise (including automobiles), repair work or dismantling shall be permitted in such areas.

4. Layout

All off-street loading spaces shall comply with the following design requirements.

A. No off-street loading space shall be located within the right-of-way of a public street. Any loading dock or door shall be set back far enough from the right-of-way so that no portion of the right-of-way is occupied by trucks or other vehicles while loading or unloading.

B. The location of the loading area shall not interfere with the free circulation of vehicles in the off-street parking area. Where loading areas are directly adjacent to or integrated with an off-street parking lot, the City may require installation of physical barriers or other means of separating loading areas from parking areas and pedestrian traffic.

C. No loading space shall be located so as to block access by emergency vehicles.

TABLE 11-105A REQUIRED OFF-STREET LOADING SPACES

Activity Types/Land Uses	Gross Floor Area (Sq. Ft.)	Loading Spaces
- Outside Material and Equipment Sales	Less Than 2000	None
	2,001 to 10,000	1
	10,001 to 25,000	2
	25,001 to 40,000	3
	40,001 to 60,000	4
- Restaurant – Full Service	25,001 to 40,000	3
- Restaurant – Fast Food	40,001 to 60,000	4
- Warehousing, Goods Transport and Storage	60,001 to 100,000	5
	Each Additional 80,000	1
- All Manufacturing	Less than 5,000	None
	5,001 to 20,000	1
	20,001 to 40,000	2
	40,001 to 60,000	3
	60,001 to 100,000	4
	Each Additional 80,000	1
- Automotive and Marine Craft Sales, Service and Repair	Less than 10,000	None
	10,001 to 25,000	1
	25,001 to 40,000	2
	40,001 to 60,000	3
	60,001 to 100,000	4
	Each Additional 80,000	1
- Convenience Retail Sales and Services:	Less than 10,000	None
	10,001 to 25,000	1
	25,001 to 40,000	2
	40,001 to 60,000	3
	60,001 to 100,000	4
- General Retail Sales and Services:	and 40,001 to 60,000	3
- Group Assembly	60,001 to 100,000	4
- Commercial Outdoor Recreation	Each Additional 150,000	1
- Health Care Facilities:	Less than 10,000	None
	10,001 to 100,000	1
	100,001 to 300,000	2
	Each Additional 300,000	1
- Professional Services - Medical:	Less than 20,000	None
	20,001 to 100,000	1
	100,001 to 300,000	2
	Each Additional 300,000	1
- Community Assembly:	Less than 20,000	None
	20,001 to 100,000	1
	100,001 to 300,000	2
	Each Additional 300,000	1
- Transient Habitation:	Less than 25,000	None
	25,001 to 60,000	1
	10,001 to 100,000	2
	Each Additional 100,000	1
- Scrap Operation	Less than 25,000	None
	25,001 to 60,000	1
	10,001 to 100,000	2
	Each Additional 100,000	1

11-106: ACCESS MANAGEMENT

11-106.1 Traffic Impact Studies

1. Requirement for Traffic Impact Study

A traffic impact study shall be required for:

A. Residential developments containing one hundred (100) or more dwelling units;

B. Non-residential developments with total building area of more than fifty thousand (50,000) square feet gross floor area of all buildings within the development;

C. Combinations of residential and non-residential uses that would be expected to generate one thousand (1,000) or more vehicle trips per day, or more than one hundred (100) peak hour trips; or

D. Any conditional use listed in Article 4 that requires a traffic impact study.

E. In addition the City Planner may require a traffic impact study for any development which in the opinion of the City Engineer.

2. Approval of Traffic Impact Study

The traffic impact study shall be approved by the City Engineer with all applicable performance requirements incorporated into any site plans submitted to the City Planner.

3. Timing of Improvements

In any instance where a development is to be phased, the sequence and timing of a development shall be incorporated into the traffic impact study. For projects that include multiple phases and/or multiple buildings, the required improvements may be phased so as to match the timing of development activity. If no phasing is identified in the approved traffic impact study, all study recommendations shall be satisfied at the initial stage of development.

4. Implementation of a Traffic Impact Study

The traffic impact study may take into account the Capital Improvements Budget and may rely on improvements which have been funded and scheduled for construction. Any required traffic improvements which have not been funded or otherwise completed by the City or County government shall be completed by the developer prior to issuance of a use and occupancy permit. When it can be demonstrated that a development

will only partially contribute to the need for additional off-site roadway improvements, the City Planner may require a pro-rata contribution under guidelines established by the City Engineer. The City Engineer shall certify that all required traffic improvements have been completed before a use and occupancy permit shall be issued.

11-106.2 Protection of Residential Areas

In order to minimize the destabilizing effects on residential areas, access to commercial and industrial activities shall be designed so as to minimize the intrusion of non-residential and non-local traffic onto local residential streets.

11-106.3 Access Control

In order to promote the safety of the motorist and pedestrian and to minimize traffic congestion and conflict by reducing the points of contact, the following access control regulations shall apply.

1. Access from Arterial or Collector Public Ways

The city shall require:

- A. That corner lots or double frontage lots not derive access from arterial or collector public ways.
- B. That access to residential lots from collectors and minor arterial shall be provided by joint driveways.
- C. That direct access to residential lots from major arterial highways designated in the major thoroughfare plan not be permitted.

2. Minimum Separation Between Driveways

For each permitted nonresidential driveway, there shall be a corresponding minimum road frontage of:

- A. At least two hundred (200) feet along routes designated in the major thoroughfare plan as rural arterial highways and six (6) lane urban arterial highways.
- B. At least one hundred-fifty (150) feet along routes designated in the Major Thoroughfare Plan as five (5) lane and three (3) lane urban arterial highways.
- C. At least one hundred (100) feet along routes designated in the Major Thoroughfare Plan as four (4) lane urban arterial highways and two (2) lane collector highways.

- D. The city will consider requests for modifications to this standard to permit the construction of double driveways, serving the same property from the same street, on a case by case basis. Double driveways shall be allowed only on lots with more than one hundred fifty (150) feet of road frontage. In all cases, the separation between double driveways shall be at least twenty-five (25) feet and shall also be greater than the width of the wider adjoining driveway.
- E. The city may require that access to proposed new lots be provided indirectly via cross connections, joint access easements, or local access roads. Nonresidential lots of record as of the date of the enactment of this ordinance shall have direct access to at least one (1) public way.

3. Minimum Clearances

The minimum corner clearance between proposed new driveways and existing or proposed thoroughfares shall be at least fifty (50) feet. In order to ensure adequate storage space for vehicles stopped at a signalized intersection, the city may require that the nearside corner clearance shall be at least one hundred (100) feet.

Except when access is via a joint driveway, the distance between the frontage property line and the tangent projection of the nearest edge of each driveway, measured along the edge of the public way, shall be at least fifteen (15) feet for nonresidential driveways, and at least five (5) feet for residential driveways.

4. Design Standards for Nonresidential Driveways

- A. For access to thoroughfares where the posted speed limit is 35 m.p.h., or less, all nonresidential driveways shall be constructed with a minimum return radius of fifteen (15) feet and a minimum horizontal width of twenty-five (25) feet.
- B. For access to thoroughfares where the posted speed limit is 40 m.p.h., nonresidential driveways shall be constructed with:
 - i. A minimum return radius of twenty (20) feet and a minimum driveway width of thirty (30) feet.
 - ii. A minimum return radius of twenty-five (25) feet and a minimum driveway width of twenty-five (25) feet.

- C. For access to thoroughfares where the posted speed limit is 45 m.p.h., nonresidential driveways shall be constructed with a right turn deceleration lane and:
 - i. A minimum return radius of twenty-five (25) feet and a minimum driveway width of forty (40) feet.
 - ii. A minimum return radius of thirty (30) feet and a minimum driveway width of thirty (30) feet.
- D. The city will review proposed driveway designs for access to other thoroughfares on a case by case basis.
- E. Where required, deceleration lanes shall be designed to provide for sufficient reduction in travel speeds as well as for vehicle storage.
- F. Driveway openings shall be no wider than necessary to ensure conformance with this standard.
- G. All nonresidential driveways shall be permanently paved. Lanes shall be clearly designated and lane uses shall be clearly and permanently marked.
- H. The centerline of every nonresidential two (2) way driveway shall intersect the centerline of the public way at an angle between seventy five (75) and ninety (90) degrees.
 - i. For other nonresidential driveways, the intersection angle shall be subject to the approval of the City Engineer and City Planner.

5. Design Standards for Residential Driveways

Where permitted, residential driveways fronting collector and arterial routes designated in the Major Thoroughfare Plan shall be designed so as to avoid requiring vehicles to back onto these highways.

6. Relationship to State Standards

Where the driveway design and location standards listed above are not in conformance with the standards of the Tennessee Department of Transportation, the city may require conformance with whichever standard is more restrictive.

11-106.4 Joint and Shared Accessways

1. Joint Use Driveways

Wherever feasible, the City may require the establishment of a joint use driveway to serve two (2) or more properties. If a proposed development abuts an existing development that contains an existing joint access driveway, the vehicular circulation of the proposed development shall be designed to connect to the abutting access and circulation areas. If a proposed development abuts existing undeveloped property, the vehicular circulation of the proposed development shall contain a joint access driveway which is designed to connect to the abutting property when such property is developed.

2. Cross Access Corridors

The Planning Commission, in conjunction with the City Engineer shall be authorized to designate cross access corridors on properties adjacent to arterial and major collector streets. All developments within the affected area shall be designed so as to provide for mutual coordinated parking, access and circulation systems.

3. Recording Access Easements

Whenever joint access driveways or cross access corridors are provided in accordance with the provisions of this section, no development plan shall be approved unless such plan grants an easement for cross access to and from abutting properties. Such designation shall be referenced on all plats of subdivision for any affected property.

4. Closing of Interim Driveways

Whenever a permanent joint use driveway and/or a cross access corridor is constructed as required by the provisions of this section, all preceding temporary or interim driveways shall be closed and eliminated. The owner(s) of all properties which involve the use of a permanent joint use driveway and/or a cross access corridor shall enter into a written agreement with the City to be recorded in the public records of the County and running with the land, that existing temporary and/or interim driveways shall be closed and eliminated following construction of both sides of a joint access.

11-106.5 Visibility Areas

In order to safely accommodate vehicular movements to and from public streets, the following sight distance and visibility provisions shall be required, except within the Town Center Overlay District, wherein the City Engineer shall establish

minimum standards on a site specific basis. (Amended by Ordinance No. 509, August 16, 2001).

1. Street Intersections

At all points of intersection of public and private streets no fence, wall, hedge or other planting or structure that will obstruct vision at any point above the center line grades of the intersecting streets shall be erected, placed or maintained within the triangular area formed by the said right-of-way lines and a straight line joining said right-of-way lines at points where they are thirty-five (35) feet distant from the intersection of the right-of-way lines and measured along said right-of-way lines.

2. Driveway Intersections

In all zone districts, no fence, wall, hedge or other planting or structure that will obstruct vision at any point where any private driveway intersects a public street shall be erected, placed or maintained within thirty-five (35) feet in all directions measured from all points along the property line across vehicles are intended to pass.

11-106.6 Measurement

For the purposes of this section, distances shall be measured in the following manner.

1. Distance Between Driveways

Distances between driveways shall be measured along the right-of-way line from the nearest points of intersection of the driveways with the right-of-way line. In the event that the curb return of a driveway begins outside of the right-of-way, the point of intersection of the extension of the driveway curb or edge shall be used for measurement purposes.

2. Distance from Intersection

The distance from street intersections shall be measured from the nearest intersection of the existing right-of-way lines or extension thereof. For streets designated to be widened at a future time by the adopted Major Thoroughfare Plan, measurement shall be made from the ultimate right-of-way.

3. Distance from Ramps of Limited Access Highways

The distance from ramps for limited access highways shall be measured from the point where the right-of-way for the ramp intersects the right-of-way for the street serving the lot.

ARTICLE 12: SIGN REGULATIONS

SECTIONS

- 12-101: GENERAL PROVISIONS
- 12-102: DEFINITIONS
- 12-103: EXEMPT SIGNS
- 12-104: PROHIBITED SIGNS
- 12-105: SIGN PLACEMENT REQUIREMENTS
- 12-106: PERMITTING PROCEDURES
- 12-107: TEMPORARY SIGNS
- 12-108: PERMANENT SIGNS
- 12-109: SIGN SIZES, LIMITS, AND COMPUTATIONS
- 12-110: MASTER OR COMMON SIGN PLAN REQUIREMENTS
- 12-111: DESIGN, CONSTRUCTION, AND MAINTENANCE OF SIGNS
- 12-112: SIGN ORDINANCE ENFORCEMENT
- 12-113: CONFLICTS
- 12-114: SEVERABILITY
- 12-115: APPENDIX

12-101: GENERAL PROVISIONS

12-101.1 Purpose

The purpose of these sign regulations are to encourage the effective use of signs as a means of communication within the City, to maintain and enhance the aesthetic environment and the city's ability to attract sources of economic development and growth; to improve pedestrian and traffic safety; to minimize the possible adverse effect of signs on nearby public and private property; and to enable the fair and consistent enforcement of these sign regulations.

12-101.2 Applicability

A sign may be erected, placed, established, painted, created, or maintained within the City only in conformance with the standards, procedures, exemptions, and other requirements of this ordinance.

12-101.3 Protection of First Amendment Rights

This ordinance is not intended to infringe on any individual(s), entity's or commercial endeavor's First Amendment rights.

12-102: DEFINITIONS AND INTERPRETATIONS

Words and phrases used in this article shall have the meanings set forth in this section. All other words and phrases shall be given their common, ordinary meaning, unless the context clearly requires otherwise.

1. **ANIMATED SIGN:** Any sign that uses movement or change of lighting to depict action or create a special effect or scene.
2. **BANNER:** Any sign of lightweight fabric or similar material that is securely mounted to a pole or a building. National flags, state or municipal flags, or the official flag of any institution or business shall not be considered banners.
3. **BANNER (COMMERCIAL):** Any banner on which appears any commercial message.
4. **BANNER (NONCOMMERCIAL):** Any banner containing no commercial message.
5. **BEACON:** Any light with one or more beams directed into the atmosphere or directed at one or more points not on the same zone lot as the light source; also, any light with one or more beams that rotate or move.
6. **BUILDING MARKER:** Any sign indicating the name of a building and date and incidental information about its construction, which sign is cut into a masonry surface or made of bronze or other permanent material.
7. **BUILDING SIGN:** Any sign attached to any part of a building, as contrasted to a freestanding sign.
8. **BUSINESS DAYS:** Monday through Friday excluding legal holidays.
9. **CANOPY SIGN:** Any sign that is a part of or attached to an awning, canopy, or other fabric, plastic, or structural protective cover over a door, entrance, window, or outdoor service area. A marquee is not a canopy.
10. **CHANGEABLE COPY SIGN:** A sign or portion thereof with characters, letters, or illustrations that can be changed or rearranged without altering the face or the surface of the sign. A sign on which the message changes more than eight times per day shall be considered an animated sign and not a changeable copy sign for purposes of this ordinance. A sign on which the only copy that changes is an electronic or mechanical indication of time or temperature shall be considered a "time and temperature" portion of a sign and not a changeable copy sign for purposes of this ordinance.

11. **COMMERCIAL MESSAGE:** Any sign wording, logo, or other representation that, directly or indirectly, names, advertises, or calls attention to a business, product, service, or other commercial activity.
12. **DIGITAL/COMPUTERIZED SIGNS:** Digital signage, also called dynamic signage, is a specialized form in which video or multimedia content is displayed in public places for informational or advertising purposes. A digital sign usually consists of a computer or playback device connected to a large, bright digital screen such as an LCD or plasma display.
13. **FLAG:** Any fabric, banner, or bunting containing distinctive colors, patterns, or symbols, used as a symbol of a government, political subdivision, or other entity.
14. **FLASHING SIGN:** Any sign that uses intermittent change of lighting intensity to depict action or create a special effect or scene.
15. **FREESTANDING SIGN:** Any sign supported by structures or supports that are placed on, or anchored in, the ground and that are independent from any building or other structure.
16. **INCIDENTAL SIGN:** A sign, generally informational, that has a purpose secondary to the use of the zone lot on which it is located, such as "no parking," "entrance", "loading only", "telephone", and other similar directives. No sign with a commercial message legible from a position off the zone lot on which the sign is located shall be considered incidental.
17. **MARQUEE:** Any permanent roof-like structure projecting beyond a building or extending along and projecting beyond the wall of the building, generally designed and constructed to provide protection from the weather.
18. **MARQUEE SIGN:** Any sign attached to, in any manner, or made a part of a marquee.
19. **NONCONFORMING SIGN:** Any sign that does not conform to the requirements of this ordinance.
20. **OFF-SITE DIRECTIONAL (LEAD-IN) SIGN:** A temporary sign used to direct pedestrian or vehicular traffic to a new residential development.

21. **PENNANT/ STREAMER:** Any lightweight plastic, fabric, or other material, whether or not containing a message of any kind, suspended from a rope, wire, or string, usually in series, designed to move in the wind.
22. **PORTABLE SIGN:** A sign not permanently attached to the ground or other permanent structure, or a sign designed to be transported, but not including trailer signs (as herein defined); signs converted to A- or T-frames; menu or sandwich board signs; balloons used as signs; umbrellas used for advertising; and signs attached to or painted on vehicles parked and visible from the public right-of-way, unless said vehicle is used in the normal day-to-day operations of business.
23. **PROJECTING SIGN:** Any sign affixed to a building or wall in such a manner that its leading edge extends more than six (6) inches beyond the surface of such building or wall.
24. **RESIDENTIAL SIGN:** Any sign located in a district zoned for residential uses that contains no commercial message.
25. **ROOF SIGN:** Any sign erected and constructed wholly on and over the roof of a building, supported by the roof structure, and extending vertically above the highest portion of the roof. Roof signs as defined by this ordinance are not permitted.
26. **ROOF SIGN, INTEGRAL:** Any sign erected or constructed as an integral or essentially integral part of a normal roof structure of any design, such that no part of the sign extends vertically above the highest portion of the roof and such that no part of the sign is separated from the rest of the roof by a space of more than six (6) inches.
27. **SIGN:** Any device, fixture, placard, or structure that uses any color, form, graphic, illumination, symbol, or writing to advertise, announce the purpose of, or identify the purpose of a person or entity, or to communicate information of any kind to the public.
28. **SIGN SETBACK LINE:** An imaginary line created by this ordinance to establish an easily determined setback from any public thoroughfares for the placement of signs.
29. **SPECIAL EVENT SIGNS:** Temporary signs that announce special events. All such signs shall conform to the requirements of Subsection 12-107.2.

30. **SUSPENDED SIGN:** A sign that is suspended from the underside of a horizontal plane surface and is supported by such surface.
31. **TEMPORARY SIGN:** Any sign that is used only temporarily and is not permanently mounted.
32. **TRAILER SIGN:** Any sign designed to be transported by means of wheels, whether or not the wheels remain attached, located on the ground and permanently attached thereto and which is usually a two sided sign and including any single or double surface painted or with a poster panel type sign or any variation thereof.
33. **WALL SIGN:** Any sign attached parallel to, but within six (6) inches of, a wall, painted on the wall surface of, or erected and confined within the limits of an outside wall of any building or structure, which is supported by such wall or building, and which displays only one (1) sign surface.
34. **WINDOW SIGN:** Any sign, pictures, symbol, or combination, thereof, designed to communicate information about an activity, business, commodity, event, sale, or service, which is placed inside a window or upon the window panes or glass and is visible from the exterior of the window.
35. **ZONE LOT:** For the purposes of this ordinance, a lot is a parcel of contiguous land which is or may be developed or utilized under one ownership as a unit site for a use or group of uses and which is of at least sufficient size to meet minimum zoning requirements for use, coverage, and area, and to provide such yards and other open spaces as are herein required. Such lot shall have frontage on an improved public street, or on an approved private street, and may consist of:
- A. A single lot of record;
 - B. A portion of a lot of record;
 - C. A combination of complete lots of record, of complete lots of record and portions of lots of record, or of portions of lots of records;
 - D. A parcel of land described by metes and bounds; provided that in no case of division or combination shall any residual lot or parcel be created which does not meet the requirements of this ordinance.

- E. For the purpose of this definition, the ownership of a zone lot shall be deemed to include a lease of not less than fifty (50) years duration.

12-103: EXEMPT SIGNS

The following signs shall be exempt from regulation under this ordinance:

1. Any public notice or warning required by a valid and applicable Federal, state, or local law, regulation, or ordinance;
2. Any sign, that is not legible from a distance of more than three (3) feet beyond the lot line of the zone lot or parcel on which such sign is located;
3. Holiday lights and decorations with no commercial message, but only in conjunction with the appropriate holiday; and
4. Private street name and traffic control signs on private property, such as Stop, Yield, and similar signs, the face of which meet Department of Transportation standards and which contain no commercial message of any sort.
5. "No trespassing", "no hunting", "no fishing", "no loitering", and like signs not exceeding one (1) square foot in area;
6. Incidental signs as defined by this article.
7. Flags of the United States, the State of Tennessee, the city, foreign nations having diplomatic relations with the United States, and any other flag adopted or sanctioned by an elected legislative body of competent jurisdiction.
8. Other Flags such as decorative flags (Titans, Predators, etc.) and flags representing religious or charitable organizations, schools, bands, school athletic teams, competitions, clubs, and holidays do not require a permit.
9. Public signs erected by or on behalf of a governmental body to post legal notices, identify public property, convey public information, and direct or regulate pedestrian or vehicular traffic;
10. Bus stop signs erected by a public transit company; Informational signs of a public utility regarding its poles, lines, pipes, or facilities;
11. Emergency warning signs erected by a governmental agency, a public utility company or a contractor doing authorized or permitted work within the public right-of-way.

12-104: PROHIBITED SIGNS

All signs not expressly permitted or exempt from regulation under this ordinance are prohibited in the planning jurisdiction of the City. Such signs include, but are not limited to:

1. Tobacco Brand Advertising: In accordance with the consolidated settlement between the State of Tennessee and the major tobacco companies, no tobacco brand outside advertising whether it is temporary or permanent, fixed to a building or stand-alone, is allowed within the City of Fairview unless such advertisement existed in its current form prior to 1999.
2. Beacons;
3. Pennants and streamers not in accordance with Section 12-105;
4. Strings of lights not permanently mounted to a rigid background and Inflatable signs and tethered balloons.
5. Signs painted on or attached to trees, fence posts, rocks or other natural features, telephone or utility poles, or painted on the roofs of building visible from any public thoroughfare;
6. Signs using the words "stop", "danger", or any other word, phrase, symbol or character in a manner that misleads, confuses or distracts a vehicle driver;
7. Trailer signs, Portable Signs;
8. Roof Signs;
9. Flashing directional signs; signs containing strobe lights, signs containing red, blue, white or yellow flashing bulbs that are similar to emergency vehicles, and signs in general that could create a distraction and/or potential hazard in the judgment of the Planning and Codes Department.
10. Any sign or sign structure other than freestanding and vertical wall extension, any portion of which extends above the parapet, building roof line or canopy against which the sign is located;
11. Residential home based business occupation.
12. Off-site Commercial Business Advertisement and Directional Signs.

12-105: SIGN PLACEMENT RESTRICTIONS

1. No signs shall be allowed in the public right-of-way.
2. The sign setback line shall be twenty-five (25) feet from the centerline of the road on state highways where the right-of-way is unknown and ten (10) feet from the edge of the pavement on city roads.
3. No sign shall be placed on any utility pole, street or traffic signs, tree, fence, etc.

12-106: PERMIT PROCEDURES

12-106.1 Permits Required

If a sign requiring a permit under any provision of this ordinance is to be placed, constructed, erected, or modified on a zone lot, the owner of the lot shall secure a sign permit prior to the construction, placement, erection, or modification of such a sign in accordance with the requirements of this section.

Furthermore, the property owner shall maintain in force, at all times, a sign permit for such sign in accordance with this section.

No sign permit of any kind shall be issued for an existing or proposed sign, unless such sign is consistent with the requirements of this ordinance, including those protecting existing signs, and with the Master or Common Sign Plan in effect for the property.

12-106.2 Application and Review Procedures

The following procedures shall govern the application for, and issuance of, all sign permits under this ordinance, as well as the submission and review of Master or Common Sign Plans as described in Section 12-110.

1. Application
All applications for sign permits of any kind and for approval of a Master or Common Signage Plan shall be submitted to the Planning and Codes Department on an application form or in accordance with the application specifications established by the Planning and Codes Department.
2. Fees
Each application for a sign permit or for approval of a Master or Common Sign Plan shall be accompanied by the applicable fees, which shall be established by the Board of Commissioners.

3. Completeness

Within five (5) working days of receiving an application for a sign permit or for a Master or Common Sign Plan, the Planning and Codes Department shall review it for completeness. If the Planning and Codes Department finds that it is complete, the application shall then be processed. If the application is incomplete, the Planning and Codes Department shall provide to the applicant a notice of the specific ways in which the application is deficient, with appropriate references to the applicable sections of this ordinance.

4. Action on Plan

On any application for approval of a Master or Common Sign Plan, the Planning and Codes Department shall take action on one of the following dates:

A. Ten (10) days after the submission of a complete application if the application is for signs for existing buildings; or

B. On the date of final action on any related application for a building permit, site plan, or development plan for signs involving new construction.

5. Failure to Act on Plan

Failure by the Planning and Codes Department to take action within the time periods indicated above shall not be construed so as to relieve the applicant from compliance with all provisions of this article on or before such date, the Planning and Codes Department shall either:

A. Approve the proposed plan if the sign(s) as shown on the plan and the plan itself conforms in every respect with the requirements of this ordinance; or

B. Reject the proposed plan if the sign(s) as shown on the plan or the plan itself fails in any way to conform to the requirements of this ordinance. In case of a rejection, the Planning and Codes Department shall specify in the rejection the section or sections of the ordinance with which the plan is inconsistent.

12-106.3 Permits to Construct or Modify Signs

Signs may be erected, installed, or created only in accordance with a duly issued and valid sign construction permit from the Planning and Codes Department. Such permits shall be issued only in accordance with the following requirements and procedures.

1. Permit for New Sign or for Sign Modification

An application for construction, creation, or installation of a new sign or for modification of an existing sign shall be accompanied by detailed drawings to show the dimension, design, structure, and location of each particular sign, to the extent that such details are not contained on a Master or Common Signage Plan then in effect for the zone lot. One (1) application and permit may include multiple signs on the same zone lot.

2. Inspection

The Planning and Codes Department shall cause an inspection of the zone lot for which each permit for a new sign or for modification of an existing sign is issued on or before six (6) months from the date of issuance of such. If the construction is not substantially complete within six (6) months from the date of issuance, the permit shall lapse and become void. If the construction is complete and in full compliance with this ordinance and electrical codes, the Planning and Codes Department shall affix to the premises a permanent symbol identifying the sign(s) and the applicable permit by number or other reference. If the construction is substantially complete, but not in full compliance with this ordinance and applicable codes, the Planning and Codes Department shall give the owner or applicant notice of the deficiencies and shall allow an additional thirty (30) days from the date of inspection for the deficiencies to be corrected. If the deficiencies are not corrected by such date, the permit shall lapse. If the construction is then complete, the Planning and Codes Department shall affix to the premises the permanent symbol described above.

12-106.4 Permits to Remain Current and in Force

The owner of a zone lot containing signs requiring a permit under this ordinance shall at all times maintain in force a sign permit for such property. Sign permits shall be issued for individual zone lots, notwithstanding, the fact that a particular zone lot may be included with other zone lots in a Common Sign Plan.

1. Initial Sign Permit

An initial sign permit shall be issued by the Planning and Codes Department covering the completed sign installation, construction, or modification.

2. Lapse of Sign Permit

Within sixty (60) days of the termination of a business, commercial or industrial enterprise, the permit automatically becomes void and all signs relating to such activity shall be removed.

3. Assignment of Sign Permits

A current and valid sign permit shall be freely assignable to a successor as owner of the property or holder of a business license for the same premises, subject only to filing such application as the Planning and Codes Department may require and paying any applicable fee. The assignment shall be accomplished by filing and shall not require approval.

12-107: TEMPORARY SIGNS

Permits for temporary signs shall be subject to the following requirements:

12-107.1 Political Signs and Banners

Temporary political signs and banners shall be allowed subject to the following Requirements:

1. Term

Political signs are permitted for a period not to exceed forty-five (45) days prior to an election and removed within three (3) days following such election. This time period shall include weekends and each day shall begin and end at 12:00 noon.

2. Size

Temporary political signs shall not exceed sixteen (16) square feet.

3. Special Fees

The political candidate or his authorized representative shall pay a fee as established by the Board of Commissioners. If the signs are not removed within three (3) days following the election the codes enforcing official shall remove the signs and a citation to appear in court will be issued to the person whose name appears on the permit. A fine of up to \$50.00 plus court cost could be issued.

12-107.2 Temporary Commercial Business Signs

Temporary Commercial Business signs shall be allowed with a temporary sign permit for a time not to exceed fourteen (14) days each calendar quarter. There shall not be more than (1) sign permitted at a time. Sign may not exceed four (4) square feet, must be kept in good repair, and in the ground securely so not to lean. Sign must be on the property of the business making application. Sign shall not be placed in any public right-of-way at any time.

12-107.3 Garage/yard Sale Signs

Advertising is limited to one sign on premises and no more than four (4) off-site signs. Upon payment of the permit fee, the applicant will receive three (3) directional signs that should be used on Highways 96 and 100. Only these City of

Fairview issued garage/yard sale signs will be allowed on these main thoroughfares. For other locations, only signs limited to 4 square feet may be used. Signs may be placed no earlier than 4:00 pm on the day before the first day of the sale and must be removed by 7:00 pm on the last day of sale.

12-107.4 Banners

Temporary permits for banners shall be allowed upon the issuance of a temporary sign permit, subject to the following requirements:

1. Term

A temporary sign permit shall allow the use of a banner for a period not to exceed twenty-eight (28) days in each calendar quarter.

2. Size and Number

Temporary banners shall not exceed thirty-six (36) square feet. No more than one (1) banner shall be permitted for each business or other tenant occupying any zone lot.

3. In Lieu of Permanent Signage

A banner may be used in lieu of permanent signage for a period not to exceed six (6) months. All criteria concerning area and dimensions for permanent signage shall apply.

12-107.5 For Sale Signs

A sign of not more than six (6) square feet may be displayed which announces the sale, lease or rental of the real property on which such sign is located. If the said property is five (5) acres or larger in area such sign may be increased to sixteen (16) square feet. If the said property faces more than one (1) street, one (1) sign may be allowed for each frontage.

12-107.6 Nonresidential Construction/Development Signs

A sign of not more than thirty-two (32) square feet indicating the names, addresses and telephone numbers of the contractors, engineers, developers, sales and leasing agents, and/or architects of a construction project. Two (2) types of "Nonresidential Construction/Development Signs" are permitted.

1. Future Development Signs are signs announcing the intended future development of a site and the availability for lease or purchase of portions of the proposed development. Future development signs may indicate the name of the developer and/or the sales and leasing agent. Temporary shall mean in connection with this sign the period of time commencing with initial approval by the planning commission of the proposed development and terminating with initiation of construction of the project.

2. Construction Signs are signs announcing the construction or development of a building site. Construction signs may indicate the name of the contractors, engineers, developers, and/or architects employed in the construction project.
3. Temporary shall mean in connection with this sign the period of time commencing with initial construction and terminating with completion of the project.

12-107.7 Directional Real Estate Signs

Temporary directional real estate signs may be posted only between Friday at noon and Monday at noon. Temporary directional "Realty for Sale" or similarly worded (home for sale, open house, etc.) signs are permitted according to the following design standards:

1. Signs may be no larger than four (4) square feet in area nor greater than four (4) feet in height.
2. Signs are in conformance with setback provisions of this ordinance.
3. No sign shall be illuminated by any means.
4. Signs may include company identification and be of different colors.

12-107.9 New Subdivision/Off-Site Directional Signs

A permit is required for this type of sign. New subdivision directional signs may be allowed according to the following design standards:

1. Signs cannot exceed three (3) feet in height or four (4) square feet in area including any advertising copy or sign additions.
2. Signs shall be limited to "A-Frame", "T-Stand", or "Wire H Stand" type supports.
3. Signs may include directional arrows, the name of the development or when only one builder is operating within the development, the name of that builder.
4. Signs may have colors.
5. Signs must remain in good condition and be constructed of weather resistant material.

6. Signs may be installed no earlier than noon on Friday and must be removed by noon on the following Monday except when Monday is a legal holiday. Then Tuesday noon will be the removal deadline.
7. No sign may be attached to any of the prohibited items listed in this ordinance.
8. No sign shall be placed in any median, between the sidewalk and curb, and must be placed in accordance to the setback restrictions of this ordinance.
9. Each sign must contain the contact information of the Sign Company and or developer/builder responsible for the installation of the sign. This information shall not exceed one (1) inch in height.
10. Signs representing an individual builder/development may be placed no closer than 1320 feet (1/4 mile) apart unless there are directional changes requiring additional signs and may not exceed two (2) signs in any intersection.
11. Signs shall be allowed until the last unit is sold. Additional phases of developments will require application and issuance of a new permit.
12. In accordance with the enforcement provisions of this ordinance the Planning and Codes Department may remove any sign deemed to be unsafe, defective, or that creates an immediate hazard to persons or property.

12-107.10 Auction Sales

Temporary announcement signs for auction sales which do not exceed a maximum size of sixteen (16) square feet. A maximum of five (5) such signs shall be permitted. Such signs may be posted no more than fifteen (15) days prior to the auction and shall be removed on the business day following the auction. Temporary directional pointers not exceeding two (2) square feet in area may be permitted on the day of the auction.

12-107.11 Special Event Signs

Temporary event signs may be approved for a time period not to exceed three (3) weeks and all such signs shall be removed no later than the next business day following conclusion of the event. Location and design of special event signs shall be approved by the Planning and Codes Department. The maximum size of such signs shall be thirty-two (32) square feet and the maximum height shall be six (6)

feet. There shall be no more than one (1) ground sign per event. Banners as regulated by Subsection 12-107.4.

12-107.12 Off-Site Development Signs

Development signs, which do not exceed twenty-four (24) square feet, may be permitted. Only one (1) such sign may be permitted per development. Only one (1) such sign may be permitted per street intersection. Up to four (4) developments shall be permitted per sign. Signs shall only be permitted until the last remaining unit is sold. The location and configuration of such sign shall be presented along with the final plat of such development.

12-107.13 Commercial Flags

Commercial Flags which present the name, corporate symbol, logo or other means of identification of any private for profit commercial enterprise are deemed to be banners and are regulated by the provisions of Subsection 12-107.4.

12-108: PERMANENT SIGNS

12-108.1 Freestanding Signs

The number, location and spacing of freestanding signs shall be governed by the provisions of this section.

1. Residential and Office Subdivision

Residential and office subdivisions may erect freestanding identification and information signs. Such signs shall be located at the primary entrance(s) to the development/subdivision or at the beginning of the street upon which the development/subdivision connects directly to an arterial or collector street as shown on the Major Route Plan. Upon approval by the Planning Commission, a subdivision sign may be erected in the right-of-way provided that, in the opinion of the Planning and Codes Department, it does not pose a traffic hazard. Such signs shall be administered and maintained by an established property owners' association or maintenance organization and in no way shall be the responsibility of the city or county. These signs shall not exceed sixty-four (64) square feet in area.

2. Other Freestanding Signs

Freestanding signs other than those regulated by Subpart 1 (above) of this section, shall be limited to one (1) sign per entrance, but no more than a total of two (2) such signs for the development, subject to the spacing distance limitations noted in Subpart 3 (below) of this section.

3. Spacing Limitations of Freestanding Signs

Freestanding signs on any premises shall be spaced at minimum intervals of two hundred (200) feet along each public way which fronts the premises. In the event that less than two hundred (200) feet of any premises is visible from any one public way, only one (1) sign shall be permitted along that public way.

12-108.2 Computerized/Digital Signs

1. Size and Location

A permit is required for this type of sign if located outside of the building. These types of signs located inside the building (if they can be seen from the outside of the building will require a permit and will be considered part of the overall signage allowed for the premises). Inside signs shall not exceed one-fourth (1/4) or 25 percent of the window space in which they are located.

Computerized or digital signs located outside of the building either as stand-alone or as part of another sign may not exceed 50% of the available sign square footage as determined under the appropriate section of this ordinance. In addition to text, graphics may be used; however sequencing of change should allow sufficient intervals as to not create a distraction to passing motorists.

2. Illumination and Brightness

Computerized or digital signs during daytime hours shall have a maximum lighting intensity of 7,500 nits and during night time hours shall have a maximum lighting intensity of 750 nits.

All electronic and/or digital signs shall have installed ambient light monitors, and shall at all times allow such monitors to automatically adjust the brightness level of the sign based on ambient light conditions.

Written Certification from the sign manufacturer must be provided at the time of application for a permit certifying that the light intensity of the sign has been preset not to exceed the illumination levels established by this ordinance, and that the preset intensity level is protected from end user manipulation by password protected software.

3. Message Duration

Images shall remain static for a minimum time of eight (8) seconds and image changes and scrolling shall be completed within two (2) seconds or less. Images shall not flash nor include sudden blasts of lights or contain continuous scrolling and animation over two (2) seconds in length.

12-109: SIGNS SIZES, LIMITS, AND COMPUTATIONS

The following principles shall control the computation of sign area and sign height.

12-109.1 Computation of Area of Individual Signs

The area of a sign face (which is also the sign area of a wall sign or other sign with only one face) shall be computed by means of the smallest square, circle, rectangle, triangle or combination thereof that will encompass the extreme limits of the writing, representation, emblem, or other display, together with any material or color forming an integral part of the background of the display or used to differentiate the sign from the backdrop or structure against which it is placed, but not including any supporting framework, bracing, or decorative fence or wall when such fence or wall otherwise meets zoning ordinance regulations and is clearly incidental to the display itself.

12-109.2 Computation of Area of Multi-Faced Signs

The sign area for a sign with more than one face shall be computed by adding together the area of all sign faces visible from any one point. When two (2) identical sign faces are placed back to back, so that both faces cannot be viewed from any point at the same time, and when such sign faces are part of the same sign structure, the sign area shall be computed by the measurement of one of the faces.

12-109.3 Computation of Height

The height of a sign shall be computed as the distance from the base of the sign at normal grade to the top of the highest point of the sign face. Normal grade shall be construed to be the newly established grade after construction, exclusive of any filling, berming, mounding, or excavating solely for the purpose of locating the sign. In cases in which the normal grade of the sign is lower than the grade of the adjacent public street, normal grade shall be construed the grade of the adjacent public street. Adjacent Public Street shall mean the street providing approved vehicle access to the property and which does or would bear the street address for the property.

Under no circumstances may any primary outside signage exceed ten feet (10) in height or apex of the roof line of the establishment it is identifying whichever is less.

12-109.4 Computation of Maximum Total Permitted Sign Area for a Zone Lot

The permitted sum of the area of all individual signs on a zone lot shall be computed by applying the formula contained in TABLE 12-116B, Maximum Total Sign Area Per Zone Lot by Zoning District, to the lot frontage, building frontage, or wall area, as appropriate, for the zoning district in which the lot is located. Lots fronting on two (2) or more streets are allowed the permitted sign area for each

street frontage. However, the total sign area that is oriented toward a particular street may not exceed the portion of the lot's total sign area allocation that is derived from the lot, building, or wall area frontage on that street.

12-110: MASTER OR COMMON SIGN PLAN REQUIREMENTS

No permit shall be issued for an individual sign requiring a permit unless and until a Master or a Common Sign Plan for the zone lot on which the sign will be erected has been submitted to and approved by the Planning and Codes Department as conforming to this section.

12-110.1 Master Sign Plan

For any zone lot on which the owner proposes to erect one (1) or more signs requiring a permit, unless such zone lot is included in a Common Sign Plan, the owner shall submit to the Planning and Zoning Department, a Master Sign Plan containing the following:

1. An accurate plot plan of the zone lot, at such scale as the City Planner may reasonably require;
2. Location of buildings, parking lots, driveways, and landscaped areas on such zone lot;
3. Computation of the maximum total sign area, the maximum area for individual signs, the height of signs and the number of freestanding signs allowed on the zone lot(s) included in the plan under this ordinance; and
4. An accurate indication on the plot plan of the proposed location of each present and future sign of any type, whether requiring a permit or not, except that incidental signs and signs not regulated by this ordinance need not be shown.
5. The name of the owner of the property and the name of the applicant (if different from the owner).

12-110.2 Common Sign Plan

If the owners of two (2) or more contiguous (disregarding intervening streets and alleys) zone lots or the owner of a single lot with more than one (1) building (not including any accessory building) file with the Planning and Codes Department for such zone lots a Common Sign Plan conforming with the provisions of this section, a twenty-five (25) percent increase in the maximum total sign area shall be allowed for each included zone lot. This bonus may be allocated within each zone lot as the owner(s) elects.

12-110.3 Provisions of Common Sign Plan

The Common Sign Plan shall contain all of the information required for a Master Sign Plan and shall also specify standards for consistency among all signs on the zone lots affected by the plan with regard to:

- Color Scheme;*
- Lighting;*
- Location of Each Sign on the Buildings;*
- Material; and*
- Sign Proportions*

12-110.4 Limits on Freestanding Signs under Common Sign Plan

The Common Signage Plan, for zone lots with multiple uses or multiple users, shall generally limit the number of freestanding signs to a total of one (1) for the street on which the zone lots included in the plan have frontage and shall provide for shared or common usage of such signs. Upon corner lots or in any instance where the properties included within a Common Sign Plan may contain an intervening street, the number of freestanding signs shall be limited to one (1) for each street where such lots have two hundred (200) or more linear feet of street frontage and such properties shall be treated as a unified zone lot.

12-110.5 Other Provisions of Master or Common Sign Plans

The Master or Common Sign Plan may contain such other restrictions as the owners of the zone lots may reasonably determine.

12-110.6 Consent

The Master or Common Sign Plan shall be signed by all owners or their authorized agents in such form as the Planning and Codes Department shall require.

12-110.7 Joint Processing

A Master or Common Sign Plan shall be included in any development plan, site plan, planned unit development plan, or other official plan required by the city for the proposed development and shall be processed simultaneously with such other plan.

12-110.8 Amendment

A Master or Common Sign Plan may be amended by filing a new Master or Common Sign Plan that conforms with all requirements of the ordinance then in effect.

In general, amendments shall be reviewed and acted upon by the City Planner and Planning Commission. Provided, however, that any amendment of a common sign plan which affects those items governed by Section 12-110.3,

(Provisions of Common Sign Plan), of this section shall be acted upon in a like procedure to the original plan.

12-110.9 Existing Signs Not Conforming to Master or Common Sign Plan

When a Master or Common Sign Plan is filed for a property on which existing signs are located; it shall include a schedule for bringing into conformance, within one (1) year, all signs not conforming to the proposed amendment plan or to the requirements of this ordinance in effect on the date of submission.

12-110.10 Binding Effect

After approval of a Master or Common Sign Plan, no sign shall be erected, placed, painted, or maintained, except in conformance with such plan and such plan may be enforced in the same way as any provision of this ordinance. In case of any conflict between the provisions of such plan and any other provision of this ordinance, the ordinance shall control.

12-111: DESIGN, CONSTRUCTION, AND MAINTENANCE

All signs shall be designed, constructed, and maintained in accordance with the following standards:

- A. All signs whether temporary or permanent will be designed, purchased, created and displayed in manner that promotes a professional appearance. Hand created and lettered signs are not prohibited in their entirety, but are subject to removal if under the opinion of the Planning and Codes Department the sign does not meet the spirit of this ordinance. For example, a sign with misspelled words would be inappropriate.
- B. Except for banners, flags, or temporary signs conforming in all respects with the requirements of this ordinance, all signs shall be constructed of permanent materials and shall be permanently attached to the ground, a building, or another structure by direct attachment to a rigid wall, frame, or structure.
- C. Every sign, including, but not limited to, those signs for which permits are required, shall be maintained in a safe, presentable, and sound structural condition.
 - 1. To prevent rust, peeling, flaking, fading or rotting, all signs and supports shall be painted, unless they have been anodized or similarly treated.
 - 2. Broken panels, missing letters, defective illumination, torn fabric, flaking or peeling paint, and other damage to a sign shall be replaced or repaired.

3. Signs that include references to closed or abandoned establishments must be altered in such a way as to not detract from the overall appearance of the sign but does result in the removal of the reference to the closed establishment. Exposed lighting, such as occurs with the removal of a transparent panel is not permitted.

12-112: SIGN ORDINANCE ENFORCEMENT

Except, as otherwise provided herein, the owner of any zone lot or other premises on which a sign exists that does not conform to the requirements of this ordinance or for which there is no current and valid sign permit shall be obligated to remove such sign or, in the case of a nonconforming sign, to bring it into conformity with the requirements of this ordinance.

12-112.1 Signs Existing on Effective Date

Signs existing in the planning jurisdiction which were made nonconforming by the adoption of this ordinance shall be permitted to remain in place and be maintained, provided that no action is taken which increases the degree or extent of the nonconformity. A change in the information on the face of an existing nonconforming sign which lists the various tenants located within a building or complex of buildings expressly allowed. In any instance where a business shall cease to operate and a new firm wishes to occupy the building or space an amendment to the master or common signage plan shall be required as stated in Section 12-110.8.

12-112.2 Sign Removal Required

A sign that was constructed, painted, installed, or maintained in conformance with a permit under this ordinance, but for which the permit has lapsed, should be removed within 30 days of the vacancy occurring.

12-112.3 Signs Forfeited

Any sign installed or placed on public property, except in conformance with the requirements of this ordinance, shall be forfeited to the public and subject to removal and disposal. In addition to other remedies herein under, the city shall have the right to recover from the owner or person placing such a sign the full costs of removal and disposal of such sign.

12-112.4 Signs Creating Safety Hazards

Any sign which presents an immediate danger to the public may be removed at the direction of the City Planner without notice.

12-112.5 Removal Procedures

- 1. If a determination is made by the City Planner that any sign is unsafe, not secure, in violation of this section, or is in violation of any applicable law, notice of such violation shall be given to the property owner and/or occupant where such sign is located.
- 2. The property owner and/or occupant shall have ten days (10) to begin repairs and thirty (30) days from the date of said notice to completely remove, repair or remedy said violation.
- 3. If such remedial action or removal does not occur, the City Planner may cause the removal of the sign. The property owner and/or occupant shall be responsible for the cost of removal after notification of such costs. Any costs that continue to go unpaid, including attorney

12-113: APPEALS AND VARIANCES

Decisions and enforcement of the provisions contained in this ordinance by the City of Fairview Planning and Codes Department can be appealed to the Board of Zoning Appeals by filing a written request for a hearing with the Planning and Codes Department. This appeal however does not preclude the Planning and Codes Department from taking appropriate action to remove a sign that has the potential to cause harm to person or property during the time the appeal is pending. Request for variances should be filed with the City of Fairview Planning Commission.

12-114: CONFLICTS

It is the intent of this Section that no conflicts exist between this Section and other Sections of the City of Fairview Municipal Code, the Fairview Zoning Ordinance, or any directives of the City; however, should any conflict(s) arise between the provisions of this Section and any other Section(s) of the City of Fairview Municipal Code, the Fairview Zoning Ordinance, or any directive of the City the provisions of this Section shall prevail.

12-115: SEVERABILITY

If any sentence, clause, phrase or paragraph of this Article 12, (Sign Regulations) is declared to be unconstitutional by any Court of competent jurisdiction; such holding will not affect any other portion of this Article or the Fairview Zoning Ordinance.

A KEY TO TABLE 12-116A THROUGH 12-116E

THE TABLES APPEARING IN THIS SECTION, WITH DISTRICT HEADINGS, HAVE THE FOLLOWING MEANINGS:

RESIDENTIAL DISTRICTS

A&R - Agricultural and Residential, One- and Two-Family Districts (1)

R-M - Residential, Multi-Family Districts (2)

R-MHP - Residential, Manufactured Home Parks

COMMERCIAL AND MIXED USE DISTRICTS

CG - Commercial-General Districts

CI - Commercial Interchange Districts

CMU - Commercial Mixed Use District

CNS - Convenience Neighborhood Service Districts

OPS - Office/Professional Service Districts

CC - Commercial Community Districts

OG - Office General

MSMU - Main Street Mixed Use

INDUSTRIAL DISTRICTS

I-R - Industrial Restrictive Districts

I-G - Industrial General Districts

I-S - Industrial Special Districts

NOTES

(1) Districts Include AR-15A, AR-5A, RS-40, R-20, RS-15, RS-8, and RS- 5.

(2) Includes all RM Districts – RM-8, RM-12, and RM-20

ARTICLE 13: ENVIRONMENTAL AND OPERATIONAL PERFORMANCE STANDARDS

SECTIONS

13-101: ENVIRONMENTAL PERFORMANCE STANDARDS

13-102: HILLSIDE DEVELOPMENT STANDARDS

13-103: DEVELOPMENT STANDARDS FOR FLOOD HAZARD AREAS

13-104: DEVELOPMENT STANDARDS FOR AREAS OF PROBLEM SOIL

13-105: OPERATIONAL PERFORMANCE STANDARDS

13-106: SPECIFIC STANDARDS

13-101: ENVIRONMENTAL PERFORMANCE STANDARDS

13-101.1 Purpose and Intent

The purpose of this section is to establish development standards for environmentally sensitive land areas, in a manner that provides for reasonable use of land while retaining to the maximum extent possible the environmentally sensitive portions in a predeveloped state. These provisions are predicated on the concept that land use policy decisions are made in the context of land characteristics. Optimally, these characteristics include all physical as well as locational characteristics of a development site. The requirements and standards of this section are intended to promote low-impact development of identified environmentally sensitive areas by the use of incentives aimed at minimizing environmental disturbance.

13-101.2 Applicability

The provisions of this section are applicable to the following environmentally sensitive lands:

1. Steep Hillsides

The hillside development standards apply to predevelopment conditions for new development on slopes of fifteen (15) percent or greater.

2. Special Flood Hazard Areas

The floodplain development standards apply to predevelopment conditions for new development within "Areas of Special Flood Hazard" identified in Article VIII of this ordinance.

3. Problem Soil Areas

The problem soils development standards apply to predevelopment conditions for new development located within the listed soil types as identified in the Williamson County Soil Survey (U.S.D.A., Soil Conservation Service). The groundwater protection standards developed herein shall apply to any lot not served by public water and/or sewer.

4. Exemptions

The provisions of this section shall not apply to the following:

- A. Any construction, development or use initiated pursuant to any valid building permit or approved Final Site Development Plan issued or approved prior to adoption of this ordinance.
- B. Any essential public utility facility, system or roadway initiated to provide utility services or access to a property.
- C. Repairs or replacement to an existing structure or building that does not increase the impervious surface area of the site more than twenty-five (25) percent.
- D. Construction of a single-family or duplex dwelling on a lot which was platted and recorded at the time of adoption of this ordinance.

13-101.3 Variable Lot Size Option

Within development sites that contain steep slopes, areas subject to flooding or problem soils, the clustering of residential lots on portions of a development site that are not subject to such problems is strongly encouraged. Portions of the development site that contain slopes of twenty (20) percent or greater, are subject to flooding or are identified as wetlands shall be retained as open space.

13-102: HILLSIDE DEVELOPMENT STANDARDS

13-102.1 Residential Development

Residential development on property that includes slopes of fifteen (15) percent or greater shall minimize changes to grade, cleared area, and volume of cut and fill on the site and shall be subject to the following standards.

1. Single and Two-family Dwellings

A. Site Plan Required

Any lot two (2) acres or less in size that is created for use as a building site for a single or two (2) family dwelling shall be considered a "critical lot". Approval of a site development plan containing the information required by Subsection 4-102.2 (Critical Lots), of the Subdivision Regulations, shall be required.

B. Minimum Lot Size

Within areas of steep slopes, the following minimum lot size provisions shall apply.

TABLE 13-102A MINIMUM RESIDENTIAL LOT SIZE PER SITE SLOPE	
NATURAL SLOPE	MINIMUM LOT SIZE
< 15%	See Article 6
15% - 20%	3 Acres
> 20%	5 Acres

2. Multi-family Development

A. Density Reductions

In all R-M, Multi-Family Zone Districts, manipulation of natural slopes shall result in the following reductions in density permitted for those portions disturbed:

B. Protection of Steep Slopes

That portion of a multi-family development site that contains slopes greater than twenty (20) percent shall remain undisturbed.

TABLE 13-102B MULTI-FAMILY DENSITY ADJUSTMENTS FOR STEEP SLOPES					
NATURAL SLOPE	STANDARD DENSITY		ADJUSTMENT FACTOR		EFFECTIVE DENSITY
< 15%	See Article 6	x	1.0	=	Effective
15% - 20%		x	.5	=	Effective
> 20%		x	0.0	=	Effective

13-102.2 Non-residential Development

1. Reductions in Allowable Impermeable Surface Ratio (ISR) in all nonresidential districts, manipulation of natural slopes shall result in the following reductions in allowable Impermeable Surface Ratio (ISR) for those portions disturbed.

TABLE 13-102C NON-RESIDENTIAL ISR ADJUSTMENTS FOR STEEP SLOPES					
NATURAL SLOPE	STANDARD IMPERMEABLE SURFACE RATIO		ADJUSTMENT FACTOR		EFFECTIVE IMPERVIOUS SURFACE RATIO
< 15%	See Article 7	x	1.0	=	Effective
15% - 20%		x	.5	=	Effective
> 20%		x	0.0	=	Effective

2. Grading Standards for Hillside Sites in Nonresidential Zone Districts
Grading standards for hillside sites in nonresidential zone districts shall be as follows:
 - A. Minimal Disruptions
For lots or parcels containing natural slopes of twenty (20) percent or greater, approval of a Final Site Development Plan shall be based upon a demonstration that the development plan minimizes disturbance to these slopes. Architectural and engineering features that reduce unnecessary encroachment on steep slopes may include, but are not limited to, use of retaining walls and structural foundations to return to natural grade.
 - B. Slope Stabilization
Finished slopes shall be stabilized by perennial vegetative cover. Slope face stabilization by use of rip-rap or hydraulically applied concrete is prohibited.

13-103: DEVELOPMENT STANDARDS FOR FLOOD HAZARD AREAS

13-103.1 Residential Sites

Residential development on property located within an area of Special Flood Hazard shall comply with the following

1. Single and Two-family Dwellings
 - A. Applicability
Any lot or parcel less than five (5) acres in size that is created for use as a building site for a single or two-family dwelling shall be considered a "critical lot" and no land area located within an area of Special Flood Hazard prior to manipulation shall be used to satisfy minimum lot size requirements of the district after manipulation.
 - B. Site Development Plan Required
Approval of a site development plan containing the information required by Article 10, Section 10-303, shall be based upon a demonstration that the proposal complies in all respects with the provisions of Section 10-301 (Floodplain District Regulations).

C. Cluster Lot Option

Residential lots may be clustered on portions of a site outside the un-manipulated area of Special Flood Hazard. Portions of the development site that are located within an area of Special Flood Hazard shall be retained as open space.

2. Multi-Family Development

A. Density Reductions

In all R-M, Multi-Family Zone Districts, manipulation of areas of Special Flood Hazard shall result in the following reductions in density permitted for those portions disturbed:

TABLE 13-103A MULTI-FAMILY DENSITY ADJUSTMENTS FOR FLOOD HAZARDS					
FLOODPLAIN RELATIONSHIP	STANDARD DENSITY		ADJUSTMENT FACTOR		EFFECTIVE DENSITY
Above Flood	See Article 6 & 7	x	1.0	=	Effective
PREDEVELOPMENT FLOODPLAIN, UNDISTURBED		x	1.0	=	Effective
PREDEVELOPMENT FLOODPLAIN, DISTURBED		x	.5	=	Effective
PREDEVELOPMENT FLOODWAY, UNDISTURBED		x	1.0	=	Effective
PREDEVELOPMENT FLOODWAY, DISTURBED		x	0.0	=	Effective

13-103.2 Nonresidential Sites

1. Reductions in Allowable Floor Area Ratio (FAR)

In all nonresidential districts, manipulation of Special Flood Hazard areas shall result in the following reductions in allowable Floor Area Ratio (FAR) for those portions disturbed.

TABLE 13-103B NON-RESIDENTIAL F.A.R. ADJUSTMENTS FOR FLOOD HAZARDS					
FLOODPLAIN RELATIONSHIP	STANDARD F.A.R.		ADJUSTMENT FACTOR		EFFECTIVE F.A.R.
Above Flood	See Article 7	x	1.0	=	Effective
PREDEVELOPMENT FLOODPLAIN, UNDISTURBED		x	1.0	=	Effective
PREDEVELOPMENT FLOODPLAIN, DISTURBED		x	.5	=	Effective
PREDEVELOPMENT FLOODWAY, UNDISTURBED		x	1.0	=	Effective
PREDEVELOPMENT FLOODWAY, DISTURBED		x	0.0	=	Effective

2. Reductions in Allowable Impervious Surface

In all nonresidential districts, manipulation of Special Flood Hazard areas shall result in the following reductions in maximum allowable impermeable surface according to the table below.

TABLE 13-103C IMPERMEABLE SURFACE REDUCTIONS	
CATEGORY	REDUCTION TO MAXIMUM IMPERMEABLE SURFACE ALLOWED ABOVE THE AREA OF SPECIAL FLOOD HAZARD
Floodplain	Deduct 2.0 x manipulated area of Special Flood Hazard Area from allowable impervious surface above the floodplain.
Floodway	Deduct 5.0 x manipulated area of Special Flood Hazard Area from allowable impervious surface above the floodplain.

13-104: DEVELOPMENT STANDARDS FOR AREAS OF PROBLEM SOIL

13-104.1 Wetlands and Unstable Soils

Lots or parcels where the following soils are indicated by the Williamson County Soil Survey (U.S.D.A., Soil Conservation Service), shall be considered a "critical lot". Any application for approval of a Master Development Plan, a Final Site Development Plan or a subdivision plat shall be accompanied by a geotechnical report. Both the development plan and the geotechnical report shall be certified by a Geotechnical Engineer licensed by the State of Tennessee. The

Geotechnical Engineer shall certify that the construction techniques adequately mitigate any potential soil hazards identified in the report.

TABLE 13-104A SOIL TYPE AND CRITICAL LOTS	
SOIL TYPE	CHARACTERISTICS TO BE ADDRESSED IN PLAN OR REPORT
Delrose	Slippage Condition

13-104.2 Groundwater Protection and Subsurface Sewage Disposal

The following minimum area standards shall apply to any lot not served by public water and/or sewer. No lot shall be created that is smaller than as indicated in the Table below.

TABLE 13-104B MINIMUM LOT AREA WITHOUT PUBLIC WATER AND/OR SEWER	
LOT CONDITION	MINIMUM LOT AREA
Without Public Water and Sewer	40,000 square feet
With Public Water – No Sewer	20,000 square feet

13-105: OPERATIONAL PERFORMANCE STANDARDS

13-105.1 Purpose and Intent

It is the purpose of this section to provide appropriate standards relating to the operation of certain activities throughout the Planning Jurisdiction. Such operations may create or maintain such excessive noise, vibration, air pollution, odor, or electromagnetic interference as to be a detriment to the public health, comfort, convenience, safety and welfare. These standards are therefore provided to protect the public interest and promote the public health and welfare.

13-105.2 Applicability

1. In all districts every building or other structure or tract of land that is established, developed or constructed shall comply with each and every performance standard contained in this section, as applicable.
2. When the use or building or other structure is extended, enlarged or reconstructed after the effective date of this Zoning Ordinance, the applicable performance standards shall apply with respect to such extended, enlarged, or reconstructed portion or portions of such use or building or other structure.
3. In the case of any conflict between the activity type and the performance standards, the latter shall control.

4. The provisions of this section shall apply notwithstanding the issuance after the effective date of this ordinance of any zoning permit or certification of zoning compliance.
5. In case of conflict between the performance standards set forth herein and any rules or regulations adopted by any other governmental agencies, the more restrictive shall apply.

13-105.3 General Exemptions

The follow activities or sources are exempt from these regulations.

1. Temporary construction, excavation and grading.
2. Demolition activities which are necessary and incidental to the development of facilities on the same lot, on another of several lots being developed at the same time, or on the public right-of-way or easement for a community facility activity.
3. Aircraft, railway and operating motor vehicles.

13-106: SPECIFIC STANDARDS

13-106.1 Noise

1. Applicability
These standards apply to noise from any machinery or equipment that is part of or operated within any development provided for in this ordinance, including continuous and intermittent noise, noise emitted by speaker boxes and any other commercial or industrial activities which are under the control of the occupant of a building site.
2. Method of measurement
Noise shall be measured with a sound level meter which meet the standards pertinent for Type 52A, meters of the American National Standards Institute specifications for sound level meters. Noise levels shall be measured using an A-weighted sound pressure level scale. Impact noises, produced when two (2) or more objects strike each other, shall be measured using the fast response of the sound level meter, and other noises using the slow response. For purposes of this ordinance, impact noises shall be considered to be those noises whose peak values are more than three (3) decibels higher than the values indicated on the sound level meter.

3. Required Performance Level

The maximum permitted sound pressure levels in decibels across lot lines and district boundaries shall be in accordance with following table. This table shall be used to determine the maximum noise level, measured in A weighted decibel, which shall be permitted at the property line of the closest use in each of the following categories.

TABLE 13-106A MAXIMUM SOUND LEVELS ACROSS LOT LINES		
RECEIVING LAND USE CATEGORY	SOUND LEVEL LIMIT (dBa)	
	7 a.m. – 8 p.m.	8 p.m. – 7 a.m.
Residential	55	50
Community Facility	55	50
Commercial	65	60
Manufacturing	75	75
Agricultural and Extractive	75	75

13-106.2 Vibration

1. Applicability

These standards are to apply to the operation of any device that creates a vibration above the "vibration threshold" (See Subpart 2, below) at or beyond the property boundary of the source if on private property or at one hundred fifty (150) feet from the source if on public space or public right-of-way.

2. Method of Measurement

Vibration displacement shall be measured with an instrument capable of simultaneously measuring in three (3) mutually perpendicular directions. Measurements shall be made at or beyond the adjacent lot line or the nearest residential district boundary line as described herein. The maximum permitted displacements shall be determined by the following formula:

D = K/F Where D = Displacement (in inches)

K = A constant to be determined by reference to the tables below

F = The frequency of the transmitted vibration (in cycles per second)

3. Required Performance Level

No activity or operation shall cause vibrations in excess of the maximum displacement permitted at the points described below for the district indicated. The maximum permissible displacement shall be determined by the use of the formula presented in Subpart 2, of this section, and the appropriate "**K**" **Constant** shown in the tables, below.

K VALUES - FOR CALCULATING PERMITTED VIBRATION IN THE I-R DISTRICT	
LOCATION	K VALUE
On or Beyond Any Adjacent Lot Line	
Continuous	0.015
Impulsive	0.030
Less Than 8 Pulses Per 24 Hour Period	0.075
On or Beyond Any Residential District Boundary Line	
Continuous	0.003
Impulsive	0.006
Less Than 8 Pulses Per 24 Hour Period	0.015

K VALUES - FOR CALCULATING PERMITTED VIBRATION IN THE I-G and I-S DISTRICTS	
LOCATION	K VALUE
On or Beyond Any Residential District Boundary Line	
Continuous	0.006
Impulsive	0.012
Less Than 8 Pulses Per 24 Hour Period	0.030

13-106.3 Smoke and Particulate Matter

Any land use or other activity which involves the emission of smoke, particulate matter, or other air pollutants shall comply with all applicable standards set forth in State and Federal Statutes and regulations regarding the emission of air pollutants. Any such land use or other activity shall also obtain and maintain all necessary licenses and permits from the appropriate State and Federal Agencies, such as the United States Environmental Protection Agency (EPA).

13-106.4 Odor

1. Applicability

Any use established in an industrial district shall be so operated as to comply with the performance standards governing noxious odorous materials set forth hereinafter for the district in which such use is located. No use already established on the effective date of this ordinance shall be so altered or modified as to conflict with, or further conflict with the provisions of this section. In addition, to the performance standards specified hereinafter, the emission of noxious odorous matter in such a manner or quantity as to be detrimental to or endanger the public health, safety, comfort or welfare is hereby declared to be a public nuisance and shall henceforth be unlawful/

2. Required Performance Level

A. Standards Applicable Within I-R Districts and at Any Boundary of a Residential District

Within any I-R District and along any boundary separating any industrial district from any residential district, the emission of noxious odorous matter in such quantities as to be detectable at any point along lot lines when diluted in the ratio of one volume of noxious odorous air to four (4) or more volumes of clean air is prohibited.

B. Standards Applicable Within I-G and I-S Districts

Within any I-G or I-S District, except along any residential district boundary where the provisions of Subpart a, above, shall apply, the emission of noxious odorous matter in such quantities as to be detectable at any point along lot lines when diluted in the ratio of one volume of noxious odorous air to eight (8) or more volumes of clean air is prohibited.

13-106.5 Toxic, Hazardous and Radioactive Matter

1. Applicability

The provisions of this section shall apply to all uses and activities located within any zoning district.

2. Continuous Compliance with Federal, State and Local Laws and Regulations Required

Any land use or activity which involves the use of toxic, hazardous, or radioactive materials shall comply at all times with all applicable standards set forth in local, State and Federal statutes and regulations regarding the use, storage, transportation, emission, and disposal of such materials. Any such land use or other activity shall also obtain and maintain all necessary licenses from the appropriate State and Federal Agencies, such as the United States Environmental Protection Agency.

3. Required Performance Level

In all zoning districts inclusive, no use shall for any period of time discharge across the boundaries of the lot where it is located toxic matter in such concentrations as to be detrimental to or endanger the public, safety, comfort or welfare, or cause injury or damage to property or business.

13-106.6 Lighting

1. Applicability

The standards contained within this section shall apply in all commercial and industrial districts and to all community facilities activities located within any district.

2. Required Performance Level

A. All site lighting shall be shielded so that substantially all directly emitted light falls within the property line. No illumination in excess of one-half (1/2) foot-candle shall be permitted within the boundaries of any adjacent residentially developed property. A foot-candle is the illumination at all points one (1) foot distance from a uniform point source of one (1) candlepower.

B. All exterior building floodlights shall be shielded so that all of the light falls upon either the surface of the structure or on the ground.

C. No illumination shall produce direct, incident, or reflected light that interferes with the safe movement of motor vehicles on public streets.

Lighting prohibited by this provision shall include, but not be limited to:

- i. Any light that may be confused with or construed as a traffic control device;
- ii. Any animated, flashing, or changing intensity lights, except for temporary holiday displays.

13-106.7 Fire and Explosive Hazards

1. Applicability

The standards contained within this section shall apply in all commercial and industrial districts and to all community facility activities located within any district.

2. Required Performance Level

A. All flammable solid, liquid and gaseous substances shall be stored and used in accordance with all applicable Federal, State, and local statutes and regulations.

- B. In all nonresidential zoning districts, the storage or use of solid materials or products ranging from incombustible to moderate burning is permitted.
- C. In all nonresidential zoning districts, the storage or use of solid materials or products ranging from free or active burning to intense burning is permitted, provided that either of the following conditions is met. Free or active burning to intense burning is a rate of combustion described by material that burns with a high degree of activity and is consumed rapidly. Examples include sawdust, powdered magnesium, pyroxylin, and other solids deemed by the fire marshal to have equivalent burning characteristics.
 - i. Solid materials or products shall be stored or used within completely enclosed buildings having no less than two (2) hour fire-resistant exterior walls and protected with an automatic fire extinguishing system; or
 - ii. Said material, if stored outdoors, shall be no less than fifty (50) feet from the nearest lot line.
- D. Storage tanks for flammable liquids and gasses shall be located no closer than fifty (50) feet to any lot line.

13-106.8 Electromagnetic Interference

In all districts, no use, activity or process shall be conducted which produces electromagnetic interference with radio and television reception on a property beyond the lot line on which such activity exists.

13-106.9 Nonconforming by Reason of Operational Performance Standards

Any use existing on the effective date of this ordinance, or subsequent amendment as applicable, and permitted by right that does not meet the requirements of one (1) or more of the operational performance standards established explicitly in this section or by reference shall be subject to the provisions of Article 14, Section 14-102.11, (Special Provisions Pertaining to Uses Not Conforming to Performance Standards).

ARTICLE 14: PROVISIONS GOVERNING NONCONFORMING USES AND NONCOMPLYING BUILDINGS OR OTHER STRUCTURES

SECTIONS

14-101: STATEMENT OF PURPOSE

14-102: PROVISIONS GOVERNING NONCONFORMING USES

14-103: NONCOMPLYING BUILDINGS OR OTHER STRUCTURES

14-104: SUBSTANDARD RESIDENTIAL LOTS

14-101: STATEMENT OF PURPOSE

The districts established in this ordinance (as set forth in district regulations, in Articles 5 through 12) are designed to guide the future use of land in Fairview, Tennessee, by encouraging the development of desirable residential, commercial, and industrial areas with appropriate groupings of compatible and related uses and thus promote and protect the public health, safety, and general welfare.

As a necessary corollary, in order to carry out such purposes, nonconforming uses which adversely affect the development of such areas must be subject to certain limitations. The provisions governing nonconforming uses set forth in this article are, therefore, established to contain the existing undesirable conditions resulting from such incompatible nonconforming uses, which are detrimental to the achievement of such purposes. While such uses are generally permitted to continue, this ordinance is designed to restrict any expansion of such uses beyond the site which the use occupied upon the effective date of this ordinance.

In the case of buildings or other structures not complying with the bulk regulations of this ordinance, the provisions governing noncomplying buildings or other structures set forth in this article are established in order to permit the continued use of such buildings or other structures, but to limit the creation of additional noncompliance or increase in the degree of noncompliance.

These provisions are thus designed to preserve the character of the districts established in this ordinance in light of their suitability to particular uses, and thus to promote the public health, safety, and general welfare.

14-102: PROVISIONS GOVERNING NONCONFORMING USES

14-102.1 Applicability

The provisions of this section are applicable to all uses which are not permitted within the districts in which they are located. Additionally, buildings and other

structures located within the floodplain are considered within the regulation of nonconforming uses.

14-102.2 Construction or Use Permit Approved Prior to Ordinance Adoption

Nothing contained herein shall require any change in the overall layout, plans, construction, site or designated use of any development, building, structure, or part thereof where official approvals and required building permits have been granted before the enactment of this ordinance, or any amendment thereto, the construction of which, conforming with such plans, shall have been started prior to the effective date of this ordinance and completion thereof carried on in a normal manner within the subsequent six (6) months period, and not discontinued until completion except for reasons beyond the builder's control.

In the event that the activity or construction of such building or other structures is not substantially underway and being diligently pursued within the six (6) month period following the issuance of a building permit, then such permit shall automatically lapse and the provisions of this ordinance shall apply.

14-102.3 Conditional Use - Status and Alteration

Whenever the zoning ordinance in effect at the time of adoption of this zoning ordinance has authorized any use which is not permitted as of right by issuing a variance, exception, or permit to locate in a district such authorization may be continued subject to the time of approval of said variance, exception, or conditional use, including any time period established for the continuation of such use. However, any change of use, alteration or expansion is subject to the provisions of this ordinance.

14-102.4 Repairs and Alterations

Nothing in this ordinance shall prevent the strengthening or restoring to a safe condition of any part of any building or structure declared unsafe by proper authority.

14-102.5 Continuation of Nonconforming Use

Any nonconforming use which existed lawfully at the time of enactment of this ordinance and which remains nonconforming under the provisions contained herein or any use which shall become nonconforming upon enactment of this ordinance, or any subsequent amendments thereto, may be allowed to continue in operation and be permitted provided that no change in use is undertaken (see Section 14-102.6).

14-102.6 Change of Nonconforming Use

1. General Provisions

For the purpose of this article, a change in use is a change to another use either under the same activity type or any other activity type or major class of activity; however, a change in occupancy or ownership shall not, by itself, constitute a change of use.

A nonconforming use may be changed to any conforming use, and the applicable bulk regulations and accessory off-street parking requirements shall apply to such change of use or to alterations made in order to accommodate such conforming use.

2. Land with Incidental Improvements

In all districts a nonconforming use of land, not involving a building or structure, or in connection with which any building or structure thereon is incidental or accessory to the principal use of the land, shall be changed only to a conforming use.

3. Nonconforming to Conforming Use

Whenever a nonconforming use is changed to a conforming use, such use shall not thereafter be changed to a nonconforming use.

14-102.7 Expansion of Nonconforming Uses

Any conforming use which shall become nonconforming upon enactment of this ordinance, or any subsequent amendments thereto, may be allowed to expand operations and construct additional facilities which involve an actual continuance and expansion of the nonconforming use provided that any such expansion shall not violate the provisions set out below.

1. Land with Incidental Improvements

In all districts a nonconforming use of land, not involving a building or structure, or in connection with which any building or structure thereon is incidental or accessory to the principal use of the land, shall not be allowed to expand through the addition of buildings or other structures.

2. Adequate Space for Expansion

No expansion or any nonconforming use shall infringe upon, or increase the extent of any infringement existing at the time of adoption of this ordinance, upon any open space required by this ordinance.

3. Application of Other Provisions to Expanded Facilities

In the event that any proposed expansion or addition is valued at less than fifty (50) percent of the assessed valuation (as recorded on the most current

edition of the property tax records) of the improvements located upon the site, all provisions of this ordinance other than those which would act to eliminate the use of the property, shall be applicable to the expansion or addition. In the event, however, that the proposed expansion or addition is valued at fifty (50) percent or more of the assessed valuation of the improvements located upon the site, all provisions of this ordinance other than those which would act to eliminate the use of the property, shall apply both to the existing facilities, as well as the expansion or addition.

4. Expansion Limited

Any expansion of a nonconforming use permitted under the provisions of this article shall take place only upon the zone lot(s) on which said use was operating at the time the use became nonconforming. Nothing within this provision shall be construed so as to permit expansion of any nonconforming use through the acquisition and development of additional land. Where parking, open space or other provisions of this ordinance may so require, future expansions or additions shall be limited to that which can be accommodated without creating any new noncompliance.

5. Expansion upon Land Subject to Flood

No expansion of any nonconforming use shall violate the provisions of Section 14-102.10.

14-102.8 Damage or Destruction

Any use which shall become nonconforming upon enactment of this ordinance, or any subsequent amendments thereto, may be permitted to reconstruct damaged or destroyed facilities which involve an actual continuance of the nonconforming use provided that any such reconstruction shall not violate the provisions set out below.

1. Change in Use Prohibited

No reconstruction of damaged or destroyed facilities may occur which shall act to change the nonconforming use (as regulated in Section 14-102.6, above) to another use other than a permitted use.

2. Land with Incidental Improvements

In all districts, when a nonconforming building or other structure or improvements located on "land with incidental improvements" (as defined by this ordinance) is damaged or destroyed to the extent of twenty-five (25) percent or more of the assessed valuation of all buildings, and other structures or other improvements located thereon (as determined from the assessment rolls effective on the date of damage or destruction), such nonconforming use shall terminate and the tract of land shall, thereafter, be used only for a conforming use.

3. Infringement upon Open Space Restricted

No reconstruction of damaged or destroyed facilities utilized by a nonconforming use shall increase the extent of any infringement upon any open space required by this ordinance.

4. Damage or Destruction of Buildings or Other Structures

In all districts, when any building or other structure which is substantially occupied by a nonconforming use is damaged or destroyed to the extent of fifty (50) percent or more of the assessed valuation (as recorded on the most current edition of the property tax records) of the improvements located upon the site, such building or other structure may be reconstructed provided that no such action shall increase the extent of any infringement upon any open space required by this ordinance and that the reconstructed buildings, structures and other site improvements, shall comply as fully as possible with all other provisions of this ordinance. When the extent of damage or destruction is less than fifty (50) percent of the assessed valuation of the improvements, the nonconforming use may be continued and the buildings or other structures may be restored provided that:

- A. A building permit pertaining to such restoration is applied for and issued within one (1) year of such damage or destruction.
- B. A certificate of zoning compliance is issued within one (1) year after the issuance of the building permit.
- C. Such restoration shall not cause a new nonconformance nor increase the degree of nonconformance or noncompliance existing prior to such damage or destruction. Otherwise, the nonconforming use shall be deemed to have ceased active operation and the provisions of Section 14-102.9, shall apply.

5. Reconstruction of Flood Damaged Property

The provisions of Section 14-102.10, shall apply to the reconstruction of all buildings and structures associated with any nonconforming use located within the floodplain district.

14-102.9 Discontinuance

When a nonconforming use of land or the active operation of substantially all the nonconforming uses in any building or other structure or tract of land is discontinued for a period of thirty (30) months, then the land or building or other structure shall thereafter be used only for a conforming use. Intent to resume active operations, prior to 30 months, shall not affect the foregoing provision.

14-102.10 Special Provisions Governing Nonconforming Buildings Within Floodplain Districts

- 1. General Provisions
In all districts or portions, thereof, which extend into the floodplain districts as established by Section 10-301, any building or other structure or use which is not permitted by the floodplain district provisions shall become nonconforming upon the effective date of this ordinance, or subsequent amendment as applicable.

- 2. Enlargement of Buildings Within the Floodplain
A building or other structure which is nonconforming by reason of location within the floodplain shall not be enlarged or expanded, but may be altered, or repaired as set forth in Section 14-102.4, or as may be expressly authorized by the Board of Zoning Appeals in order to incorporate flood-proofing measures provided that such alteration will not increase the level of the 100-year flood.

- 3. Special Provisions Governing Reconstruction of Buildings or Structures Located Within Designated Floodway Zone
Within a designated floodway zone, any building or structure in existence prior to the effective date of this ordinance that is, hereafter, destroyed or substantially damaged by any means may be reconstructed and used as before, only if the following requirements are met.
 - A. The reconstruction does not exceed the volume and external dimensions of the original structure or does not offer any greater obstruction to the flow of floodwaters than did the original structure.

 - B. Nonresidential structures may be reconstructed only if the lowest floor (including basement) elevation is at least one (1) foot above the level of the 100-year flood or the structure is flood-proofed (in accordance with the requirements of Section 10-304 and 10-305 of this ordinance) to a height of at least one (1) foot above the level of the 100-year flood.

 - C. Residential structures may be reconstructed only if the lowest floor (including basement) of the structure is elevated to a point at least one (1) foot above the level of the 100-year flood.

 - D. That no reconstruction or alteration permitted, shall result in any increase in the level of the 100-year flood.

14-102.11 Special Provisions Pertaining to Uses Not Conforming to Performance Standards

- 1. Conformance of Lawful Uses to Applicable Performance Standards
In all districts any lawful use which does not conform to one or more applicable performance standards, established in Article XIV, may be continued for a period of ten (10) years from the effective date of the ordinance or subsequent amendment. After ten (10) years and six (6) months, shall conform to all applicable performance standards.

- 2. Conformance of Nonconforming Uses to Applicable Performance Standards
In all districts where there is any use which is not a permitted use, and where there are performance standards which are applicable in the districts in which it would be permitted, but not in the district in which it is located, the use may be continued, but it shall conform to the performance standards in that district where it is a permitted use in which the most stringent performance standards apply after five (5) years and six (6) months.

14-103: NONCOMPLYING BUILDINGS OR OTHER STRUCTURES

14-103.1 General Provisions

The provisions of this section shall control buildings and other structures which do not meet the bulk or any other provisions applicable in the districts in which they are located, except those provisions which pertain to activity or use.

14-103.2 Continuation of Use

The use of a noncomplying building or other structure or parcel may be continued, except as, otherwise, provided by this section.

14-103.3 Repairs and Alterations

Repairs, incidental alterations, or structural alterations may be made in noncomplying buildings or other structures subject to the provisions of Section 13-103.4.

14-103.4 Enlargement of Conversion

- 1. Adequate Space for Expansion
No expansion or enlargement of any noncomplying building or other structure may be made which would either create a new noncompliance or increase the degree of any previously existing noncompliance of any building or other structure or parcel or portion, thereof.

2. Buildings Noncomplying as to Lot Area

If a building does not comply with the applicable district regulations for lot area per dwelling unit (lot area of zone lot being smaller than required for the number of dwelling units on such zone lot) such building may be converted (and, in mixed buildings, the residential use may be extended, except when in the floodplain district) provided that the deficiency in the required lot area is not, thereby, increased.

(Example: A noncomplying building on a zone lot of three thousand-five hundred (3,500) square feet, which before conversion required a lot area of five thousand (5,000) square feet and was, therefore, deficient by one thousand-five hundred (1,500) square feet, can be converted into any combination of dwelling units requiring a lot area of no more than five thousand (5,000) square feet).

3. Application of Other Provisions to Expanded Facilities

In the event that any proposed expansion or addition to a noncomplying building or structure is valued at less than fifty (50) percent of the assessed valuation (as recorded on the most current edition of the property tax records) of the improvements located upon the site, all provisions of this ordinance shall be applicable to the expansion or addition. In the event, however, that the proposed expansion or addition is valued at fifty (50) percent or more of the assessed valuation of the improvements located upon the site all provisions of this ordinance shall apply to both the existing facilities, with the exception of any pre-existing noncomplying conditions, and the expansion or addition.

14-103.5 Damage or Destruction of Noncomplying Buildings and Other Structures

In all districts, when any noncomplying building or other structure is damaged or destroyed such building or other structures may be restored provided that such restoration shall not cause a new noncompliance nor increase the degree of noncompliance existing prior to such damage or destruction.

14-104: SUBSTANDARD RESIDENTIAL LOTS

Within all districts where residential uses are authorized, a single-family dwelling may be built upon a lot which was of record upon the date of adoption of this ordinance, provided such lot contains a minimum total lot area of five thousand (5,000) square feet.

ARTICLE 15: HISTORIC AND LANDMARK DISTRICT REGULATIONS

SECTIONS

15-101: HISTORIC AND LANDMARK DISTRICT REGULATIONS

**15-102: CREATION, AND ORGANIZATION AND APPOINTMENT
OF HISTORIC ZONING COMMISSION**

15-103: POWERS, FUNCTIONS AND DUTIES

15-104: DEFINITIONS

15-105: CREATION OF HISTORIC AND LANDMARK DISTRICTS

15-106: CERTIFICATE OF APPROPRIATENESS

15-107: ECONOMIC HARDSHIP

15-108: PREVENTION OF DEMOLITION BY NEGLECT

15-109: APPEALING DECISION OF THE HISTORIC ZONING COMMISSION

**15-110: SPECIAL CONDITIONS APPLICABLE WITHIN PLANNED UNIT
DEVELOPMENT DISTRICTS**

15-101: HISTORIC AND LANDMARK DISTRICT REGULATIONS

15-101.1 Purpose and Intent

These historic and landmark district provisions are established pursuant to the authority contained in Sections 13-7-401 through 13-7-410, Tennessee Code Annotated, to promote the educational, cultural, economic and general welfare of the community by:

1. Providing a mechanism to identify and preserve the distinctive historic and architectural characteristics of Fairview which represent elements of the City's cultural, social, economic, political, and architectural history;
2. Fostering civic pride in the beauty and noble accomplishments of the past as represented in Fairview's historic structures and sites;
3. Conserving and improving the value of property through actions aimed at structural restorations and functional rejuvenation;
4. Protecting and enhancing the attractiveness of the City to home buyers, tourists, visitors and shoppers, and thereby supporting and promoting business, commerce, industry, and providing economic benefit to the City;
5. Fostering and encouraging preservation, restoration and rehabilitation of structures, land areas and neighborhoods and thereby preventing future urban blight.

15-102: CREATION, AND ORGANIZATION AND APPOINTMENT OF HISTORIC ZONING COMMISSION

15-102.1 Creation

A Historic Zoning Commission is hereby created for Fairview, Tennessee, and it shall consist of seven (7) members who shall have been residents of the area of jurisdiction of the City of Fairview for not less than three (3) years immediately prior to appointment and who shall continue to be so eligible as long as they serve.

15-102.2 Membership

Membership on the Historic Zoning Commission shall be composed of the following members:

1. One (1) member of the Fairview Planning Commission.
2. One (1) member representing a local historical or patriotic organization.
3. One (1) architect who is a member, or meets membership requirements, of the American Institute of Architects, if available; if such a qualified architect is unavailable, this position will be filled by another member selected from the community in general.
4. Four (4) members as selected from the community in general.

15-102.3 Appointment to the Historic Zoning Commission

Members of the Historic Zoning Commission shall be appointed by the Mayor, subject to confirmation by the Board of Commissioners. Except as herein provided, the members of the Historic Zoning Commission shall serve for a three (3) year term. The members first appointed, shall serve respectively as follows: Two (2) members to serve a term of one (1) year, two (2) members to serve a term of two (2) years, and three (3) members to serve a term of three (3) years.

Vacancies on the Historic Zoning Commission shall be filled for the unexpired term of those members whose position has become vacant in the manner herein provided for the appointment of such member; vacancies shall be filled within sixty (60) days. Vacancies shall be filled in the same manner as the original appointment for the unexpired term.

In case of the absence, inability to act or unwillingness to act because of self-interest on the part of a member of the commission, all actions taken will be decided by a majority vote of a quorum present and voting. Each member shall continue in office after expiration of his or her term until a successor is duly appointed and qualified. The term of the member nominated from the Planning

Commission shall be concurrent with such member's term on the Planning Commission, and in the event that any other member shall also be a member of the Board of Commissioners, the term of such member shall be concurrent with the term of the elected office of the member. All members shall serve without compensation and may be removed from membership by the Mayor and Board of Commissioners.

15-102.4 Election of Officers, Rules and Meetings

The Historic Zoning Commission shall elect from its members its own chairman and other officers deemed appropriate to carry out its purpose. The commission shall adopt rules of order and establish regular meeting dates. At least four (4) members of the commission shall constitute a quorum for the transaction of its business. The concurring vote of a majority of the commission shall constitute final action of the commission on any matter before it.

15-102.5 Conflict of Interest

Any member of the Historic Zoning Commission who shall have a direct or indirect interest in any property which is subject matter of or is affected by a decision of said commission shall be governed by the provisions within Tennessee Code Annotated Section 12-4-101.

15-103: POWERS, FUNCTIONS AND DUTIES

Subject to state law and the procedures prescribed hereunder, the Fairview Historic Zoning Commission shall have and may exercise the following powers, functions and duties:

1. To create and to recommend the adoption of legislation which will facilitate establishment of special historic and landmark districts wherein the construction, repair, alteration, rehabilitation, relocation or demolition of any building or other structure now located or to be located will be subject to special provisions as set forth herein and as further specified in Tennessee Code Annotated Section 13-7-402.
2. To create and recommend enactment of legislation providing for the transfer of development rights as a portion of the legislation which establishes any special historic district or zone and as further specified in Tennessee Code Annotated Section 13-7-402, (C).
3. To conduct a survey of buildings, places or areas within the City of Fairview for the purpose of identifying those of historic or cultural significance.
4. To develop and adopt, prior to the establishment of any historic or landmark district, review guidelines as specified in Section 15-105.6, (Design

Guidelines) which the Historic Zoning Commission will apply in ruling upon the granting or denial of a Certificate of Appropriateness.

5. To submit and to review all applications designating historic sites or buildings as special historic or landmark districts.
6. To review and make decisions on any application for a Certificate of Appropriateness and to require the presentation of such plans, drawings, elevations and other information as may be necessary to make such decisions.
7. To determine an appropriate system of markers for designation of historic and landmark districts.
8. To prepare and publish maps, brochures and other descriptive material about Fairview's Historic Landmarks and Districts. To cooperate with and enlist the assistance of persons, organizations, corporations, foundations and public agencies in matters involving historic preservation, renovation, rehabilitation and property reuse.
9. To advise and assist owners of landmarks or historic structures on physical and financial aspects of preservation, renovation, rehabilitation and reuse.
10. To accept gifts, grants and money as may be appropriate for the purposes of this article.
11. To adopt, publish and make available by-laws for the conduct of commission meetings.
12. To exercise such powers as may be delegated it by the Tennessee Historical Commission under the certified Local Government's Historic Preservation Program to include participation in the review of nominations to National Register of Historic Places, and enforcement of appropriate state and local legislation for designation and protection of historic properties.
13. To review and comment on proposed zoning amendments, applications for conditional use permits or zoning variances and applications for subdivision that affect proposed or designated landmarks and historic districts.
14. To retain such specialists or consultants or to appoint such citizen advisory committees as may from time to time be required.

15. To testify before all boards and commissions, including the Planning Commission and the Board of Zoning Appeals, on any matter affecting historically and architecturally significant property, structures and areas.
16. To confer recognition upon the owners of landmarks or property or structures within historic districts.
17. To periodically review the zoning ordinance and to recommend to the Planning Commission and Board of Commissioners any amendments appropriate for the protection of landmarks or property and structures located within historic districts.
18. To undertake any other action or activity necessary or appropriate to the implementation of its powers and duties or to implementation of the purposes of this article.

15-104: DEFINITIONS

Unless specifically defined below, words or phrases in this article shall be interpreted so as to give them the same meaning as they have in common usage and so as to give this ordinance its most reasonable application.

1. **Alteration** – Any act or process that changes one (1) or more of the exterior architectural features of a structure, including, but not limited to, the erection, construction, reconstruction, or removal of any structure.
2. **Certificate of Appropriateness** – A certificate issued by the Historic Zoning Commission indicating its approval of plans for alteration, construction, removal, or demolition of a landmark or of a structure within an historic district.
3. **Certificate of Economic Hardship** – A certificate issued by the Historic Zoning Commission authorizing an alteration, construction, removal, or demolition, even though a Certificate of Appropriateness has previously been denied.
4. **Construction** – The act of adding an addition to an existing structure or the erection of a new principal or accessory structure on a lot or property.
5. **Demolition** – Any act or process that destroys in part or in whole a landmark or a structure within an historic district.
6. **Design Guideline** – A standard of appropriate activity that will preserve the historic and architectural character of a structure or area.

7. **Economic Hardship** – An economic burden imposed upon the owner which is unduly excessive and prevents a realization of a reasonable rate of return upon the value of his property.
8. **Exterior Architectural Appearance** – The architectural character and general composition of the exterior of a structure, including but not limited to the kind, color, and texture of the building material and the type, design, and character of all windows, doors, light fixtures, signs and appurtenant elements.
9. **Historic Districts** – A geographically definable area that possess a significant individual structure, landmark or site or a concentration, linkage or continuity of such sites, buildings, structures or objects which are united by past events or aesthetically by plan or physical development, and which meets one (1) or more of the following criteria:
 - A. That is associated with an event that has made a significant contribution to local, state or national history;
 - B. That it includes structures associated with the lives of persons significant in local, state or national history;
 - C. That it contains structures or groups of structures which embody the distinctive characteristics of a type, period or method of construction, or that represents the work of a master, or that possesses high artistic value, or that represent a significant and distinguishable entity whose components may lack individual distinction;
 - D. That has yielded or may be likely to yield archaeological information important in history or prehistory; or
 - E. That it is listed in the National Register of Historic Places.
10. **Historic Landmark** – An individual site or feature (which may or may not be a structure), or a site with a structure or structures on it, of particular importance because of its unique architectural, historical, cultural or archaeological features, designated an historic district or eligible for designation on the National Register of Historic Places.
11. **Ordinary Repair and Maintenance** – Any work, the purpose of which is to correct any deterioration, or decay of, or damage to a structure, or any part thereof and to restore the same, as nearly as may be practicable, to its condition prior to such deterioration, decay or damage, using the same

materials or those materials available which are as close as possible to the original.

12. **Owner of Record** – The person, corporation or other legal entity listed as owner on the records of the County Recorder of Deeds.
13. **Removal** – Any relocation of a structure on its site or to another site.
14. **Repair** – Any change that is not construction, removal or alteration.

15-105: CREATION OF HISTORIC AND LANDMARK DISTRICTS

15-105.1 District Classifications

There are hereby created historic and landmark districts as a part of this ordinance:

1. The Historic District, whose boundaries shall be shown on the official zoning map or special overlays thereto which are made a part of this ordinance and noted by name on said maps, no structure shall be constructed, altered, repaired, relocated or demolished unless the action complies with the requirements set forth in this ordinance.
2. The Historic Landmark, whose boundaries shall be shown on the official zoning map or special overlays thereto which are made a part of this ordinance and noted by name on said maps, no structure shall be constructed, altered, repaired, relocated or demolished unless the action complies with the requirements set forth in this ordinance.

15-105.2 Surveys and Research

The Historic Zoning Commission shall undertake an ongoing survey within the corporate limits of the City of Fairview to identify neighborhoods, areas, sites, structures and objects that have historic, community, architectural or aesthetic importance, interest or value.

15-105.3 Criteria for Designation of Historic and Landmark Districts

In order for a building, structure, area, site or neighborhood to be considered for nomination as an historic district or landmark such shall be found to meet one (1) or more of the following criteria:

1. That it is associated with an event which has made a significant contribution to local, state or national history;
2. That it includes structures associated with the lives of persons significant in local, state or national history;

3. That it contains structures or groups of structures which embody the distinctive characteristics of a type, period or method of construction, or that represent the work of a master, or that poses high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction;
4. That it has yielded or may be likely to yield archaeological information important in history or prehistory; or
5. That it is listed in the National Register of Historic Places.

15-105.4 Nomination of Historic Districts

Nominations for designation of a historic or landmark district shall be made to the Historic Zoning Commission on a form prepared by it and may be submitted by a member of the Board of Commissioners, or by the owner(s) of record of the nominated property or structures.

1. If two (2) or more properties are located within the nominated district, a petition signed by fifty-one (51) percent of the property owners shall be required for nomination.

15-105.5 Review and Recommendation

The Historic Zoning Commission shall within sixty (60) days from receipt of a completed nomination in proper form adopt by resolution a recommendation that the nominated historic or landmark district does or does not meet the criteria for nomination set out in Section 15-105.3, (Criteria for Designation of Historic and Landmark Districts). The resolution accompanied by a written report shall be forwarded to the Fairview Planning Commission for review as specified in Subsection 15-105.9, (Planning Commission Review) and to the Board of Commissioners for final action. The report shall contain the following information:

1. Explanation of the significance or lack of significance of the nominated historic or landmark district as it relates to the criteria for designation.
2. Explanation of the integrity or lack of integrity of the nominated district.
3. In the case of a nominated landmark district found to meet the criteria for designation:
 - A. The significant exterior architectural features of the nominated landmark that should be protected;
 - B. The types of construction, alteration, demolition, and removal, other than those requiring a building or demolition permit that should be

reviewed for appropriateness pursuant to the provisions of Section 15-106, (Certificate of Appropriateness) of this article.

4. In the Case of a nominated historic district found to meet the criteria for designation:
 - A. The types of significant exterior architectural features of the structure within the nominated historic district that should be protected.
 - B. The types of alterations and demolitions that should be reviewed for appropriateness pursuant to the provisions of Section 15-106, of this article.
5. Proposed design guidelines required by Section 15-105.6, (Design Guidelines) for applying the criteria for review of Certificates of Appropriateness to the nominated landmark or historic district.
6. The relationship of the nominated historic or landmark district to the ongoing effort of the Historic Zoning Commission to identify and nominate all potential areas and structures that meet the criteria for designation.
7. A map showing the location of the nominated historic or landmark district.

15-105.6 Design Guidelines

Prior to establishment of a historic or landmark district, the Historic Zoning Commission shall adopt for each such proposed district a set of design guidelines, which it will apply in ruling upon the granting or denial of a Certificate of Appropriateness, as provided for in this article. Such guidelines shall be consistent with this ordinance and with the requirements for such as established and provided for by Tennessee Code Annotated Section 13-7-406. The Historic Zoning Commission shall to the maximum feasible extent secure the involvement and participation of owners of property proposed for location within any historic district or landmark in developing such guidelines. These guidelines shall accompany the request for historic district designation and shall be considered conjunctively with such request. These design guidelines shall, at a minimum, consider the following criteria:

1. **Height** - The height of any proposed alteration or construction should be compatible with the style and character of the landmark and with surrounding structures in an historic district.
2. **Proportions of Windows and Doors** - The proportions and relationships between doors and windows should be compatible with the architectural

style and character of the landmark and with surrounding structures within an historic district.

3. **Relationship of Building Masses and Spaces** - The relationship of a structure within an historic district to the open space between it and adjoining structures should be compatible.
4. **Roof Shape** - The design of the roof should be compatible with the architectural style and character of the landmark and surrounding structures in an historic district.
5. **Landscaping** - Landscaping should be compatible with the architectural character and appearance of the landmark and of surrounding structures and landscapes in historic districts.
6. **Scale** - The scale of the structure after alteration, construction, or partial demolition should be compatible with its architectural style and character and with surrounding structures in an historic district.
7. **Directional Expression** - Facades in historic districts should blend with other structures with regard to directional expression. Structures in an historic district should be compatible with the dominant horizontal or vertical expression of surrounding structures. The directional expression of a landmark after alteration, construction, or partial demolition should be compatible with its original architectural style and character.
8. **Architectural Details** - Architectural details including materials, colors and textures should be treated so as to make a landmark compatible with its original architectural style and character and to preserve and enhance the architectural style or character of an historic or landmark district.

15-105.7 Notification of Nomination

The Board of Commissioners shall schedule a public hearing on the nomination within thirty (30) days following receipt of a report and recommendation from the Historic Zoning Commission and the Planning Commission that a nominated historic or landmark district does or does not meet the criteria for designation. Notice of the date, time, place, and purpose of the public hearing and a copy of the completed nomination form shall be sent by regular mail to the owner(s) of record and to the nominators, as well as to property owners adjoining the nominated historic or landmark district at least fifteen (15) days prior to the date of the hearing. Notice shall also be published in a newspaper having general circulation in the City of Fairview. The notice shall state the street address and legal description of the boundaries of a nominated district.

15-105.8 Public Hearing

Oral or written testimony concerning the significance of the nominated historic or landmark district shall be taken at the public hearing from any person concerning the nomination. The Historic Zoning Commission may present expert testimony or present its own evidence regarding the compliance of the nominated district with the criteria for consideration of a nomination set forth in Section 15-105.3, (Criteria for Designation of Historic and Landmark Districts) Any person owning property within the nominated preservation district shall be allowed reasonable opportunity to present evidence in support of his position and shall be afforded the right of representation by counsel and reasonable opportunity to cross--examine expert witnesses. The hearing shall be closed upon completion of testimony.

15-105.9 Planning Commission Review

Upon receipt of a report prepared by the Historic Zoning Commission in accordance with Section 15-105.5, (Review and Recommendation) the Planning Commission shall conduct a review as provided herein. The Commission shall review such plan(s) relative to the following:

- 1. The adopted Major Thoroughfare Plan.
- 2. Any redevelopment or restoration plans.
- 3. Utility plans (including need for easements).
- 4. Impact on or possible modification required in base district zoning.
- 5. All other matters normally considered in recommending a zoning change, excepting those aspects of the report which pertain specifically and solely to the historic district and as otherwise specified in Section 15-105.5.

15-105.10 Action by Board of Commissioners

The Board of Commissioners shall, within sixty (60) days after receiving the report prepared by the Historic Zoning Commission and the review of the Planning Commission concerning the proposed historic or landmark district, either reject the proposed nomination or designate the district by ordinance. The Board of Commissioners shall hold a public hearing and otherwise proceed in the manner specified in Section 17-107, (Amendments) for an amendment to the Zoning Ordinance.

15-105.11 Designation Ordinance

Upon designation, the historic or landmark district shall be classified as a “District HOD - Historic Overlay District”, and the designating ordinance shall prescribe the significant exterior architectural features; the types of construction, alteration, demolition, and removal, other than those requiring a building or demolition permit that should be reviewed for appropriateness; the design guidelines for applying the criteria for review of appropriateness; height and area regulations; and sign regulations. The Official Zoning Map of the City of Fairview shall be amended to show the location of the “Historic Overlay District”.

15-105.12 Interim Control

No building permit shall be issued for alteration, construction, demolition, or removal of a nominated landmark or of any property or structure within a nominated historic district from the date of the meeting of the Historic Zoning Commission at which a nomination form is first presented until the final disposition of the nomination by the Board of Commissioners unless such alteration, removal, or demolition is authorized by formal resolution of the Board of Commissioners as necessary for public health, welfare or safety. In no event, shall the delay be for more than one hundred-eighty (180) days.

15-105.13 Amendment and Rescission of Designation

Designation may be amended or rescinded upon petition to the Historic Zoning Commission and compliance with the same procedure and according to the same criteria set forth herein for designation.

15-106: CERTIFICATE OF APPROPRIATENESS

A Certificate of Appropriateness shall be required before the following actions affecting the exterior architectural appearance of any landmark or other property within an historic district may be undertaken:

1. Any construction, alteration, or removal requiring a building permit from the City of Fairview.
2. Any demolition in whole or in part requiring a permit from the City of Fairview.
3. Any construction, alteration, demolition, or removal affecting a significant exterior architectural feature as specified in the ordinance designating the historic or landmark district.

15-106.1 Application for Certificates of Appropriateness

Every application for a demolition permit or a building permit, including the accompanying plans and specifications, affecting the exterior architectural appearance of a designated landmark or other property within a designated historic district shall be forwarded by the Codes Department to the Historic Zoning Commission within seven (7) days following receipt of the application by the Codes Department. The Codes Department shall not issue the building or demolition permit until a Certificate of Appropriateness has been issued by the Historic Zoning Commission. Any applicant may request a meeting with the Historic Zoning Commission before the application is sent by the Codes Department to the Historic Zoning Commission or during the review of the application. Application for review of construction, alteration, demolition, or removal not requiring a building permit for which a Certificate of Appropriateness is required shall be made on a form available at the office of the commission.

The Historic Zoning Commission shall consider the completed application at its next regular meeting. The Historic Zoning Commission may establish a subcommittee of its members to review routine applications for a Certificate of Appropriateness when delay to the next regular meeting would create an unnecessary inconvenience to the applicant. A Certificate of Appropriateness may be issued prior to the next regular meeting upon the signatures of four (4) of the members of the subcommittee.

15-106.2 Review and Designation by Historic Zoning Commission

Upon receipt of an application for a Certificate of Appropriateness which in the judgement of the Historic Zoning Commission is sufficiently complete to enable the Commission to make a decision on the request, the Commission shall set a meeting for initial presentation of the application. The Historic Zoning Commission shall within sixty (60) days following the initial meeting at which the application is presented approve, conditionally approve or deny the request. In its review of any application submitted hereinafter the Historic Zoning Commission shall apply all applicable review guidelines which have been established in accordance with Section 15-105.6, (Design Guidelines). Any individual or group of property owners from the historic district wherein the use is located for which a Certificate of Appropriateness is being requested may appear before the Historic Zoning Commission for purposes of offering evidence or testimony concerning the request and its applicability to the design guidelines established for such district. In making its decision as to the granting of a Certificate of Appropriateness, the Historic Zoning Commission shall consider:

1. The review guidelines established for the district.

2. The testimony and evidence offered by property owners from the historic district wherein the use is located.
3. The general standards for review set forth in Section 15-105.5, (Review and Recommendation).

15-106.3 Standards for Review

In considering an application for a building or demolition permit or for a Certificate of Appropriateness, the Historic Zoning Commission shall be guided by the following general standards in addition to any design guidelines in the ordinance designating the historic or landmark district.

1. Every reasonable effort shall be made to provide a compatible use for a property that requires a minimal alteration of the building, structure, or site and its environment, or to use a property for its originally intended purpose.
2. The distinguishing original qualities or character of a building, structure, or site and its environment shall not be destroyed. The removal or alteration of any historic material or distinctive architectural feature shall be avoided.
3. All buildings, structures, and sites shall be recognized as products of their own time. Alterations that have no historical basis and that seek to create an earlier appearance shall be discouraged.
4. Changes that may have taken place in the course of time are evidence of the history and development of a building, structure, or site and its environment. These changes may have acquired significance in their own right, and this significance shall be recognized and respected.
5. Distinctive stylistic features or examples of skilled craftsmanship that characterize a building, structure, or site shall be treated with sensitivity.
6. Deteriorated architectural features shall be repaired rather than replaced, whenever possible. In the event replacement is necessary, the new material should match the material being replaced in composition, design, color, texture, and other visual qualities. Repair or replacement of missing architectural features shall be based on accurate duplication of features, substantiated by historic, physical, or pictorial evidence, rather than on conjectural designs or the availability of different architectural elements from other buildings or structures.

7. The surface cleaning of structures shall be undertaken with the gentlest means possible. Sandblasting and other cleaning methods that will damage the historic building materials shall not be undertaken.
8. Every reasonable effort shall be made to protect and preserve archaeological resources affected by, or adjacent to, any project.
9. Contemporary design for alterations and additions to existing properties shall not be discouraged when such alterations and additions do not destroy significant historical, architectural, or cultural material, and such design is compatible with the size, scale, color, material, and character of the property, neighborhood, or environment.

15-106.4 Denial of a Certificate of Appropriateness

A denial of a Certificate of Appropriateness shall be accompanied by a statement of the reasons for the denial. The Historic Zoning Commission shall make recommendations to the applicant concerning changes, if any, in the proposed action that would cause the commission to reconsider its denial and shall confer with the applicant and attempt to resolve as quickly as possible differences between the owner and the commission. The applicant may resubmit an amended application or reapply for a building or demolition permit that takes into consideration the recommendations of the Historic Zoning Commission.

15-107: ECONOMIC HARDSHIP

15-107.1 Certificate of Economic Hardship

Application for a Certificate of Economic Hardship shall be made on a form prepared by the Historic Zoning Commission. The Historic Zoning Commission shall schedule a public hearing concerning the application and provide notice in the same manner as Section 15-105.7, (Notification of Nomination) of this article, and any person may testify at the hearing concerning economic hardship in the same manner as provided by Section 15-105.8 (Public Hearing).

The Historic Zoning Commission may solicit expert testimony or require that the applicant for a Certificate of Economic Hardship make submissions concerning any or all of the following information before it makes a determination on the application.

1. Estimate of the cost of the proposed construction, alteration, demolition, or removal and an estimate of any additional cost that would be incurred to comply with the recommendations of the Historic Zoning Commission for changes necessary for the issuance of a Certificate of Appropriateness.

2. Estimated market value of the property in its current condition; after completion of the proposed construction, alteration, demolition, or removal; after any changes recommended by the Historic Zoning Commission; and, in the case of a proposed demolition, after renovation of the existing property for continued use.
3. In the case of a proposed demolition, an estimate from an architect, developer, real estate consultant, appraiser, or other real estate professional experienced in rehabilitation as to the economic feasibility of rehabilitation or reuse of the existing structure on the property.
4. Remaining balance on any mortgage or other financing secured by the property and annual debt service, if any, for the previous two (2) years.
5. All appraisals obtained within the previous two (2) years by the owner or applicant in connection with the purchase, financing, or ownership of the property.
6. Any listing of the property for sale or rent, price asked and offers received, if any, within the previous two (2) years.
7. Assessed value of the property according to the two most recent assessments.
8. Real estate taxes for the previous two (2) years.
9. Form of ownership or operation of the property, whether sole proprietorship, for-profit or not-for-profit corporation, limited partnership, joint venture, or other.

15-107.2 Determination of Economic Hardship

The Historic Zoning Commission shall review all the evidence and information required of an applicant for a Certificate of Economic Hardship and make a determination whether the denial of a Certificate of Appropriateness has deprived, or will deprive, the owner of the property of reasonable use of, or economic return on, the property. Written notice of the determination shall be provided in the same manner as required by Section 15-106.2, (Review and Designation by Historic Zoning Commission).

No construction, alteration, repair, rehabilitation, relocation or demolition of any building structure or other improvement to publicly and privately owned landmarks or to any real estate situated within an historic district, for which the Historic Zoning Commission has been granted the authority to review or to grant or deny a Certificate of Appropriateness, shall be undertaken without first

submitting an application for such together with all exterior plans, elevations, and other information necessary to determine the appropriateness of the features to be referred to the Historic Zoning Commission. In the case of applications for demolition, no plans or other information shall be required to be submitted by the applicant.

No permit shall be issued for any of the above noted activities, nor shall any be undertaken whether or not a permit is required until the Historic Zoning Commission shall have issued a Certificate of Appropriateness.

15-108: PREVENTION OF DEMOLITION BY NEGLECT

1. All structures located within a historic or landmark district which contribute architecturally or historically to the character and importance of the district and all landmarks shall be preserved against decay and deterioration and kept free from structural defects by the owner or such other person or persons who may have legal custody and control thereof. The owner or other person having custody and control, in keeping with the City's housing standards, shall repair any exterior or interior portions of such building, sites, structure, or object which is becoming deteriorated, decayed, or damaged and tending to cause the structure to fall into a state of disrepair.
2. The Historic Zoning Commission, on its own initiative, may file a petition with the Building Inspector requesting that he proceed under the public safety and housing regulations to require correction of defects or repairs to a structure covered under Subsection A, above, so that such structure shall be preserved and protected in accordance with the purposes of this ordinance.
3. If any structure covered by Section 15-108(1), above, shall have to be demolished as a public safety hazard and the owner of the structure shall have received two (2) or more notices from the Building Inspector of building neglect in violation of this ordinance and other City Ordinances. No application for a permit for a project on the property may be considered for a period of two (2) years from the date of demolition of the structure. Additionally, no permit for a curb cut needed for the operation of a surface parking lot shall be granted by any city office during this period.
4. In the event a different result is reached by the Historic Zoning Commission and the City Housing Board as to what action is to be taken hereunder, a board consisting of one (1) member of the Historic Zoning Commission, one (1) member of the Fairview Housing Board and one (1) member of the Fairview Planning Commission, each to be selected by their respective

boards or commission, shall determine the action to be taken and file the necessary petition with the Building Inspector. The decision of the board established hereunder shall be final.

15-109: APPEALS FROM DECISION OF THE HISTORIC ZONING COMMISSION

Appeals from any decision of the Historic Zoning Commission may be taken to a court of competent jurisdiction as provided by law.

Nothing in this article shall be interpreted as giving the commission any authority to consider, review, examine or control the use of property classified as an historic landmark or landmark district. Use shall be controlled solely by the zoning controlling such property prior to its classification as an historic or landmark district or as may be rezoned by subsequent amendments.

15-110: SPECIAL CONDITIONS APPLICABLE WITHIN PLANNED UNIT DEVELOPMENT DISTRICTS

The provisions of this section apply in any instance where an historic property is currently, or in the future may be, located within a Planned Unit Development District (PUD).

These provisions are intended to address the manner in which Historic Districts and Planned Unit Development Districts, both being overlay districts, are to be related to one another.

15-110.1 Application

The special provisions of this subsection shall apply in any instance where any building or property is at the time of adoption of these provisions or subsequently thereto subject to the provisions of this section and also included within a Planned Unit Development District adopted under authority of Article 10, of this ordinance.

15-110.2 Inclusion of Design Guidelines

In order to avoid conflict between the provisions of this section and the requirements and standards established for any PUD District the following shall apply. In any instance where a property being considered for inclusion within a Historic or Landmark District lies within the bounds of an existing PUD District the "Design Guidelines" required by Section 15-105.6, of these regulations, shall not conflict with the requirements and standards established for the PUD District as they apply to said property. Conversely, any PUD District that is established subsequent to inclusion of any property within a Historic or Landmark District shall incorporate the "Design Guidelines" adopted as part of the historic district.

ARTICLE 16: DESIGN REVIEW

SECTIONS

16-101: PURPOSES AND INTENTS

16-102: ROLE OF THE PLANNING COMMISSION

16-103: DESIGN REVIEW MANUAL

16-104: DEVELOPMENT SUBJECT TO DESIGN REVIEW

16-105: DESIGN REVIEW APPLICATIONS AND PROCESSING

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16-107: DESIGN DISTRICTS

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16-109: APPLICATION; VESTED RIGHTS

16-110: CONTINUING MAINTENANCE

16-111: PROHIBITIONS

16-101: PURPOSES AND INTENTS

The purpose of this article is to conserve property values within the City of Fairview by establishing procedures for the design review of development henceforth erected, reconstructed or altered, and thereby:

1. Promote qualities in the environment that sustain the community's economic well-being.
2. Foster the community's attractiveness and functional utility as a place to live and to work.
3. Preserve the community's heritage by maintaining the integrity of areas enjoying a discernible character contributing to this heritage.
4. Safeguard public investment within the community.
5. Raise the level of citizen expectations favoring the quality of the community's visual environment.

16-102: ROLE OF THE PLANNING COMMISSION

The Fairview Planning Commission shall administer the provisions of this article including, without limitation:

1. Certification that proposed development conforms to the design standards set forth herein.
2. Recommend amendments, as necessary, to the Fairview Design Review Manual for approval by the Board of Commissioners.

3. Consultation with municipal and other appropriate agencies on matters addressed in this article.
4. Adoption of such rules of procedure as the Planning Commission may deem necessary.
5. Grant Variances to the requirements of the Fairview Design Review Manual as deemed appropriate.

16-103: DESIGN REVIEW MANUAL

To further the purposes of this article as set forth herein, there is hereby adopted the Fairview Design Review Manual. Amendments to the Fairview Design Review Manual, shall be made by resolution approved by a majority of the entire membership of the Board of Commissioners, with appropriate recommendation from the Fairview Municipal Planning Commission.

16-104: DEVELOPMENT SUBJECT TO DESIGN REVIEW

16-104.1 Development Requiring Review

Development, including any buildings, structures or physical improvements pertaining thereto, shall be subject to the provisions of this article if approval of this development is conditioned upon one or more of the following:

1. Site Plan approval under Section 17-103, (Plans Required), including a new structure or any addition to an existing structure totaling fifty (50) percent of the ground floor area or any external modification where the estimated cost of the improvement exceeds fifty (50) percent of the total assessed value of the structure as per Williamson County tax records.
2. Final Planned Overlay District Master Development Plan approval under Article 10, unless the plan envisages the construction exclusively of one and two-family dwellings.
3. Conditional use approval under Section 17-106, involving either a new structure or any addition to an existing structure totaling fifty (50) percent of the ground floor area or any external modification where the estimated cost of the improvement exceeds fifty (50) percent of the total assessed value of the structure as per Williamson County tax records.
4. The development is a public building costing in excess of twenty-five thousand dollars (\$25,000) which may be regulated by the City of Fairview under applicable law. Any other government entity will be strongly encouraged to comply.

5. Any development which requires approval by the Planning Commission which the City Planner determines to possess design characteristics that merit review under this article. Reasons for the City Planner's determination must be clearly stated in writing. Appeals from the City Planner's determinations shall be filed with the Planning Commission within fifteen (15) days thereof, and resolved by the commission within forty-five (45) days of said filing.

16-104.2 Development Exempt From Design Review

Reconstruction or repairs required for immediate public health or safety reasons, as determined by the Mayor or his or her designee, are expressly exempted from the requirements of this article.

16-105: DESIGN REVIEW APPLICATIONS AND PROCESSING

16-105.1 Pre-application Conference

Any prospective applicant for a development approval permit that may require design certification under this article may request a preliminary conference with the City Planner by filing a written request no later than fifteen (15) days prior to the Planning Commission meeting where the matter is to be heard. Accompanying the request shall be such preliminary exterior drawings, site plans, and related materials as the applicant wishes to bring to the commission's attention. Viewpoints expressed by the City Planner shall be advisory only; no legally enforceable rights or expectations of any kind shall vest until the applicant's formal application for design review has been processed in accordance with the provisions of this article.

16-105.2 Review by Planning Commission

The Planning Commission shall approve, approve with conditions, or disapprove an application for design review certification within forty-five (45) days of the application's initial review by the Commission, unless the Commission and the applicant agree to a greater time period. Absent such an agreement, all applications not acted upon by the Commission within forty-five (45) days shall be deemed approved. Minutes shall be kept of the Commission's proceedings and reasons for its decisions shall be clearly stated in this record. An approved application and its supporting exhibits shall be endorsed as approved by the Commission or its authorized representative.

16-105.4 Appeal of Commission Actions

Any person aggrieved by an action of the Planning Commission under this article may appeal the action to the Board of Commissioners within thirty (30) days following such action. A notice setting forth the respects with which the person filing the appeal takes exception to the decision of the Planning Commission shall

be provided. Appeals shall be decided within forty-five (45) days of their filing unless the applicant and the Board agree to extend this period. In reviewing the appeal, the Board shall not invalidate the Planning Commission's action, unless approved by majority of the entire membership. The reason for the decision of the Board of Commissioners' determination shall be clearly reflected in the minutes. If the Board invalidates the Planning Commission's action, it may, in its discretion, either exercise the powers of the Commission or remand the matter, along with its statement of reasons to the Planning Commission for further action not inconsistent with the decision of the Board.

16-106: DESIGN REVIEW STANDARDS

In reviewing applications, the Planning Commission shall insure that the proposed development satisfies the criteria for the applicable category or type of development as these criteria are set forth in the City of Fairview Design Review Manual, and in any pertinent City of Fairview land use or building regulations and ordinances, including design district development plans. In the case of a conflict between this ordinance and other ordinances, the more stringent shall govern.

16-107: DESIGN DISTRICTS

16-107.1 Establishment

The Board of Commissioners may designate specific areas of the community as design districts at the request of citizens or of the Planning Commission or upon its own motion, if it determines that the area contains buildings, structures, burial grounds or other features of archaeological, architectural, or design significance.

Prior to the establishment of a design district, the Planning Commission with the assistance of its staff and such consultants as it chooses to utilize, shall prepare a design district development plan which inventories the design characteristics of the area justifying the area's selection and special protection as a design district.

The Commission shall hold a public hearing on the proposed design district designation and accompanying design district development plan, and shall transmit a written report to the Board, summarizing both community response and the Commission's recommendations concerning establishment of the proposed design district. The Commission's report shall be placed on file with the City Planner for inspection by the public. The Board shall hold a public hearing as required by Article 17, and otherwise proceed to adopt such district in the form of an amendment to the zoning ordinance. Should the Board decide to establish the design district, it shall do so by designating upon the Zoning Map, an overlay design district, the boundaries of which shall conform to the boundaries of the underlying area.

16-107.2 Administration

No building or other development permit shall be issued or the construction, reconstruction, alteration or demolition of any building, structure or physical improvement within any design district issued absent certification by the Planning Commission pursuant to this article, of the conformance of the proposed development with the design standards established for such district. In particular, development must conform to the general land use regulations applicable to the design district's underlying area, the Design Review Manual, and the district's design development plan, as approved by the Board of Commissioners in conjunction with the Board's establishment of the design district.

16-108: PUBLIC BUILDINGS

In reviewing the design of public buildings undertaken by governmental agencies, other than the City of Fairview, the Planning Commission shall submit a report of its recommendations to the agency proposing to construct the public project and seek to the extent permitted under applicable law or through communication with the agency to secure such modifications in the work's design as comport with the standards of this article. In the case of public projects undertaken by the City of Fairview, a Planning Commission determination to withhold a certificate of design approval shall be binding, unless this determination is reversed by a majority of the entire membership of the Board of Commissioners.

16-109: APPLICATION; VESTED RIGHTS

The provisions of this article shall not be applicable to any property owner whose actions prior to the article's effective date have created a vested right to develop under applicable state or federal law. All other development or proposed development shall be subject to the article's provision.

16-110: CONTINUING MAINTENANCE

Following the construction or modification of any development, the design of which is approved pursuant to this article, the development shall be maintained in accordance with the following standards:

1. Buildings and appurtenances, including signs, shall be cleaned and painted or repaired as required to maintain an attractive appearance.
2. Illuminated elements of buildings and signs shall be replaced as required to maintain the effect for which designed.
3. Landscape materials, other than plantings, which have deteriorated shall be reconstituted or replaced.

4. Plantings shall be kept watered, fed, cultivated, and pruned to give a healthy appearance during all seasons. Plant materials which have deteriorated, shall be replaced with healthy plantings.
5. Parking areas shall be kept in an orderly state, properly marked, and clear of litter and debris.
6. Vacant property shall be kept free of refuse and debris, and shall have the vegetation cut periodically during the growing season.

Failure to comply with the requirements of this section, after a notice of noncompliance has been issued with a stated time frame for compliance, shall be deemed a violation of this zoning ordinance and shall be subject to the sanctions set forth in Section 17-108, (Remedies and Enforcement) as well as to the revocation of any permit, license, certificate or other approval initially issued by the city as a basis for construction and/or occupancy of the development on which the violation has occurred.

16-111: PROHIBITIONS

No building permit, license, certificate, or other approval or entitlement shall be issued or given by the city with respect to any development subject to the provisions of this article, until the development has been approved as provided herein. No certificate of use or occupancy, whether temporary or permanent in form, shall be given for any such development until the Planning Director has certified that the development has been completed in accordance with the design approved by the Planning Commission; provided, however, that the Planning Staff, in its discretion, may elect to grant a Temporary Use and Occupancy Permit subject to a reasonable bond guaranteeing that the applicant will complete the development in accordance with the approved design within a time certain.

ARTICLE 17: ADMINISTRATION AND ENFORCEMENT

SECTIONS

17-101: APPOINTMENT AND DUTIES OF THE CITY PLANNER

17-102: ZONING PERMITS

17-103: PLANS REQUIRED

17-104: BOARD OF ZONING APPEALS

17-105: ZONING VARIANCES

17-106: CONDITIONAL USE PERMITS

17-107: AMENDMENTS

17-108: REMEDIES AND ENFORCEMENT

17-109: PUBLIC NOTICE

17-110: FEES

17-111: EFFECTIVE DATE

17-101: APPOINTMENT AND DUTIES OF THE CITY PLANNER

17-101.1 Appointment of the City Planner

There is hereby created the office of the City Planner. The City Planner shall be executive head of the office and shall be appointed by the Mayor in accordance with all applicable administrative procedures.

17-101.2 Duties of the Office of the City Planner

The City Planner shall enforce this ordinance, and in addition thereto and in furtherance of said authority he or she is granted the following authority and responsibility:

1. Interpretation and Administration

The City Planner shall interpret and administer the provisions of this ordinance;

2. Use and Occupancy Permits and Certificates of Compliance

The City Planner shall be authorized to issue use and occupancy permits, to certify zoning compliance, to stop work that has commenced without obtaining a required zoning permit, and to impose additional fees for required permits when work has commenced or occupancy occurs without obtaining a required zoning permit. In any instance, however, where a site plan is required by the provisions of this ordinance no final use and occupancy permit shall be issued until a Certificate of Compliance is issued by the City Planner;

3. Enforcement of this Ordinance

The City Planner shall be responsible for enforcing all provisions of this ordinance;

4. Information and Advisement

The City Planner shall provide information to the public on all matters relating to this ordinance;

5. Maintain Records

The City Planner shall maintain permanent and current records of this ordinance, and subsequent amendments, including, but not limited to, all maps, amendments, conditional uses, variations, appeals, and applications, therefore; and

6. Right of Entry

The City Planner is authorized to enter upon any land within the jurisdiction of this ordinance for purposes of making examinations and surveys, conducting inspections of buildings, structures, and use of land to determine compliance with the provisions of this ordinance to and place or remove public notices as required by this zoning ordinance.

17-101.3 Powers of the City Planner Regarding Enforcement of Performance Standards

When the City Planner has reason to believe that there is a violation of applicable performance standards, he or she may issue notice specifying the nature of the alleged violation and demanding that it be corrected. The City Planner may engage appropriate governmental agencies or other experts to perform tests to determine the existence and extent of the violation. Where other experts are employed and a violation is verified, the owner of the use shall pay all test costs and correct the violation. In any instance where such fees are not paid the city may withhold issuance of any use and occupancy permits and/or create a lien on the subject property. If the owner does not correct the violation within a reasonable time, the City Planner may proceed to enforce as with any other violation.

17-101.4 Board of Zoning Appeals Support

It shall be the responsibility of the City Planner to provide support services to the Board of Zoning Appeals. These services shall include the following:

1. Administrative Coordination

The City Planner shall receive, file, and forward to all necessary agencies all applications for conditional uses, and for amendments to this ordinance;

2. Administrative Support

The City Planner shall receive, file, and forward to the Board of Zoning Appeals all applications for variances or other matters on which the Board is required to pass under the provisions of this ordinance.

17-101.5 Duties of the City Planner in Enforcing Floodplain District Regulations

In the enforcement of the provisions of Article 10, Section 10-301, (Floodplain District Regulations), the City Planner or his or her designated representative shall:

1. Review all development permits to assure that the requirements of this ordinance have been satisfied, and that proposed building sites will be reasonably safe from flooding.
2. Advise permittees that additional federal or state permits may be required, and if specific federal or state permit requirements are known, require that copies of such permits be provided and maintained on file with the development permit. This shall include Section 404, of the Federal Water Pollution Control Act Amendments, of 1972, 33 U. S. C. 1334.
3. Notify adjacent communities, the Tennessee Department of Economic and Community Development, Local Planning Assistance Office, and the Tennessee Department of Environment and Conservation prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.
4. Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.
5. Verify and record as the actual elevation (in relation to mean-sea-level) of the lowest floor (including basement) of all new or substantially improved buildings.
6. Verify and record the actual elevation (in relation to mean-sea-level) to which the new or substantially improved buildings and all mechanical and electrical equipment have been flood proofed.
7. When flood proofing is utilized for a particular building, the City Planner shall obtain certification from a registered professional engineer or architect.
8. Where interpretation is needed as to the exact location of boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the City Planner shall make the necessary interpretation of the flood maps. The

person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this article.

9. When base flood elevation data or floodway data have not been provided then the City Planner shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other source, including data developed as a result of these regulations, as criteria for requiring that new construction, substantial improvements or other development in Zone A, AE, or Floodway on the Community FHBM or FIRM, meet the requirements of this article.

17-102: ZONING PERMITS

17-102.1 Site Development Agreement and Permits Required

1. Site Development Agreement

Prior to the issuance of any permit, other than a building permit for construction of a one or two-family dwelling, under authority of this ordinance applicants shall review and enter into a "Site Development Agreement" in a form that is approved by the Board of Commissioners for the purpose of acknowledging the understanding and agreement of the applicant with the policies and procedures of the City as they relate to proposed site development and construction activities.

2. Permits Required

- A. No Site Work Without Permit

The permits indicated within this section are required before any site grading or construction activity of any type is initiated upon any zone lot or parcel of land or before extending or changing to another activity type on any zone lot.

- B. Application

Except as hereinafter provided, no permit pertaining to the use of land or buildings shall be issued by any officer, department, or employee of the City, unless the application for such permit has been examined by the office of the City Planner and a determination made by that office that the proposed building or activity complies with all the provisions of this ordinance. An application for a zoning permit shall include all information and exhibits necessary to determine if the proposed activity and/or development is in compliance with the provisions of this ordinance. Any building permit or any other permit issued in conflict with this provision or any other provision of this ordinance shall be null and void.

C. Permits

The following zoning permits are required subject to the specific provisions of the referenced sections:

TABLE 17-102A REQUIRED ZONING PERMITS	
PERMIT	APPLICABLE PROVISIONS
Grading, Site Utilization, and Reclamation Permits	Article 17-102.2
Building Permit	Article 17-102.3
Use and Occupancy Permit	Article 17-102.4

17-102.2 Grading, Site Utilization, and Reclamation Permits

A. Required Permit and Site Plan Submission

Prior to building construction or site excavation activities taking place, a Grading, Site Utilization, and Reclamation Permit and site plan shall be required when meeting any of the following:

- 1) Grading, site utilization and reclamation permits are required for any removal, disturbance, or stripping of ten thousand (10,000) square feet or more of land area. If the proposed land disturbance equals or exceeds an area of 10,000 square feet, the Owner shall submit a site plan, irrespective of the volume of soils to be disturbed, brought in, or removed from the site. Additionally, if the proposal affects a smaller area, but changes the existing ground elevation by three (3) feet or more, either up or down, or any excavation or placement of fill material which would infringe upon a drainage way, floodplain or wetland area as determined by the City Engineer, the Owner shall submit a site plan. If a proposal does not meet the above criteria, but alters the point at which natural drainage leaves the Owner's property, the Owner shall submit a site plan.
- 2) For proposals in which grading is not proposed, but the impervious surface area is increased by 10,000 square feet, the Owner shall submit a site plan for the project. Typical instances include, but are not limited to, building expansions of 10,000 square feet or more or parking lot expansions of 10,000 square feet or more.
- 3) For proposals in established residential neighborhoods, commercial or industrial sites in which no grading is proposed, but which proposes to remove trees with a diameter of six (6) inches measured four (4) feet from the ground on any side, and the net balance of trees is reduced by more than 33 percent, the Owner shall submit a site plan.

B. Site Plan Preparation

Site plans shall be prepared by a person(s) licensed in the State of Tennessee to prepare such plans, and shall be submitted to the City of Fairview for Planning/Engineering Staff review and subsequent review by the Fairview Planning Commission.

C. Exempt Sites

This section expressly exempts excavation or fill for the purpose of constructing a swimming pool, basement, garage, or similar use which is deemed to be an accessory structure to a principal residential building or minor grading less than three (3) feet in depth done for the purposes of constructing a one (1) or two (2) family dwelling. Also exempt from this requirement are proposals in developed residential lots that disturb less than 10,000 square feet and do not change the existing ground elevation by three (3) feet or more; typical residential and commercial landscaping proposals; other similar applications and agricultural development within the state of Tennessee's guidelines and regulations in regard to drainage and stormwater runoff. City Planning/Engineering Staff shall have authority to make determinations regarding the applicability of this requirement to any given project.

D. Grading, Site Utilization, and Reclamation Permit Application Requirements

Permit applications and fees shall be submitted to the City for review, provided:

- 1) The tree inventory and protection plan meets the requirements for such set out in Article 2, Section 2-103 of the Fairview Design Review Manual.
- 2) The applicant demonstrates that the use or activity will comply with all provisions of this ordinance.
- 3) All Erosion Prevention and Sediment Control measures are installed and maintained per the City approved construction plans and in accordance with state and local requirements.

17-102.3 Building Permits

Upon approval of a plot plan or site plan as specified in Sections 17-103.1 or 17-103.2, a building permit for such use may be issued. A grading permit or building permit (limited to preliminary site grading and foundation construction) may be issued prior to the issuance of a building permit with an approved site plan or a site utilization and reclamation plan forming the basis for such action.

17-102.4 Use and Occupancy Permit

All buildings, excluding one- and two-family dwelling units, which are constructed after the effective date of this ordinance or are to be occupied by any commercial, industrial, multi-family residential or community facilities activity, and all additions to previous existing buildings to be similarly utilized or occupied and all land uses for such purposes shall be subject to this provision. A use and occupancy permit shall be obtained as provided herein prior to occupancy of the building or land area. No change in a use to a use or activity of a different type or class shall take place until a use and occupancy permit has been obtained.

- 1. Permits for Use and Occupancy Where No Building Permit Is Required
No land, heretofore, vacant shall hereafter be used or an existing use of land be hereafter changed to a use or activity of a different class or type, unless a use and occupancy permit is first obtained for the new or different use. Every application for a use and occupancy permit for a new use of land where no building permit is required shall be made directly to the office of the City Planner.

- 2. Application to be Accompanied by Certified Final Site Plans
Any application for a use and occupancy permit involving any development for which a site plan is required by the provisions of Section 17-103.3, of this Article, shall be accompanied by the completed site certification required by Section 17- 103.6(5), and/or a performance bond as provided in Section 17-103.8.

- 3. Permits Not to Be Issued
No use and occupancy permit shall be issued for any building, structure or part thereof, or for the use of land, which is not in accordance with all provisions of this ordinance. In all instances where a site plan is required in accordance with the provisions of Section 17-103.3, no final use and occupancy permit shall be issued until a final development review has been conducted and the development has been found to be in full compliance with the requirements of this ordinance.

- 4. Permits for Initial Occupancy of New Buildings
No new building shall be occupied nor any use of the land commenced before either a temporary use and occupancy permit or a permanent use and occupancy permit has been issued therefor. Provided, however, that no final use and occupancy permit shall be issued for any use until a final development review has been conducted and the development has been found to be in full compliance with the requirements of this ordinance. In

any instance where the City Planner determines that due to the season of the year planting of landscape materials would not be desirable a final use and occupancy permit may be issued provided that a performance bond is established for the uncompleted portion of the landscaping as provided in Section 17-103.8, and a maintenance bond is established as required by Section 17-103.9.

5. Temporary Use and Occupancy Permits

In any instance where a site plan has been approved and site improvements have been bonded as provided in Section 17-103.8, a temporary use and occupancy permit may be issued for all or a portion of the development. No temporary use and occupancy permit may be issued until the building or portion thereof for which the request is made has been determined to meet all safety codes.

17-103: REQUIRED PLANS

The following plans and procedures for approval thereof are required for the uses indicated.

17-103.1 Plot Plan Required for One- and Two-Family Dwellings

A plot plan shall be submitted and approved prior to issuance of a building permit for any one- or two-family detached dwelling (including manufactured homes located on individual lots). A copy of the final approved final subdivision plat indicating the size and location of the lot whereon the dwelling is proposed to be located shall be filed with each application for approval of a plot plan.

1. Plan Content

Plot Plans shall be submitted in a form and content established by the City Planner, and shall specifically describe the nature and scope of the development.

2. Plan Review

It shall be the duty of the Office of the City Planner to review and act upon all plot plans submitted under this section.

3. Critical Lots

Where any lot is declared a "critical lot" by the provisions of Article 13, Section 13-102 (Hillside Development Standards) or Section 13-103 (Development Standards for Flood Hazard Areas) no building permit shall be issued for any such lot until a grading plan meeting the specification of Section 17-103.4, is approved.

17-103.2 Master Development Plans

Master development plans are required based on the proposed development types defined below and shall include all necessary plan content as detailed in this ordinance.

1. Development Types

Development types requiring approval of a master development plan by the Planning Commission to ensure that development occurs in a coordinated manner include:

A. Multi-Family Developments

Any development involving two (2) or more multi-family structures located upon the same zone lot.

B. Manufactured Home Parks

Any development of a manufactured home park as defined by this ordinance.

C. Planned Overlay District

Any development located within a planned overlay district as defined by this ordinance.

D. Commercial Complexes

Any development of a commercial complex as defined by this ordinance.

E. Industrial Special Districts

Any development within an industrial special district as defined by this ordinance.

2. Plan Content

The master development plan for the proposed development shall be a general concept plan, which shall include:

A. Sufficient Information to Disclose

- i. The location and size of the area involved. A boundary survey prepared by a registered land surveyor of the property contained in the master development plan will be required for purposes of identifying the actual area involved in the approval request.

- ii. Transportation routes including streets, driveways, sidewalks, and pedestrian ways, and off-street parking and loading areas, showing sizes and fire lanes.
- iii. Location and approximate dimensions of structures including approximate height, bulk and the utilization of structures including activities and the number of living units.
- iv. Estimated population density and extent of activities to be allocated to parts of the project.
- v. Reservations for public uses including schools, parks, and other open spaces.
- vi. The ability of the proposal and the manner in which the proposed plan will comply with the landscaping provisions found in the Fairview Design Review Manual.
- vii. The general means for the disposition of storm water, with preliminary drainage calculations and including any detention or retention areas.
- viii. The location, and adequacy of utilities required to serve the development.
- ix. The proposed means of erosion and sediment control.

B. Tabulation of Land Area

A tabulation of the land area to be devoted to various uses and activities and overall densities.

C. Nature of Applicant's Interest

The nature of the applicant's interest in the land proposed to be developed and a written statement of concurrence from all parties having a beneficial interest in the affected property.

D. Substance of Covenants, Grants of Easements or Other Restrictions

The substance of covenants, grants of easements or other restrictions to be imposed upon the use of the land, buildings and structures including proposed easements for public utilities.

E. Preliminary Drainage Calculations

Preliminary drainage calculations showing twenty-five (25) year and one hundred (100) year flows and provisions for detention/retention of each.

F. Site Topography

Preliminary site topography at a vertical interval no greater than two (2) feet.

G. Development Schedule

A proposed development schedule indicating the stages in which the project will be built.

H. Off-Site Improvements

A detailed listing of off-site improvements to roads, storm water drainage systems, sanitary sewers, water supply systems, and other public facilities including easements which are required to mitigate the impacts of the proposed development.

I. Special Information

The following plans and diagrams, insofar as the proposed development creates significant impact of traffic, parking, landscaping or economic feasibility:

- i. A traffic study which shall include a circulation diagram indicating the proposed movement of vehicles, goods, and pedestrians within the development and, to and from existing and proposed thoroughfares. Any special engineering features and traffic regulation devices needed to facilitate or insure the safety of this circulation pattern must be shown.
- ii. An analysis of off-site easements which are required to facilitate the extension or improvement of roads and utilities needed to serve the site.

J. Information about Surrounding Area

Information regarding the physical characteristics of the surrounding area and developments within three hundred (300) feet of the proposed development, including the ownership of same.

K. Within Floodplain Districts

Within all floodplain districts, floodplain development permits are required prior to the initiation of any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other

structures, mining, dredging, filling, grading, paving, permits are set forth in Article 10, Section 10-301, (Floodplain District Regulations).

3. Plan Review

A. Plans to Be Complete

No application for approval of a site plan shall be considered until such plan is complete. An application is complete when it contains all the information required by Subpart 1, of this section, in a form sufficient for the City Planner to determine whether or not the development, if completed as proposed, will comply with the requirements of this ordinance.

B. Establishment of Plan Review Committee

A plan review committee to be comprised of representatives from the office of the City Engineer, the Department of Code Enforcement, and the City Planner along with representatives from the various organizations providing utility services is hereby established. The Plan Review Committee shall meet on a regular basis at the call of the City Planner for purposes of jointly reviewing and offering recommendations on development applications subject to approval by the Planning Commission.

C. Bases for Approval

In addition to satisfying all other applicable provisions of this ordinance, approval of a Master Development Plan shall be based upon a demonstration that the following design and development objectives have been satisfied.

i. Adequate Streets, Utilities and Drainage

Approval of a Master Development Plan shall be based upon a demonstration that streets, utilities and drainage features will be of adequate capacity to serve the development. As a part of a Master Development Plan proposal, a property owner may offer to improve or otherwise provide adequate facilities to support the proposed intensity of development. Public facilities already included in an adopted Capital Improvements Budget may be considered a demonstration of adequate capacity if properly timed with anticipated construction of the development.

ii. Vehicular Access and Traffic Generation

The vehicular access and internal circulation system of a Master Development Plan shall adequately support the operational needs of the development itself in a manner which maintains and protects the operational integrity of the community's major streets and highways. The traffic circulation system for a Master Development Plan shall be designed in such a manner as to direct commercial traffic away from residential areas.

iii. Sensitivity to Adjacent Areas

The approval of a Master Development Plan shall be based on a demonstration that the project is designed and will be developed in a manner that maintains the long term stability and integrity of nearby development.

4. Planning Commission Action

Within thirty (30) days after receipt of written Plan Review Committee findings, the Commission shall take one (1) of the following actions: unconditional approval, conditional approval or disapproval. The Commission shall make a finding regarding the consistency of any master development plan having long-range development implications, and any such implications not specifically included in the General Plan shall be identified and analyzed and made part of the Commission's findings.

A. Conditional Approval

When the Commission's action is conditional approval, the Commission shall transmit to the applicant within ten (10) working days in writing the conditions or modifications which must be complied with in order that the proposed development receive approval. The application will not be considered approved until the applicant has concurred in writing with all conditions of approval.

B. Disapproval

If the Planning Commission acts to disapprove a Master Development Plan, the reasons for that action shall be stated in writing.

17-103.3 Site Development Plans

1. Activities Requiring Plans

A Site Development Plan containing the information indicated herein is required for specified community facilities and all commercial, industrial and residential activities (excepting one- and two-family dwellings) and for feed lots and stockyards contained within the agricultural and extractive activity grouping. This plan shall be approved prior to any grading

and excavation, including the removal of trees, or of any construction activity of any type. This plan shall indicate:

2. Plan Content, Preparation and Submittal

A. Plan Content

A site plan shall be submitted in a form and content established by the City Planner. The plan shall be sufficient to fully describe the nature, scope, design features and ultimate appearance of the proposed development.

B. Plan Preparation

All site plans, excepting those subject to approval in the manner provided in Section 17-103.3(3)(B), (Plans for Small Additions and Free-Standing Accessory Structures) of this section, shall be prepared and stamped by individual(s) licensed and/or certified by the State of Tennessee to perform such design service as may be required.

C. Plan Submittal

All site plans shall be submitted to the office of the City Planner for review and appropriate action as provided in Subpart 3, of this section.

3. Plan Review

A. Plans to Be Complete

No application for approval of a site plan shall be considered until such plan is complete. An application is complete when it contains all the information required by Subpart 2, of this section, in a form sufficient for the City Planner to determine whether or not the development, if completed as proposed, will comply with the requirements of this ordinance.

B. Plans for Small Additions and Free-Standing Accessory Structures

A site plan submitted for a structure which is either an addition to an existing building or a free-standing accessory structure up to two thousand (2,000) square feet in floor area or fifty (50) percent of the total square footage of the existing building, whichever is less, is authorized by the Planning Commission to be approved by the City Planner. This plan is exempt from the following requirements:

- i. The requirement that the plan be prepared and stamped by an individual licensed and/or certified by the State of Tennessee, to perform such design service.

- ii. The requirement that topographic features be shown.
- iii. Design review requirements.
- iv. Compliance with Section 17-103.6(5) (Certifications of Compliance Required). If any of the above exempt requirements are deemed essential to consideration of the site plan, the staff maintains the right to rescind the exemption and request review by the Planning Commission.

C. Plans Subject to Planning Commission Approval

All site plans, other than those which may be approved by staff as provided in Section 17-103.3(3)(B), shall be subject to approval by the Planning Commission.

4. Planning Commission Action

A. Review by Plan Review Committee

The City Planner shall forward a copy of the application and supporting documents to all representatives of the Plan Review Committee and any other appropriate department or agency. The Plan Review Committee shall review the proposed plan and recommend action thereon prior to consideration by the Planning Commission.

B. Bases for Site plan Approval

A site plan shall demonstrate compliance with all applicable provisions of this ordinance. In any instance where the development activity proposed on the site plan is located within a development requiring a Master Development Plan (See Subsection 17-103.2), such development shall be in strict compliance with the approved Master Development Plan.

C. Planning Commission Action

Within thirty (30) days after receipt of written staff and departmental findings, the Commission shall unconditional approve, conditionally approve or disapprove the plan.

5. Transfer of Ownership

Unless, otherwise, provided as a condition of approval of a site plan, the landowner may subsequently divide and transfer parts of such development. The transferee shall complete each such unit and use and maintain it in strict conformance with the approved site plan.

17-103.4 Grading Plans

Grading plans containing the information required by this section shall be prepared, submitted and approved prior to any grading, placement of fill material or excavation, including the removal of trees, or any construction activity of any type.

1. Activities Requiring Plans

In any instance where a site plan is required by the provisions of Section 17-103.3, the grading plan shall accompany such plan and be acted on in the manner specified in that section. In addition to the grading plans required with site plans, grading plans shall be required for the following uses and activities:

- A. Any mining and quarrying uses.
- B. Any removal or stripping of topsoil in excess of ten thousand (10,000) square feet of land area. If the proposed land disturbance exceeds an area of 10,000 square feet, the owner shall submit a site grading and drainage plan, irrespective of the volume of soils to be disturbed, brought in, or removed from the site. Additionally, if the proposal affects a smaller area, but changes the existing ground elevation by three (3) feet or more, either up or down, the owner shall submit a site grading and drainage plan. If a proposal does not meet the above criteria, but alters the point at which natural drainage leave the owner property, the owner shall submit a site grading and drainage plan.

For proposals in which grading is not proposed, but the impervious surface area is increased by 10,000 square feet, the Owner shall submit a site grading and drainage plan for the project. Typical instances include, but are not limited to, building expansions of 10,000 square feet or more or parking lot expansions of 10,000 square feet or more.

For proposals in established residential neighborhoods, commercial or industrial site in which no grading is proposed, but which proposed to remove trees, and the net balance of trees is reduced by more than 33 percent, the Owner shall submit a site plan.

Site grading and drainage plans shall be prepared by person licensed in the State of Tennessee to prepare such plans, and shall be submitted to the City of Fairview Planning and Code Department for review and subsequent review by the Fairview Planning Commission.

This section expressly exempts excavation or fill for the purpose of constructing a swimming pool, basement, garage, or similar use which

is deemed to be an accessory structure to a principal residential building or minor grading three (3) feet or less in depth done for the purposes of constructing a one (1) or two (2) family dwelling. Also exempt from this requirement are proposals in developed residential lots that disturb less than 10,000 square feet and do not change the existing ground elevation by three (3) feet or more; typical residential and commercial landscaping proposals; other similar applications and agricultural development within the state of Tennessee's guidelines and regulations in regard to drainage and stormwater runoff. The City Planner shall have authority to make determinations regarding the applicability of this requirement to any given project.

C. Any excavation or placement of fill material which would infringe upon a drainage way, floodplain or wetland area as determined by the City Engineer.

D. Any "critical lot", as defined by Section 17-103.1(3).

2. Plan Content, Preparation and Submittal

A. Plan Content and Preparation

Grading plans shall be submitted in a form and content established by the City Engineer. Plans shall be prepared and stamped by an engineer engaged in the practice of civil engineering who is licensed and/or certified by the State of Tennessee to perform such design service as may be required.

3. Plan Review

A. Plans to Be Complete

No application for approval of a site plan shall be considered until such plan is complete. An application is complete when it contains all the information required by Section 17-103.4(2). Application shall be made in a form sufficient for the City Engineer to determine whether or not the development, if completed as proposed, will comply with the requirements of this ordinance and generally accepted engineering practice.

B. Action by City Engineer

Within thirty (30) days after receipt of a complete grading plan the City Engineer shall unconditional approve, conditionally approve or disapprove the plan.

C. Appeal to the Fairview Planning Commission

The applicant may, upon disapproval of a grading plan, appeal the decision of the City Engineer to the Fairview Planning Commission. The appeal shall be filed within ten (10) days of the adverse decision and shall be placed on the next available agenda of the planning commission.

17-103.5 Time Limits upon Approvals

Due to rapidly changing conditions within the planning region, it is necessary to establish specific time periods after the passage of which approved plans shall become null and void, thereby assuring that no new development will, due to altered conditions, etc., damage the public interest.

1. Time Limit on Plot Plans, Site Plans and Grading Plans

Any plot plan, site or grading plan approved under the provisions of this ordinance shall become null and void one (1) year after the date of its approval, unless a building permit for the project has been obtained in which case the provisions of Subpart, 2 (below) of this section shall apply, provided, however, that in no instance shall an approved plot plan or site plan become null and void in less than one (1) year.

2. Time Limit on Building Permit

Any building permit issued shall become null and void six (6) months after the date of issuance, unless "actual construction" (as defined by this ordinance) has begun and been continued in a diligent manner.

17-103.6 Construction to Be in Accordance with Approved Plans

In general, all site construction and development activity shall proceed in strict compliance with the approved site plan. Minor modifications in the terms and conditions of the approved site plan may be made from time to time as provided in the following paragraphs. Any proposed modification which is not permitted under these provisions may be approved only as an amendment to the development plan ((Section 17-103.6(4)) .Any modification in site construction or development activity which exceeds the minor modifications permitted hereinunder shall, unless approved as an amendment to the site plan, constitute a violation of this ordinance and is punishable as provided in Section 17-108.3.

1. Minor Modifications During Construction

The City Planner may approve minor modifications in the location, and configuration of buildings and structures if required by engineering or other circumstances not foreseen at the time the development plan was approved so long as:

- A. No modification violates any provision of this ordinance.
- B. No modification involves an item for which modification is prohibited under the provisions of Section 17-103.6(3), below and
- C. The total of such modifications approved by the City Planner shall never in aggregate result in:
 - i. Any increase in residential density;
 - ii. A net increase in the floor area of any nonresidential building which exceeds the lesser of two (2) percent of the gross floor area or two thousand (2,000) square feet;
 - iii. An increase of more than three (3) percent in the total ground area covered by buildings, provided that no such increase shall be permitted which would exceed the impermeable surface ratio established for the site;
 - iv. A reduction of more than two (2) percent in the area set aside for open space (exclusive of parking area green spaces and required screening areas);
 - v. Movement of a point of access by a distance greater than fifteen (15) feet. (Within Planned Unit Development Districts, **no alteration** of access points shall be permitted.)
- D. No modification may be approved which is greater than the absolute minimum necessary as defined by the provisions of Subpart 2 (below) of this section.

2. Minimum Adjustments Only

Any modification identified below must be held to the minimum necessary. The City Planner must find that each of the following conditions apply to the particular circumstances prior to the granting of the adjustment.

A. Practical Difficulties or Unnecessary Hardship

That strict application of the provisions of this ordinance would result in practical difficulties or unnecessary hardship.

B. Not Detrimental

That granting the application will not be detrimental to the public welfare or injurious to property or improvements in the neighborhood of the premises.

C. Health or Safety Not Adversely Affected

That granting the application under the circumstances of the particular case will not adversely affect the health or safety of persons working or residing in the neighborhood containing the property of the applicant.

D. Maintains Intent of Ordinance and the Development Plan

That such adjustment is within the intent and purpose of this ordinance and will not adversely affect the community objectives of the comprehensive plan.

3. Subjects Not Included for Modification

The following are not subject to modification under the provisions of this section:

A. Uses permitted;

B. Increases in the number of dwelling units or increases in the nonresidential floor area permitted in excess of increases permitted as staff approved projects;

C. Increases in building height (exception minor modifications in non-occupied portions of the building) or reduction of the number of required parking spaces;

D. Significant changes to the drainage pattern, as determined by the City Engineer;

E. Any reduction in required screening area or planting plan the minimum required vision clearance area.

4. Amendments to Approved Site Plans

Any modification to an approved site plan which exceeds the minor modifications that may be approved by the City Planner shall only be approved as provided herein. All such amendments to development plans shall be presented to and acted upon by the Planning Commission. Should the Planning Commission approve the amendment to the site plan, the applicant may proceed with the amended plan as a basis for modifications. In the event that the Planning Commission disapproves the proposed modifications, the applicant may proceed with the original plan.

In any instance where the Planning Commission disapproves proposed modifications to an approved site plan, the Commission shall note specific violations of this ordinance as reasons for its action.

5. Certifications of Compliance Required

On at least three (3) occasions during the course of the construction or development activity which is taking place upon any site, certification shall be required as to the correspondence between actual conditions existing upon the site and the depiction of those conditions upon the approved development plan. In general, these certifications shall be as follows:

- A. The first certification shall be presented to the City Engineer when the building foundation is substantially complete. A licensed surveyor shall certify the building location and the first floor elevation of the foundation. A certificate signed by both the individual conducting the survey and the owner shall indicate the location and first floor elevation for the building.
- B. The second certification shall be presented to the City Engineer when the site has been rough graded to the point where the drainage system has been installed and parking areas generally established. A licensed engineer engaged in the practice of civil engineering shall present to the city engineer a letter which shall indicate the extent of correspondence between actual conditions found upon the development site and those depicted on the approved site plan. This letter shall detail the location and extent of discrepancies between actual conditions found in the field survey and the depiction of those conditions upon the approved plan.
- C. The final certification shall be presented to the City Planner when construction upon the site is substantially complete and the building is ready for occupancy. This certification prepared by a licensed engineer engaged in the practice of civil engineering and a licensed landscape architect, shall indicate if actual conditions upon the development site are in substantial compliance with the plan approved by the Planning Commission. To be included are all aspects of the development project to include, but not be limited to:
 - i. Location and dimensions of all buildings, parking areas, and other site features;
 - ii. Location and sizes of all utilities and storm drainage facilities as established on the site.

- iii. Location and material (to include plant names and size were specified) of all landscaping and site plantings.
- D. In the event that the first or second certification, as referenced in Section 17-103.6(5)(A) and Section 17-103.6(5)(B), differ from that shown on the approved site plan, the plan shall be revised and submitted for review to the Planning Commission prior to any further work. The City Planner may approve minor modifications authorized, in Section 17-103.6(1), "Minor Modifications During Construction", where such modifications exceed those which may be approved under this Section the plan shall be submitted to the Planning Commission for further consideration. Failure to submit the proper certification at the appropriate time will result in issuance of a stop work order and/or denial of use and occupancy permits. Any failure to stop work under order shall be deemed a violation of this ordinance.

17-103.7 Plats to Be Filed with Site Plans

Any development plan submitted which requires dedication of right-of-way or recording of any easements shall either be accompanied by a final plat of the property shown on said plan, or shall be accompanied by a legal instrument which is sufficient in form to record in the Register of Deeds Office. This document must be legally recorded in the Register of Deeds Office prior to issuance of a building permit.

17-103.8 Bonding of Site Grading

1. Site Stabilization

Prior to the issuance of any grading permit for development covered by any site plan or grading plan submitted in accordance with this ordinance, an applicant shall be required to provide to the City a Site Reclamation Bond.

2. Site Reclamation Bond

The City, shall require the submittal of a site stabilization bond prior to issuance of a grading permit in order to ensure that the stormwater practices are installed by the permit holder as required by the approved site or grading plan. The amount of the installation performance surety shall be in the amount of one hundred twenty-five (125) percent of the total estimated construction cost of the structural BMPs approved under the permit plus any reasonably foreseeable additional related costs, e.g., for damages or enforcement. The performance surety shall contain forfeiture provisions for failure to complete work specified in the site or

grading plan. The applicant shall provide an itemized construction cost estimate complete with unit prices which shall be subject to acceptance, amendment or rejection by the City. Alternatively, an estimate will be prepared by the City Engineer in the amount of one hundred twenty-five (125) percent of the estimate of cost to assure completion of the work.

The performance surety shall be released in full only upon submission of as-built plans and written certification by a registered professional engineer licensed to practice in Tennessee that the structural BMPs have been installed in accordance with the City approved plan and other applicable provisions of this ordinance. The City will make a final inspection of the structural BMPs to review for compliance with the approved plan and the provisions of this ordinance.

3. Bonding Oblige

The site reclamation bond shall name the City of Fairview as obligees and shall be satisfactory to the City Attorney as to form, sufficiency and manner of execution. The performance bond shall remain in force in its full-face amount until improvements are completed.

4. Surety

A site stabilization bond shall be secured by a surety bond, irrevocable letter of credit, escrow account or other surety deemed adequate by the city.

The beneficiary of the surety shall be the Planning Commission and/or the City of Fairview. If a surety bond is used, then the guarantor of the debt shall have a commercial rating of not lower than "A" as designated by the A.M. Best and Company or other similar corporate rating service acceptable to the Planning Commission. If an irrevocable letter of credit is used as surety, then the bank or other financial institution issuing the letter of credit shall have total capital and unrestricted surplus of not less than twenty million dollars (\$20,000,000). The bank or other financial institution shall allow the letter of credit to be presented for collection at a place physically located within the boundaries of Williamson County, Tennessee.

5. Release of Site Reclamation Bond and Surety

The site reclamation bond, and the surety securing it, may be released by the City after a final site stabilization inspection has been performed and approved by the City. It shall be the responsibility of the permit holder to contact the City for inspection scheduling.

6. Appeal to the Fairview Municipal Planning Commission

The applicant may, upon disapproval of a request for release of a bond, appeal the decision of the City staff to the Planning Commission. The appeal shall be filed within ten (10) days of the adverse decision and shall be set for hearing on the next available agenda of the Planning Commission.

7. Failure to Complete Improvements

Where a site reclamation bond has been posted, and required improvements have not been installed within the terms of the bond, then the City may declare the bond to be in default and authorize the calling of the bond and surety and the completion of the improvements under the supervision of the City departments.

17-103.9 Bonding of Site Improvements

1. Completion of Improvements

Prior to the issuance of any use and occupancy permit for developments covered by any site plan or grading plan submitted in accordance with this ordinance, an applicant shall be required to complete all site improvements indicated on the approved plan.

2. Performance Bond

When use and occupancy is requested before completion of site improvements, a performance bond shall be provided to the City. A temporary use and occupancy permit may be issued in the alternative, upon posting an acceptable performance bond to insure the construction, installation and/or dedication of all remaining public and private improvements and landscaping. The performance bond shall also secure site improvements and private access improvements required pursuant to this ordinance, including necessary off-site improvements. The performance bond shall be in the amount of one hundred twenty-five (125) percent of the total estimated construction cost. The applicant shall provide an itemized construction cost estimate, complete with unit prices which shall be subject to acceptance, amendment or rejection by the City. Alternatively, an estimate will be prepared by the City Engineer in the amount of one hundred twenty-five (125) percent of the estimate of cost to assure completion of the work. Posting of an acceptable performance bond shall constitute prior permission for the properly designated parties to enter upon said property to complete these improvements.

3. Bonding Period - Obligee

The period within which required improvements shall be completed shall be specified by the Planning Commission, incorporated in the performance

bond, and shall not exceed one (1) year from the date of approval of any Temporary Use and Occupancy Permit.

The performance bond shall name the Planning Commission and/or the city as obligees and shall be satisfactory to the City Attorney as to form, sufficiency and manner of execution. The performance bond shall remain in force in its full face amount until improvements are completed.

4. Surety

A performance bond shall be secured by a surety bond, irrevocable letter of credit, escrow account or other surety deemed adequate by the city.

The beneficiary of the surety shall be the Planning Commission and/or the City of Fairview. If a surety bond is used, then the guarantor of the debt shall have a commercial rating of not lower than "A" as designated by the A.M. Best and Company or other similar corporate rating service acceptable to the Planning Commission. If an irrevocable letter of credit is used as surety, then the bank or other financial institution issuing the letter of credit shall have total capital and unrestricted surplus of not less than twenty million dollars (\$20,000,000). The bank or other financial institution shall allow the letter of credit to be presented for collection at a place physically located within the boundaries of Williamson County, Tennessee.

5. Release of Performance Bond and Surety

The performance bond, and the surety securing it, may be released by the City Planner upon completion of the site improvements and landscaping.

A. A request for release of the performance bond shall be made by the applicant in the form of a letter to the City Planner requesting release of the performance bond, including a written statement from the engineer employed by the applicant stating that the improvements have been installed in accordance with the plans and specifications approved by the city departments.

B. All costs incurred in connection with a request for release of the surety or of the performance bond (that is, engineering, inspection fees, legal fees, etc.) shall be borne by the applicant, regardless of whether his request is ultimately granted. No bond shall be released until the City Planner certifies that all fees have been paid.

6. Appeal to the Fairview Municipal Planning Commission

The applicant may, upon disapproval of a request for release of a bond, appeal the decision of the City Planner to the Planning Commission. The appeal shall be filed within ten (10) days of the adverse decision and shall

be set for hearing on the next available agenda of the Planning Commission.

7. Failure to Complete Improvements

Where a performance bond has been posted, and required improvements have not been installed within the terms of the performance bond, then the City may declare the bond to be in default and authorize the calling of the bond and surety and the completion of the improvements under the supervision of the city departments.

17-103.10 Bonding of Site Maintenance

1. Completion of Improvements

Prior to the issuance of any permanent use and occupancy permit for developments covered by any site plan or grading plan submitted in accordance with this ordinance, an applicant shall be required to complete all site improvements indicated on the approved plan. At completion, all site improvements shall be documented in "as-built" drawings, inspected by the City and a maintenance bond be set and posted.

1. Basic Requirement

Maintenance bonds shall be required for the purpose of ensuring:

- A. Landscape material which is installed to meet the requirements of this ordinance does not die or significantly deteriorate for a period of one (1) year.
- B. Off-site improvements are in proper working order and maintained in an acceptable manner to the City for a period of one (1) year.
- C. All public infrastructure and right of ways are maintained in an acceptable manner to the City for a period of one (1) year.
- D. All storm water infrastructure is in proper working order and maintained in an acceptable manner to the City for a period of one (1) year.

2. Maintenance Bond Amount

The maintenance bond shall be calculated by the City Engineer.

3. Bonding Period - Oblige

The period of the bond shall be one (1) year from the date of approval of any Permanent Use and Occupancy Permit.

The maintenance bond shall name the City of Fairview as obligee and shall be satisfactory to the City Attorney as to form, sufficiency and manner of execution.

4. Release of Maintenance Bond and Surety

The maintenance bond, and the surety securing it, may be released by the City upon one (1) year of the site improvements and landscaping being approved, and after a site inspection by the City.

17-104: BOARD OF ZONING APPEALS

17-104.1 Establishment

Pursuant to Sections 13-7-205 through 13-7-207, Tennessee Code Annotated, a Board of Zoning Appeals (hereinafter referred to as the "Board") is created.

17-104.2 Powers of the Board

The Board is hereby vested with the following powers:

1. Administrative Appeals

Pursuant to Section 13-7-207, (1), Tennessee Code, the Board shall hear and decide appeals from any order, requirement, decision or determination made by the City Planner or any other administrative official in carrying out the enforcement of this zoning ordinance, whereby it is alleged in writing that the City Planner is in error or acted arbitrarily.

2. Variances

Pursuant to Section 13-7-207, (3), Tennessee Code, the Board shall hear and act upon applications for variances to alleviate hardships created by not being able to comply with this zoning ordinance by reason of unique shape, topography or physical features of the zone lot.

3. Conditional Use Permits

Pursuant to Section 13-7-207, (2), Tennessee Code, the Board shall hear and act upon applications for conditional use permits. For the purposes of this ordinance, conditional uses shall be synonymous with "special exceptions", as controlled by Section 13-7-206, Tennessee Code.

4. Referred Matters

Hear and act upon all matters referred to it on which it is required to act under this ordinance.

5. Right of Entry upon Land

Enter upon any land within its jurisdiction to make examinations and surveys and place or remove public notices as required by this ordinance.

17-104.3 Membership

The Board shall consist of five (5) members who have been bona fide residents of the Planning Jurisdiction for not less than three (3) years prior to appointment and who shall continue to be so eligible as long as they serve. Board members shall be appointed by the Board of Commissioners.

17-104.4 Terms of Office, Removal and Vacancies

Board members shall each serve for a three (3) year term, or until their respective successors are appointed and qualified. The Board first appointed shall serve respectively for the following terms: One member for one (1) year, two members for two (2) years, and two members for three (3) years.

All members of the Board shall serve with such compensation as may be fixed by the City and may be removed from membership on the Board for continued absence or just causes. Any member being so removed shall be provided, upon request, a public hearing upon the removal decision. Vacancies of said Board shall be filled in the manner provided herein for the appointment of such member.

17-104.5 Election of Officers

The Board shall elect from its members its own chairman and vice-chairman, who shall serve for one (1) year and may upon election serve succeeding terms. The City of Fairview shall provide necessary secretarial services.

17-104.6 Conflict of Interest

Any member of the Board who shall have a direct or an indirect interest in any property which is the subject matter of or affected by, a decision of the Board shall be disqualified from participating in the discussion, decision, and proceedings of the Board in connection therewith. The burden for revealing any such conflict rests with individual members of the Board. Failure to reveal any such conflict shall constitute grounds for immediate removal from the Board for cause.

17-104.7 Meetings of the Board

Regular meetings shall be held at specified times and at such other times as the Board may determine. The chairman may administer oaths and compel the attendance of witnesses. All meetings shall be open to the public and proper notice of such meetings shall be given.

17-104.8 Rules and Proceedings of the Board

The Board shall adopt rules for the conduct of its meetings. Such rules shall at the minimum require that:

1. The presence of three (3) members of the Board shall constitute a quorum and the concurring vote of at least three (3) members of the Board shall be necessary to deny or grant any application before the Board.
2. No action shall be taken by the Board on any case until after a public hearing and notice thereof. Said notice of public hearing shall be a legal notice published in a newspaper of general circulation in the city at least ten (10) days before the hearing of an appeal. No appeal shall be considered and heard by the Board less than fifteen (14) days after filing such appeal. If new information is uncovered regarding an action of the Board that could not have been reasonably presented in public hearing before the Board, the Board shall establish a date for the purpose of rehearing in accordance with the appropriate procedures herein.
3. The Board may call upon any other office or agency of the City of Fairview for information in the performance of its duties and it shall be the duty of such other agencies to render such information to the Board as may be reasonably required.
4. The Planning Commission shall be permitted to submit an advisory opinion on any matter before the Board and such opinion shall be made part of record of such public hearing.
5. Any officer, agency or department of the City or other aggrieved party may appeal any decision of the Board to a court of competent jurisdiction as provided by State law.
6. Any decision made by the Board on a conditional use permit shall indicate the specific section of this ordinance under which the permit is being considered and shall state clearly the specific conditions imposed in granting such permit.
7. Appeals will be assigned for hearing in the order in which they appear on the calendar thereof, except that appeals may be advanced for hearing by order of the Board, upon good cause being shown.
8. At the public hearing of the case before the Board, the Appellant shall appear on his own behalf or be represented by counsel or agent. The Appellant's side of the case shall be heard first and those in objection shall follow. To maintain orderly procedure, each side shall proceed without interruption from the other.

17-104.9 Stay of Proceedings

An appeal shall stay all proceedings in furtherance of the action appealed from, unless the City Planner certifies to the Board, after such notice of appeal shall have been filed, that by reason of facts stated in the certificate such stay would cause imminent peril to life or property. In such instance the proceedings shall not be stayed otherwise than by a restraining order, which may be granted by a court of competent jurisdiction application, on notice to the City Planner, and on due cause shown.

17-104.10 Liability of Board Members, City Planner and Employees

Any Board member, City Planner, or other employee charged with the enforcement of this ordinance, acting for the City of Fairview, in the discharge of his/her duties, shall not thereby render themselves liable personally, and all such persons are hereby relieved from all personal liability and shall be held harmless by the City of any damage that may accrue to persons or property as the result of any act required or permitted in the proper discharge of their duties. Any suit brought against any Board member, City Planner, or employee charged with the enforcement of any provision of this ordinance shall be defended by legal representatives furnished by the City, until the final termination of such proceedings.

17-104.11 Rehearing

1. No rehearing of the decision by the Board shall be held, except:
 - A. On motion to reconsider the vote.
 - B. On a written request for a hearing.
2. If the motion to reconsider receives a majority affirmative vote, the Board of Zoning Appeals may vote on the motion to grant the request for a rehearing, subject to such conditions as the Board may, by resolution in each case, stipulate.
3. No request to grant a rehearing will be entertained, unless new evidence is submitted which could not reasonably be presented at the previous hearing. If the request for a rehearing is granted, the case shall be put on the calendar for a rehearing. In all cases, the request for a rehearing shall be in writing, reciting the reasons for the request and shall be duly verified and accompanied by the necessary data and diagrams. The persons requesting the rehearing shall be notified to appear before the Board on a date to be set by the Board.

4. No rehearing for a variance shall be granted an applicant found by a court of competent jurisdiction to be in willful violation of the express provisions of a prior variance granted under the authority of this ordinance.

17-104.12 Time Limitations on Obtaining Permits

All permits authorized by the Board of Zoning Appeals after the effective date of this ordinance, whereby variances, or conditional uses are granted, shall be obtained within one (1) year from the date of the original authorization by the Board, otherwise, the right to obtain said permit shall expire and become invalid.

17-105: ZONING VARIANCES

The Board of Zoning Appeals may grant variances where it makes findings of fact based upon the standards prescribed in this section.

17-105.1 Limits to Jurisdiction

Applications for variances to the following shall not be considered by the Board.

1. Intensity Increases
The Board shall not grant any variance permitting an increase in floor area or density above the maximum permitted by the zoning district.
2. Planned Unit Developments
Within Planned Unit Development districts the Board shall act as provided in Section 10-201.1(5) (Jurisdiction of Planning Commission and Board of Zoning Appeals).
3. Non-permitted Uses
The Board shall not grant any variance to allow a use other than those specifically authorized by this ordinance in the applicable zoning district.
4. Lack of Frontage
The Board shall have no jurisdiction to hear a variance from the denial of a zoning permit when such denial is due to the fact that such lot has no frontage on a public street.
5. Conditions Created by Parties Having Interest in Affected Property
The Board shall not grant any variance in any instance where the alleged difficulty or hardship has been knowingly and intentionally created by any person having an interest in the property after the effective date of this ordinance.

17-105.2 Application for Variances, Notice of Hearing, Fee

A written application for a variance shall be filed with the Board by the property owner or his designated agent on forms provided by the Board and the application shall contain information and exhibits as may be required under Subsection 17-103.3, (Site Development Plan). No more than ninety (90) days after the filing of the application, a hearing shall be held on the application, unless otherwise withdrawn or postponed by written request by the applicant. Notice of hearing shall be in accordance with Subsections 17-105.3 and 17-109.3. A fee payable to the City shall be charged to cover review and processing of each application for a variance, except that the fee shall be waived for a governmental agency.

17-105.3 Notice to Affected Property Owners

A public hearing shall be conducted with notice thereof provided as specified in Section 17-109, of this Article, on any request for variance brought before the Board.

17-105.4 Standards for Variances

The Board shall not grant a variance, unless it makes findings based upon evidence presented to it as follows:

1. That by reason of exceptional narrowness, shallowness, or shape of a particular piece of property at the time of enactment of this ordinance, or by reason of exceptional topographic conditions or other exceptional and extraordinary situation or condition of such piece of property, the strict application of any regulation contained within this ordinance would result in peculiar and exceptional practical difficulties to or exceptional or undue hardship upon the owner of such property.
2. That the variance is the minimum variance that will relieve such difficulties or hardship and thereby make possible the reasonable use of the land, building, or structure.
3. That the variance will not authorize activities in a zone district other than those permitted by this ordinance.
4. That financial returns only shall not be considered as a basis for granting a variance.
5. That the granting of the variance will not be detrimental to the public welfare, injurious to other property or improvements in the area in which the subject property is located, or a substantial impairment to the intent and

purpose of the zoning district wherein such property is located or of the general provisions of this zoning ordinance.

6. That the proposed variance will not impair an adequate supply of light and air to the adjacent property, or substantially increase the congestion in the public streets, or increase the danger of fire, or endanger the public safety.
7. That the alleged difficulty or hardship has not been knowingly and intentionally created by any person having an interest in the property after the effective date of this ordinance.

17-105.5 Nonconformity Does Not Constitute Grounds for Granting of a Variance

No nonconforming use of neighboring lands, structures, or buildings in the same district, and not permitted or nonconforming use of lands, structures, or building in other districts shall be considered grounds for the issuance of a variance.

17-105.6 Conditions and Restrictions by the Board

The Board may impose such conditions and restrictions upon the premises benefited by a variance as may be necessary to reduce or minimize the injurious effect of such variation upon surrounding property and better carry out the general intent of this ordinance. The Board may establish expiration dates as a condition or as a part of any variances.

17-105.7 Board Has Powers of Administrative Official on Appeals; Reversing Decision of Administrative Official

In exercising the powers granted to it the Board of Appeals may, so long as such action is in conformity with the terms of this ordinance, reverse or affirm, wholly or partly, or may modify the order, requirements, decision or determination as ought to be made, and to that end shall have the powers of the City Planner from whom the appeal is taken.

The concurring vote of a majority of the entire membership of the Board shall be necessary to reverse any order, requirement, decision, or determination of the City Planner, or to decide in favor of the applicant on any matter upon which it is required to pass under this ordinance, or to effect any variation in the application of this ordinance.

17-105.8 Variance Appeals

Any person, including any agency of the City of Fairview, aggrieved by a decision of the Board on a variance may appeal by certiorari to a court of competent jurisdiction. The judgment and findings of the Board on all questions of fact that may be involved in any appeal, cause, hearing or proceeding under this article shall be final and subject to review only for illegality or want of jurisdiction.

17-105.9 Special Provisions Governing Variances from the Provisions of Article 10, Section 10-301, "Floodplain District Regulations"

The following provisions shall apply to the consideration by the Board of any variance from the provisions of Article 10, Section 10-301, pertaining to Floodplain Districts.

1. Historic Structures

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

2. Standards to Be Applied

In its consideration of any variance from the provisions of the floodplain district regulations the Board shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this ordinance, and:

- A. The danger that materials may be swept onto other property to the injury of others.
- B. The danger to life and property due to flooding or erosion.
- C. The susceptibility of the proposed facility and its contents to flood damage.
- D. The importance of the services provided by the proposed facility to the community.
- E. The necessity to the facility of a waterfront location, in the case of a functionally dependent facility.
- F. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use.
- G. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area.
- H. The safety of access to the property in times of flood for ordinary and emergency vehicles.
- I. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters.

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

3. Conditions for Variances

Upon consideration of the factors listed above, and the purposes of this ordinance, the Board may attach such conditions to the granting of variances as it deems necessary to effectuate the purposes of this ordinance. The following conditions shall apply to any variance which may be approved by the Board.

- A. Variances may be issued upon a determination that the variance is the minimum relief necessary, considering the flood hazard; and in the instance of a historical building, a determination that the variance is the minimum relief necessary so as not to destroy the historic character and design of the building.

- B. Variances shall only be issued upon:

- i. A showing of good and sufficient cause;
- ii. A determination that failure to grant the variance would result in exceptional hardship; and
- iii. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

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

- D. The City Planner shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency upon request.

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

17-106: CONDITIONAL USE PERMITS

17-106.1 Authority

The Board of Appeals may hear and decide, in accordance with the provisions of this ordinance, requests for conditional use permits. For the purposes of administration of this ordinance, conditional uses shall be construed as synonymous with special exceptions, as controlled by Section 13-7-206, Tennessee Code.

17-106.2 Application for Conditional Use Permit, Notice of Public Hearing

Application for a conditional use permit shall be made by the property owner or his designated agent and filed in writing with the Board on forms provided by the Board and shall contain information and exhibits as may be required under Section 17-103.3, (Site Development Plan) or in the case of buildings or other structures or uses to be located within floodplain districts, as may be required by Article 17, and Section 17-106.5, (Special Provisions Governing Consideration of Conditional Uses Within Floodplain Districts), of this section.

Not more than sixty (60) days after filing such application, a hearing shall be held on the application, unless, otherwise, withdrawn or postponed upon written request by the applicant. Notice of hearing shall be held in accordance with Section 17-109 (Public Notice). A fee payable to the City shall be charged to partially defray cost of review and processing for each application for a conditional use permit, except that the fee shall be waived for any government agency.

17-106.3 Requirements for Conditional Use Permit

General requirements are hereby established which shall apply to all applications for Conditional Use Permits, and specific standards listed shall apply to the issuance of a conditional use permit, as appropriate. The Board may impose such other conditions and restrictions upon the premises benefited by a conditional use permit as may be necessary to comply with the provisions set out in Section 17-106.4, and the specific criteria for such presented in Article 4, in order to reduce or minimize the injurious effect of such conditional uses upon and ensure compatibility with surrounding property. The Board may establish dates for the expiration of any conditional use permit as a condition of approval.

17-106.4 General Provisions

1. Burden of Proof

A conditional use permit shall not be considered an entitlement, and shall be granted by the Board of Zoning Appeals only after the applicant has

demonstrated to the satisfaction of the Board that all required standards are met.

2. Ordinance Compliance

The proposed use shall comply with all applicable regulations, including any specific standards for the proposed use set forth in this ordinance, unless circumstances qualify the proposed use for a variance. Any accessory use to a conditional use must receive express approval by the Board of Zoning Appeals.

3. General Plan

A conditional use shall be in accordance with the General Plan for the planning jurisdiction. The Board of Zoning Appeals shall determine from its review of the site plan that the location, design and operation of a conditional use is not an impediment to projected growth plans for the planning jurisdiction and to determine that adequate public facilities are available to accommodate the proposed use.

4. Traffic Impact

The proposed use shall not adversely affect the safety and convenience of vehicular or pedestrian circulation and, in the opinion of the City Engineer, shall not decrease traffic flow below "Level of Service D" along any portion of public roadway where the property has frontage.

5. Parking Adequacy

The facility shall provide off-street parking and loading facilities as required by the parking regulations of this ordinance.

6. Special Conditions

In addition, the Board may restrict the hours of operation, establish permit expiration dates, require extraordinary setbacks and impose other reasonable conditions necessary to protect the public health, safety and welfare.

17-106.5 Special Provisions Governing Consideration of Conditional Uses Within Floodplain Districts

The special provisions contained within this section shall apply to all applications for approval of a conditional use located within any floodplain district.

1. Special Information Required

In addition to the requirements for conditional uses set out elsewhere in the ordinance, any application for a conditional use to be located within any

floodplain district shall contain the following and any additional information requested by the Board.

- A. A map, drawn to scale, showing the regulatory flood elevation, dimensions of the lot, existing structures and uses on the lot and adjacent lots, soil type, and natural protective barriers, if applicable, existing flood control and erosion control works, existing drainage elevations and ground contours, location and elevation of existing streets, water supply and sanitary facilities, and other pertinent information.
- B. A preliminary plan showing the approximate dimensions, elevation and nature of the proposed use, amount, area and type of proposed fill, area and nature of proposed grading or dredging, proposed alteration of natural protective barriers, if applicable, proposed flood protection or erosion control works, proposed drainage facilities, proposed roads, sewers, water and other utilities, specifications for building construction and materials included in the flood proofing.

2. Technical Review Required

The Board shall transmit one (1) copy of the application and all supporting information to the City Engineer for technical assistance in evaluating the proposed project in relation to flood heights and velocities, threatened erosion, the adequacy of the plans for flood and erosion protection, the adequacy of drainage facilities, and other technical matters.

3. Determination by the Board and Attachment of Conditions

The Board shall determine the specific flood or erosion hazard at the site and shall evaluate the suitability of the proposed use in relation to the flood hazard. Upon consideration of the factors listed herein and the purposes of this ordinance, the Board may attach such conditions to the approval of conditional uses as it deems necessary to further the purposes of this ordinance.

4. Consideration of Special Dangers Posed by Such Uses

In considering such applications, the Board shall consider the technical evaluation of the Engineer, all relevant factors, and standards specified in other sections of this ordinance, and:

- A. The danger that materials may be swept onto other lands to the injury of others;
- B. The danger to life and property due to flooding or erosion damage;

- C. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions;
- D. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- E. The importance of the services provided by the proposed facility to the community;
- F. The necessity to the facility of a waterfront location, where applicable;
- G. The compatibility of the proposed use with existing development anticipated in the foreseeable future;
- H. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
- I. The safety of access to and from the property in times of flood for ordinary and emergency vehicles;
- J. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site;
- K. The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

17-107: AMENDMENTS

17-107.1 General

The Board of Commissioners may, from time to time, amend this ordinance by changing the boundaries of districts or by changing any other provisions whenever it is alleged that there was an error in the original zoning ordinance or whenever the public necessity, convenience, and general welfare require such amendment.

17-107.2 Initiation of Amendment

Amendments may be initiated by the Board of Commissioners, the Planning Commission, and City Planner or by an application by any other interested person(s).

17-107.3 Application for Amendment

An application for amendment shall be filed with the office of the City Planner. The City Planner, on receiving such application shall transmit copies, thereof, to the Planning Commission prior to any consideration of the proposed amendment by the Board of Commissioners.

17-107.4 Review and Recommendation by the Planning Commission

The Planning Commission in its review and recommendation, and the Board of Commissioners in its deliberations shall make specific findings with regard to the following grounds for an amendment and shall note the same in the official record as follows:

- 1. The amendment is in agreement with the general plan for the area.
- 2. It has been determined that the legal purposes for which zoning exists are not contravened.
- 3. It has been determined that there will be no adverse effect upon joining property owners, unless such effect can be justified by the overwhelming public good or welfare.
- 4. It has been determined that no property owner or small group of property owners will benefit materially from the change to the detriment of the general public.
- 5. It has been determined that conditions affecting the area have changed to a sufficient extent to warrant an amendment to the zoning map.

17-107.5 Public Hearing and Notice of Hearing

A public hearing shall be held on all proposed amendments to this ordinance. Notice of such hearing shall be displayed as specified in Section 17-109, of this article.

17-107.6 Notice of Enactment

Upon enactment of an amendment to this ordinance, a notice of such shall be published in a newspaper of general circulation within the City of Fairview, within five (5) days following such enactment announcing the new zoning classification of property affected. The change shall become effective upon the date of the announcement.

17-107.7 Amendments Affecting Zoning Map

Upon enactment of an amendment to the zoning map which is part of this ordinance, the City Planner shall cause such amendment to be placed upon the zoning map noting thereon the ordinance and effective date of such

amendatory ordinance. No amendment shall be placed upon the zoning map until a boundary survey of the property is provided the City by the applicant.

17-107.8 Effect of Denial of Application

Whenever an application for an amendment to the text of this ordinance or for a change in the zoning classification of any property is denied, the application for such amendment shall not be eligible for reconsideration for one (1) year following such denial, except in the following cases:

1. Upon initiation by the Board of Commissioners, or Planning Commission.
2. When the new application, although involving all or a portion of the same property, is for a different zoning district than that for which the original application was made.

17-107.9 Zoning Districts as Applied to Territory Added to Planning Jurisdiction of the City

Whenever new territory is added to the zoning jurisdiction of the City of Fairview, by any means, the Planning Commission shall recommend to the Board of Commissioners appropriate zoning districting within thirty (30) days following the final approval of the annexation. Prior to the final enactment by the Board of Commissioners, of an amendment to this ordinance establishing zoning districting for said territory, the area shall be temporarily unclassified and no zoning permits shall be issued.

17-108: REMEDIES AND ENFORCEMENT

17-108.1 Complaints Regarding Violations

Whenever a violation of this ordinance occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint stating fully the causes and basis, thereof, shall be filed with the City Planner. The City Planner shall record properly such complaint, immediately investigate, and take action, thereon, as provided by this ordinance.

17-108.2 Violations of Sign Provisions

Any of the following shall be a violation of this ordinance and shall be subject to the enforcement remedies and penalties provided by this ordinance and by State law:

1. To install, create, erect, or maintain any sign in a way that is inconsistent with any plan or permit governing such sign or the zone lot on which the sign is located;

2. To install, create, erect, or maintain any sign requiring a permit without such a permit;
3. To fail to remove any sign that is installed, created, erected, or maintained in violation of this ordinance, or for which the sign permit has lapsed; or
4. Each sign installed, created, or maintained in violation of this ordinance shall be considered a separate violation when applying the penalty portions of this ordinance.

17-108.3 Penalties for Violation

Violation of the provisions of this ordinance, or of policies and procedure, including "Site Development Agreements", adopted in pursuance thereof or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variance or conditional uses) shall constitute a misdemeanor and shall be punished as provided by law. Each day such violation exists shall be deemed a separate offense.

The owner or tenant of any building, structure, premises, or part thereof, and any architect, builder, contractor, agent, or other person who commits, participates in, assists in, or maintains such violation may each be found guilty of a separate offense and suffer the penalties herein provided.

17-108.4 Remedies

In case any building or other structure is proposed to be erected, constructed, reconstructed, altered, extended, or proposed to be used in violation of this ordinance, the City Planner or other appropriate authority of the City of Fairview or any adjacent or neighboring property owner who would be especially damaged by such violation may, in addition to other remedies, institute injunction, mandamus or other appropriate action or proceeding to prevent such unlawful erection, construction, reconstruction, alteration, extension, conversion or use, to correct or abate the violation, or to prevent the occupancy of such building or other structure or land. Where a violation of these regulations exists with respect to a building or other structure or land, the City Planner may, in addition to other remedies, notify all public utilities and municipal service departments of such violation and request that initial or establishment of service be withheld, therefrom, until such time as the building or other structure premises are no longer in violation of these regulations.

17-108.5 Special Enforcement and Remedies Pertaining to Signs

In addition to the general remedies applicable to all violations set forth in this article the remedies specifically applying to signs shall include the following:

1. Issuing a stop-work order for any and all work on any signs on the same zone lot;
2. Seeking an injunction or other order of restraint or abatement that requires the removal of the sign(s) or the correction of the nonconformity;
3. In the case of a sign that poses an immediate danger to the public health or safety, taking such measures as are available to the city under the applicable provisions of the zoning ordinance and building code for such circumstances.
4. All remedies provided herein shall be cumulative. To the extent that state law may limit the availability of a particular remedy set forth herein for a certain violation or a part thereof, such remedy shall remain available for other violations or other parts of the same violation.

17-109: PUBLIC NOTICE

17-109.1 Applicability

All public hearings required by this ordinance shall be preceded by public notice as provided by this section.

17-109.2 Notice by Newspaper

Notice in a newspaper of general circulation within the City of Fairview, shall be given at least fifteen (15) days, but not more than thirty (30) days prior to the public hearing. This notice shall specify the location, current and proposed zoning classification, and it shall contain a graphic illustration of the area.

17-109.3 Notice by Mail

At least fifteen (15) days prior to the public hearing concerning the affected property all owners of record of adjoining property, including those separated by a public way from the premises in question shall be notified. The notification required to meet this provision shall be accomplished by certified mail, return receipt request. Return receipts shall be maintained and subject to public examination upon request.

17-109.4 Notice by Signage

No public hearing shall be conducted until public notice has been provided by the posting of signs pursuant to the provisions of this section.

1. General Requirements

The applicant shall post signs on properties for which either an action by the Board of Zoning Appeals or a request for change of zoning classification has been requested. Such signs shall be posted at least fifteen (15) days prior to the public hearing is to be conducted on the request. The applicant shall purchase such signs at the Office of the City Planner no less than twenty-one (21) days prior to the date of the public hearing. No public hearing shall be conducted nor any action taken on any request for which such notice is required until these signs are posted as required herein. The posting of the signs shall be as follows.

A. Number

One (1) sign shall be posted for each five hundred (500) feet of frontage.

B. Location

Signs shall be located facing and within twenty-five (25) feet of all public rights-of-way on which the property fronts.

C. Wording

The signs shall contain wording provided by the Office of the City Planner which shall be sufficient to convey the information that a zoning action is proposed for the subject property along with the date, time and place of the meeting at which the requested action is to be considered and the telephone number for additional information.

D. Fee

The signs shall be provided by the city, subject to payment by the applicant of a fee charged to defray the administrative and printing costs. The fee shall be waived for any agency of government.

2. Alternative Requirements for Zoning Actions Affecting Large Areas

When the area included within the requested zoning action contains fifty (50) or more parcels the following alternative provisions shall apply:

A. Signs shall be posted within the public right-of-way facing the inbound lane of all public streets at, or as near as possible to, the point the street crosses the boundary of property subject to the proposed action.

B. Signs shall also be posted at the intersection of a local street with a collector or arterial street within the area of the proposed zoning action.

- C. Where a public street forms the boundary, or a portion of the boundary, of an area subject to a zoning action, one (1) double face sign shall be erected on the side of the street included within the proposed change within each one thousand (1,000) lineal feet of street frontage.

17-110: FEES

17-110.1 General

Standardized fee schedules may be established to partially defray the processing and administrative costs associated with each type of application associated with this ordinance. All fees are to be paid at the time of filing. Fees shall be waived for the following: (1) Applications initiated by any Federal or State agency or any department of the City of Fairview or the Williamson County; and (2) Any changes in zoning initiated by the Planning Commission and Board of Commissioners to implement the general plan.

17-111: EFFECTIVE DATE

This ordinance shall be in force and effect from and after its passage and adoption, the public welfare requiring it.

Approved and Certified by Planning Commission on _____
(date)

Planning Commission Chairman: _____
(printed name)

(signature)

Planning Commission Secretary: _____
(printed name)

(signature)

Approved on Final Reading by BOC on _____
(date)

Mayor: _____
(printed name)

(signature)

ATTEST:

City Recorder: _____
(printed name)

(signature)