

TITLE 14

ZONING AND LAND USE CONTROL¹

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CHAPTER 1

ZONING ORDINANCE

SECTION

14-101. Land use to be governed by zoning ordinance.

14-101. Land use to be governed by zoning ordinance. Land use within the City of Bartlett shall be governed by the City of Bartlett Zoning Ordinance.²

¹Municipal code reference
Subdivision regulations: Appendix B.

²The zoning ordinance is included in this Municipal Code as Appendix A.

CHAPTER 2

STORMWATER MANAGEMENT AND POLLUTION CONTROL PROGRAM

SECTION

- 14-201. General provisions.
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14-201. General provisions. (1) Objectives. The objectives of this chapter are to:

(a) Protect, maintain and enhance the environment of the City of Bartlett (referred herein as the city) and the public health, safety and general welfare of the citizens of the city by controlling discharges of pollutants to the city's stormwater system and to maintain and improve the quality of the receiving waters into which the stormwater outfalls flow, including, without limitation, lakes, rivers, streams, ponds, wetlands and groundwater of the city;

(b) Enable the city to comply with the National Pollution Discharge Elimination System (NPDES) General Permit for Discharges from Small Municipal Separate Storm Sewer Systems (MS4) and applicable regulations, 40 CFR 122.26 for stormwater discharges;

(c) Allow the city to exercise the powers granted in Tennessee Code Annotated, § 68-221-1105, which provides that, among other powers cities have with respect to stormwater facilities, is the power of ordinance or resolution to:

(i) Exercise general regulation over the planning, location, construction, and operation and maintenance of stormwater facilities in the city, whether or not owned and operated by the city;

- (ii) Adopt any rules and regulations deemed necessary to accomplish the purposes of this statute, including the adoption of a system of fees for services and permits;
 - (iii) Establish standards to regulate stormwater discharges and to regulate stormwater contaminants as may be necessary to protect water quality;
 - (iv) Review and approve plans and plats for stormwater management in proposed subdivisions or commercial developments;
 - (v) Issue permits for stormwater discharges or for the construction, alteration, extension, or repair of stormwater facilities;
 - (vi) Suspend or revoke permits when it is determined that the permittee has violated any applicable ordinance, resolution, or condition of the permit;
 - (vii) Regulate and prohibit discharges into stormwater facilities of sanitary, industrial, or commercial sewage or waters that have otherwise been contaminated; and
 - (viii) Expend funds to remediate or mitigate the detrimental effects of contaminated land or other sources of stormwater contamination, whether public or private.
- (d) Eliminate any non-allowable discharges to the MS4 that adversely impact water quality;
- (e) Provide for the sound use and development of all flood-prone areas in such a manner as to maximize beneficial use without increasing flood hazard potential or diminishing the quality of the natural stormwater resources;
- (f) Provide for sound fiscal management of the city and maintain a stable tax base by providing appropriate fees and other dedicated funding sources for the administration of the watershed management program;
- (g) Increase the awareness of the public, property owners and potential homebuyers regarding stormwater impacts (i.e. flooding, erosion);
- (h) Minimize prolonged business interruptions;
- (i) Minimize damage to public facilities and utilities such as water and gas mains; electric, telephone, storm and sanitary sewer lines; and streets and bridges;
- (j) Promote a functional public and private stormwater management system that will not result in excessive maintenance costs;
- (k) Encourage the use of natural and aesthetically pleasing design that maximizes preservation of natural areas;
- (l) Promote the use of comprehensive watershed management plans;

(m) Encourage preservation of floodplains, floodways and open spaces; and

(n) Encourage community stewardship of the city's water resources.

(2) Administering entity. The city's director of engineering and utilities (referred herein as the director) and, in the event of the director's absence or a vacancy in the office of director, the deputy director shall administer the provisions of this chapter.

(3) Stormwater ordinance. The intended purpose of the ordinance comprising this chapter is to safeguard property and public welfare by regulating stormwater drainage and requiring temporary and permanent provisions for its control. If any requirement specified herein conflicts with requirements in other city ordinances, regulations or policies, the more stringent requirements for the safeguard of human life, property or water quality shall apply. Design, planning and engineering companies should use this chapter to facilitate their designs for control of stormwater in new and re-development. (Ord. #04-14, Oct. 2004, as replaced by Ord. #12-13, Nov. 2012)

14-202. Jurisdiction. The provisions of this chapter apply to the area within the jurisdictional boundaries of the City of Bartlett. (Ord. #04-14, Oct. 2004, as replaced by Ord. #12-13, Nov. 2012)

14-203. Definitions. For the purpose of this chapter, unless specifically defined below, words or phrases shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most effective application. Words in the singular shall include the plural, and words in the plural shall include the singular. Words used in the present tense shall include the future tense. The word "shall" connotes mandatory and not discretionary; the word "may" is permissive.

(1) "Accidental discharges" means a discharge prohibited by this chapter into the MS4 and that occurs by chance and without planning or consideration prior to occurrence.

(2) "As-built plans" means drawings depicting conditions as they were actually constructed.

(3) "Best Management Practices (BMPs)" means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants to waters of the state. BMPs also include treatment requirements, operating procedures, and practices to control runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

(4) "Brownfield" means real property, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant or contaminant.

(5) "Buffer zone, water quality buffer or waterway buffer" means a setback from the top of the water body's bank of undisturbed vegetation, including trees, shrubs, herbaceous vegetation, enhanced or restored vegetation, or the re-establishment of native vegetation bordering streams, ponds, wetlands, springs, reservoirs or lakes from buildings and/or structures and other land uses that alter habitat, geomorphology, water quality, and hydrology. Waterway buffers may also act as floodplain storage and a passage drainage way.

(6) "Channel" means a natural or artificial watercourse with a definite bed and banks that conducts flowing water continuously or periodically.

(7) "Clean Water Act (CWA)" or "the Act" means the Clean Water Act of 1977 or the Federal Water Pollution Control Act.

(8) "Chronic violator" means a violator that commits two (2) or more of any violation within a six (6) month period.

(9) "Commercial" means property devoted in whole or part to commerce, that is, the exchange and buying and selling of commodities or services. The term shall include, by way of example, but not be limited to the following businesses: amusement establishments, animal clinics or hospitals, automobile service stations, automobile dealerships for new or used vehicles, automobile car washes, automobile and vehicular repair shops, banking establishments, beauty and barber shops, bowling alleys, bus terminals, and repair shops, camera shops, dental offices or clinics, day care centers, department stores, drug stores, funeral homes, furniture stores, gift shops, grocery stores, hardware stores, hotels, jewelry stores, laboratories, laundries, and dry cleaning establishments, liquor stores, medical offices and clinics, motels, movie theaters, office buildings, paint stores or shops, parking lots, produce markets, professional offices, radio stations, repair establishments, retail stores, television stations and production facilities, theaters, truck or construction equipment service stations, truck or construction equipment dealerships for new or used vehicles, truck or construction equipment washing facilities and truck or construction equipment repair shops.

(10) "Common plan of development or sale" broadly means any announcement or documentation (including a sign, public notice or hearing, sales pitch, advertisement, drawing, permit application, zoning request, computer design, etc.) or physical demarcation (including boundary signs, lot stakes, surveyor markings, etc.) indicating construction activities may occur on a specific plot. A common plan of development or sale identifies a situation in which multiple areas of disturbance are occurring on contiguous areas. This applies because activities may take place at different times, on different schedules, by different operators.

(11) "Compliance inspection" means an inspection of a construction activity for the purpose of determining the adherence to and effectiveness of approved BMPs.

(12) "Construction activity" means any clearing, grading, filling and excavating, or other similar construction activities that result in the disturbance

of one (1) acre or more of total land area or less than one (1) acre of land disturbance at a site that is part of a larger common plan of development or sale that comprise at least one (1) acre of land disturbance. The term shall not include:

(a) Such minor construction activities as home gardens and individual home landscaping, home repairs, home maintenance work and other related activities that result in minor soil erosion;

(b) Individual service and sewer connections for single or two (2) family residences;

(c) Agricultural practices involving the establishment, cultivation or harvesting of products of the field or orchard, preparing and planting pasture land, forestry land management practices including harvesting, farm ponds, dairy operations and livestock and poultry management practices and construction of farm buildings;

(d) Any project carried out under the technical supervision of the Natural Resources Conservation Service of the United States Department of Agriculture; and

(e) Installation, maintenance, and repair of any underground public utility lines when such activity occurs in an existing hard surface road, street or sidewalk, provided the activity is confined to the area of the road, street or sidewalk which is hard surfaced and a street, curb, gutter or sidewalk permit has been obtained, and if such area is less than one (1) acre of disturbance.

These excluded activities may be undertaken without formal notice to the manager; however, the persons conducting these activities shall remain responsible for otherwise conducting those activities in accordance with the provisions of this chapter and other applicable law including responsibility for erosion prevention and controlling sedimentation and runoff.

(13) "Design storm event" means a hypothetical storm event of a given frequency interval and duration, used in the analysis and design of a stormwater facility.

(14) "Development" means any activity subject to the State of Tennessee General NPDES Permit for Discharge of Stormwater Associated with Construction Activities (TNCGP).

(15) "Director" means the City of Bartlett Director of Engineering and Utilities and, in the event of the director's absence or a vacancy in the office of director, the deputy director.

(16) "Discharge of a pollutant, discharge of pollutants and discharge," when used without qualification, each refer to the addition of pollutants to waters from a source. This definition includes additions of pollutants into waters of the state from: surface runoff which is collected or channeled by man; discharges through pipes, sewers, or other conveyances owned by a state, municipality, or other person which do not lead to a treatment works; and

discharges through pipes, sewers, or other conveyances, leading into privately owned treatment works (40 CFR § 122.2).

(17) "Easement" means an acquired privilege or right of use or enjoyment that a person, party, firm, corporation, municipality or other legal entity has in the land of another.

(18) "Erosion" means the removal of soil particles by the action of water, wind, ice or other geological agents, whether naturally occurring or acting in conjunction with or promoted by human activities or effects.

(19) "Erosion prevention and sediment control plan" means a written plan, including drawings and other graphic representations, to minimize soil erosion and sedimentation resulting from a construction activity.

(20) "Illicit connection" means illegal and/or unauthorized connections to the MS4 whether or not such connections result in discharges into the system.

(21) "Illicit discharge" means any discharge to the MS4 that is not entirely composed of stormwater, except discharges authorized under a NPDES permit (other than the NPDES permit for discharges from the MS4), discharges resulting from fire fighting activities (40 CFR § 122.26(b)(2)) and allowable discharges listed in § 14-205.

(22) "Industrial facility" means a business engaged in industrial production or service, that is, a business characterized by manufacturing or productive enterprise or a related service business. This term shall include by way of example but not be limited to the following: apparel and fabric finishers, automobile salvage and junk yards, blast furnace, blueprint and related shops, boiler works, cold storage plants, contractor's plants and storage facilities, foundries, furniture and household goods manufacturing, forge plants, greenhouses, manufacturing plants, metal fabrication shops, ore reduction facilities, planning mills, rock crushers, rolling mills, saw mills, smelting operations, stockyards, stone mills or quarries, textile production, utility transmission or storage facilities, truck or construction equipment salvage or junkyards, warehousing, and wholesaling facilities.

(23) "Land disturbing activity" means any activity on property that result in a change in the existing soil cover (both vegetative and non-vegetative) and/or the existing soil topography. Land disturbing activities include, by way of example and are not limited to, development, re-development, demolition, construction, reconstruction, clearing, grading, filling, and excavation.

(24) "Maintenance" means any activity that is necessary, including but not limited to reconstruction and property maintenance, to keep a stormwater facility in good working order so as to function as designed.

(25) "Maintenance agreement" means a document recorded in the Shelby County Register's office that acts as a property deed restriction, and which provides for long-term maintenance of stormwater management facilities.

(26) "Manager" means the City of Bartlett Director of Engineering and Utilities or the director's duly authorized representative and, in the event of the director's absence or a vacancy in the office of director, the deputy director.

(27) "Municipal inspector" means an employee of the city that has successfully completed the Tennessee Erosion Prevention and Sediment Control Level 1 course or decertification course and whose duties include the inspection of construction activities.

(28) "Municipal Separate Storm Sewer System (MS4)" means a conveyance or system of conveyances (including roads and streets with their drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains):

(a) Owned and operated by the city;

(b) Designed or used for collecting or conveying stormwater;

(c) Which is not a combined sewer; and

(d) Which is not part of a publicly owned treatment works as defined at 40 CFR § 122.2 (40 CFR § 122.26(b)(8)).

(29) "National Pollutant Discharge Elimination System (NPDES) permit" means a permit issued pursuant to 33 U.S.C. chapter 26 Water Pollution Prevention and Control, subchapter IV Permits and Licenses, § 1342.

(30) "Notice of Coverage (NOC)" means a written approval from TDEC authorizing site operators to discharge stormwater associated with construction activities in accordance with the effective TNCGP.

(31) "Notice of Intent (NOI)" means a written request to TDEC by site operators for authorization to discharge stormwater associated with construction activities in accordance with the effective TNCGP.

(32) "Off-site stormwater facility" means a structural BMP located outside the subject property boundary described in the permit application for land development activity.

(33) "On-site stormwater facility" means a structural BMP located within the subject property boundary described in the permit application for land development.

(34) "Peak flow" means the maximum instantaneous rate of flow of water at a particular point resulting from a storm event.

(35) "Person" means any individual, partnership, co-partnership, firm, company, trust estate, governmental entity or any other legal entity, or their legal representatives, agents, or assigns. The masculine gender shall include the feminine, the singular shall include the plural where indicated by context.

(36) "Pollution" means any human-made or human-induced change in the chemical, physical or biological and radiological integrity of water.

(37) "Redevelopment" means a construction activity that alters developed land and increases the site or building impervious footprint, or offers a new opportunity for stormwater controls. The term is not intended to include such activities as exterior remodeling, which would not be expected to cause adverse stormwater impacts.

(38) "Regional facility" means a stormwater management facility designed to serve more than two (2) properties and one hundred (100) or more acres of drainage area. A regional facility typically includes a stormwater pond.

(39) "Routine inspection" means the normal visits of municipal inspectors to construction activities for the purpose of monitoring the construction process.

(40) "Runoff" means that portion of the precipitation on a drainage area that is discharged from the area into the MS4.

(41) "Sediment" means solid material, both inorganic and organic, that is in suspension, is being transported, or has been moved from its site of origin by air, water, gravity, or ice and has come to rest on the earth's surface either above or below sea level.

(42) "Sedimentation" means soil particles suspended in stormwater that can settle in stream beds.

(43) "Significant spills" means releases of oil or hazardous substances in excess of the reportable quantities under section 311 of the CWA (40 CFR 110.10 and CFR 117.21) or section 102 of the Comprehensive Environmental Response Compensation and Liability Act (CERCLA), (CFR 302.4).

(44) "Stabilization" means providing adequate measures, vegetative and/or structural, that will prevent erosion from occurring.

(45) "Stormwater" means water induced or created from precipitation whether rain, snow or ice and is either stored, collected, detained, absorbed or discharged.

(46) "Stormwater management facility" means a stormwater management control device, structure, or system of such physical components designed to treat, detain, store, convey, absorb, conserve, protect, or otherwise control stormwater.

(47) "Stormwater management" means the collection, conveyance, storage, treatment and disposal of stormwater in a manner to meet the objectives of this chapter and its terms, including, but not limited to, measures that control the increase volume and rate of stormwater runoff and water quality impacts caused or induced by man made changes in the land.

(48) "Stormwater Management Plan (SWMP)" means the set of drawings or other documents that comprise all of the information and specifications for the programs, drainage systems, structures, BMPs, concepts, and techniques intended to maintain or restore quality and quantity of stormwater runoff to pre-development levels.

(49) "Stormwater Pollution Prevention Plan (SWPPP)" means a written site specific plan to eliminate or reduce and control the pollution of stormwater through designed facilities, natural or constructed, and BMPs.

(50) "Stormwater runoff" means stormwater flow on the surface of the ground.

(51) "Stormwater sewer system" means the network of conveyances and storage facilities that collect, detain, absorb, treat, channel, discharge or otherwise control the quantity and/or quality of stormwater.

(52) "Stream" means any river, creel, slough or natural water course in which water usually flows in a defined bed or channel. It is not essential that

the flowing be uniform or uninterrupted. The fact that some parts of the bed have been dredged or improved does not prevent the water course from being a stream. For the purposes of this chapter, a stream is not a wet weather conveyance as also defined herein. Typically, as a guideline, perennial streams are identified on USGS maps by solid blue lines and intermittent streams are depicted by dashed blue lines or as determined by TDEC.

(53) "Structural BMPs" means facilities that are constructed to provide control of stormwater runoff.

(54) "Surface water" means waters on the surface of the earth in bounds created naturally or artificially including, by way of example and not limited to, streams, other water courses, lakes and reservoirs.

(55) "Transit-oriented development" means a mixed-use residential and commercial area designed to maximize access to public transport, and often incorporates features to encourage transit ridership.

(56) "Water quality buffer." See "buffer zone."

(57) "Watercourse" means a permanent or intermittent stream or other body of water, either natural or man-made, which gathers or carries surface water.

(58) "Water quality" means characteristics that are related to the physical, chemical, biological, and/or radiological integrity of stormwater.

(59) "Waters" or waters of the state" means any and all water, public or private, on or beneath the surface of the ground, which are contained within, flow through, or border upon Tennessee or any portion thereof except those bodies of water confined to and retained within the limits of private property in a single ownership which does not combine or effect a junction with natural surface or underground waters.

(60) "Watershed" means all the land area that contributes runoff to a particular point along a waterway.

(61) "Watershed management program" means a balanced program and plan controlling the peak discharge and quality of water resources through comprehensive land and water resource management. Such management includes but is not limited to pollution control, land development controls, best management practices both structural and non-structural, preservation, habitat protection, and well head protection. This program incorporates the state's NPDES stormwater quality permit program.

(62) "Watershed master plan" means the guidance vehicle for implementing the watershed management program.

(63) "Waterway buffer." See "buffer zone."

(64) "Wet weather conveyance" means man-made or natural water courses, including natural water courses that have been modified by channelization, that flow only in direct response to precipitation runoff in their immediate locality and whose channels are above the groundwater table and are not suitable for drinking water supplies and in which hydrological and biological analyses indicate that, under normal weather conditions, due to naturally

occurring ephemeral or low flow, there is not sufficient water to support fish or multiple populations of obligate lotic aquatic organisms whose life cycle includes an aquatic phase of at least two (2) months. (Rules and Regulations of the State of Tennessee, chapter 1200-4-3-.04(3)) Rule 1200-4-8-.02(7) requires that waters designated as wet weather conveyances shall be protective of wildlife and humans that may come in contact with them and maintain standards applicable to all downstream waters. No other use classification or water quality criteria apply to these waters. (Ord. #04-14, Oct. 2004, as replaced by Ord. #12-13, Nov. 2012)

- 14-204. Abbreviations.** (1) BMP -- Best Management Practice;
- (2) ARAP -- Aquatic Resource Alteration Permit;
- (3) CERCLA -- Comprehensive Environmental Response Compensation and Liability Act in its original form or as amended;
- (4) CFR -- Code of Federal Regulations;
- (5) CWA -- Clean Water Act;
- (6) FEMA -- Federal Emergency Management Agency;
- (7) MS4 -- Municipal Separate Storm Sewer System;
- (8) NOC -- Notice of Coverage;
- (9) NOI -- Notice of Intent;
- (10) NPDES -- National Pollution Discharge Elimination System;
- (11) SWMP -- Stormwater Management Plan;
- (12) SWPPP -- Stormwater Pollution Prevention Plan;
- (13) TCA -- Tennessee Code Annotated (latest version);
- (14) TDEC -- Tennessee Department of Environment and Conservation;
- (15) TNCGP -- Tennessee Construction General Permit (latest version), which is incorporated by reference in this chapter as if fully set herein.
- (16) TMSP -- Tennessee Multi-Sector Permit for stormwater discharges associated with industrial activity (see § 14-210), which is incorporated by reference in this chapter as if fully set herein;
- (17) USACOE -- United States Army Corp of Engineers;
- (18) U.S.C. -- United States Code.

(Ord. #04-14, Oct. 2004, as replaced by Ord. #12-13, Nov. 2012)

14-205. Illicit discharges. (1) Scope. This section shall apply to all water generated on developed or undeveloped land entering the MS4.

(2) Prohibition of illicit discharges. No person shall introduce or cause to be introduced into the MS4 any discharge that is not composed entirely of stormwater. The commencement, conduct or continuance of any non-stormwater discharge to the MS4 is prohibited. Discharge of stormwater in any manner in violation of this chapter; or any violation of any condition of a permit issued pursuant to this chapter; or any violation of any condition of a stormwater discharge permit issued by TDEC is hereby declared a public nuisance and shall be corrected or abated.

(a) It shall be unlawful for any person to improperly dispose any contaminant into the MS4. Penalties for minor discharges that have no significant adverse impact on safety, health, the welfare of the environment, or the functionality of the MS4 may be waived at the discretion of the manager. Contaminants include, by way of example but are not limited to, the following:

- (i) Trash or debris;
- (ii) Construction material;
- (iii) Petroleum products including but not limited to oil, gasoline, grease, fuel oil, or hydraulic fluids;
- (iv) Antifreeze and other automotive products;
- (v) Metals in either particulate or dissolved form;
- (vi) Flammable or explosive materials;
- (vii) Radioactive materials;
- (viii) Batteries including but not limited to, lead acid automobile batteries, alkaline batteries, lithium batteries, or mercury batteries;
- (ix) Acids, alkalis, or bases;
- (x) Paints, stains, resins, lacquers, or varnishes;
- (xi) Degreasers and/or solvents;
- (xii) Drain cleaners;
- (xiii) Pesticides, herbicides, or fertilizers;
- (xiv) Steam cleaning wastes;
- (xv) Soaps, detergents, or ammonia;
- (xvi) Swimming pool backwash including chlorinated swimming pool discharge;
- (xvii) Chlorine, bromine, and other disinfectants;
- (xviii) Heated water;
- (xix) Animal waste from commercial animal or feeder lot operations;
- (xx) Any industrial and sanitary wastewater, including leaking sewers or connections;
- (xxi) Recreational vehicle waste including grey water;
- (xxii) Animal carcasses;
- (xxiii) Food wastes;
- (xxiv) Medical wastes;
- (xxv) Collected lawn clippings, leaves, branches, bark, and other fibrous materials;
- (xxvi) Collected silt, sediment, or gravel;
- (xxvii) Dyes, except as stated in § 14-205(2)(b);
- (xxviii) Chemicals not normally found in uncontaminated water;
- (xxix) Any hazardous material or waste, not listed above;

(xxx) Washing of fresh concrete for cleaning and/or finishing purposes or to expose aggregates;

(xxxi) Junk motor vehicles as defined in § 14-205(2)(c);

(xxxii) Liquid from solid waste disposal containers;

(xxxiii) Domestic animal waste.

(b) Dye testing is permitted but requires verbal notification to the manager a minimum of twenty-four (24) hours prior to the date of the test. The City of Memphis, Shelby County and City of Bartlett governmental agencies are exempt from this requirement.

(c) Junk motor vehicle means any vehicle which shall include by way of example but not be limited to the following vehicle types: automobiles, construction equipment, motorcycles, and trucks, which meet all of the following requirements:

(i) Is three (3) years old or older;

(ii) Is extensively damaged, such damage including but not limited to any of the following: A broken window or windshield or missing wheels, engine or transmission;

(iii) Is apparently inoperable;

(iv) Is without a valid current registration;

(v) Has a fair market value equivalent only to the value of the scrap in it.

(3) Allowable discharges. The following types of uncontaminated discharges shall not be considered prohibited discharges for the purpose of this chapter unless the manager determined that the type or quantity of discharge, whether singly or in combination with others, is causing significant contamination of the MS4.

(a) Potable water and potable water line flushing;

(b) Air conditioning condensation;

(c) Water from crawl space pumps or footing drains;

(d) Landscape irrigation or lawn watering;

(e) Non-commercial car and boat washing;

(f) De-chlorinated swimming pool water;

(g) Materials placed as part of an approved habitat restoration or bank stabilization project;

(h) Rising ground waters, ground water infiltration, pumped ground water, springs, diverted stream flows, and flows from riparian habitats and wetlands;

(i) Discharges within the constraints of the TNGCP or any other permit issued by TDEC;

(j) Discharges from emergency fire fighting activities and exercises (a stormwater pollution prevention plan should be prepared to address discharges or flows from fire fighting only where such discharges are identified as significant sources of pollutants to waters of the United States);

(k) Common practices for water well disinfections;

(l) Unless otherwise prohibited by this chapter, any discharge that could be made directly to waters of the state without a federal or state permit being required; and

(m) Other types of discharges as determined by the manager.

(4) Prohibition of illicit connections. Any connection, existing or future, identified by the manager as that which could convey anything not composed entirely of stormwater, with the exception of connections of allowable discharges in § 14-205(3) and connections conveying discharges pursuant to NPDES permit (other than an NPDES stormwater permit), directly to the MS4 is considered an illicit connection of which the construction, use, maintenance or continued existence is prohibited. Existing illicit connections shall be stopped at the owner's expense.

(5) Reduction of stormwater pollutants by use of BMPs. Any person responsible for a property or premises which is or may be the source of an illicit discharge may be required to implement, at that person's expense, the BMPs necessary to prevent further discharge of pollutants to the MS4. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of stormwater from an industrial activity, to the extent practicable, shall be deemed in compliance with the provisions of this section.

(6) Notification of spills. Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation, has information of any known or suspected release of materials which are resulting in, or may result in, illicit discharges or pollutants discharging into the MS4, the person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials the person shall immediately notify emergency response agencies of the occurrence via 911. In the event of a release of non-hazardous materials, the person shall notify the manager in person or by telephone, fax, or e-mail, no later than the next business day. Notifications in person or by telephone shall be confirmed by written notice addressed and mailed to the manager within three (3) business days of the telephone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three (3) years.

(7) Illegal dumping. No person shall dump or otherwise deposit outside an authorized landfill, convenience center or other authorized garbage or trash collection point, any trash or garbage of any kind or description on any private or public property, occupied or unoccupied, inside the city. (Ord. #04-14, Oct. 2004, as replaced by Ord. #12-13, Nov. 2012)

14-206. Construction and permanent stormwater management design and construction. (1) MS4 stormwater design and BMP manuals. The city adopts as its MS4 design and BMP manuals for construction and permanent stormwater management the following publications, which are incorporated by reference in this chapter as if fully set herein. The manuals include a list of acceptable BMPs including specific design performance criteria and operation and maintenance requirements for each stormwater practice and may be updated and expanded from time to time at the discretion of the manager. Designers and engineers are encouraged to use new and innovative techniques that perform to at least the minimum standards contained in the manuals. The specific application of BMP practices is subject to approval of the manager.

(a) TDEC Erosion Prevention and Sediment Control Handbook (most current edition is available on the internet).

(b) Shelby County Watershed Management Practices Manual.

(c) City of Memphis/Shelby County Stormwater Management Manual (available on the internet).

(d) City of Bartlett Watershed Management Practices Manual (when developed).

(e) City of Bartlett Standard Specifications and Drawings.

(2) Land development. All land development in the city including, by example but not limited to, site plan applications, subdivision applications, land disturbance applications and grading applications for new development or redevelopment construction activities shall be subject to the provisions of this chapter, the city's floodplain portion of the zoning ordinance, and the subdivision ordinance. Other projects may be required to obtain authorization under this chapter if:

(a) The manager has determined that stormwater discharge from a site is causing, contributing to, or is likely to contribute to a violation of state water quality standards;

(b) The manager has determined that the stormwater discharge is, or is likely to be, a significant contributor of pollutants to waters of the state; or

(c) Changes in state or federal rules require sites of less than one (1) acre that are not part of a larger common plan of development or sale to obtain a stormwater permit.

(3) NOI. The operators of non-exempt construction activities shall apply to TDEC for coverage under the TNCGP as part of the city's plan review and approval process. Application procedures and required information for submittal of the NOI is contained in the TNCGP. An individual permit may be required as specified in section 7 of the TNCGP as well as an Aquatic Resource Alteration Permit (ARAP) as specified in section 10 of the TNCGP.

(4) SWPPP. The operators of non-exempt construction activities shall provide a copy of the construction activity SWPPP for review as part of the city's plan review and approval process. The TNCGP specifies what information is

required to be included in the SWPPP. Changes to the SWPPP after plan review and approval shall be submitted to the director for approval. Operators of non-exempt construction activities involving the building of family residential units shall submit a copy of the SWPPP to the city's director of code enforcement.

(5) Erosion control phasing plan. An erosion control phasing plan describing the vegetative stabilization and management techniques to be used at a site during and after construction is completed shall be submitted with the final design as part of the city's plan review and approval process. This plan shall explain not only how the site will be stabilized after construction, but who will be responsible for the maintenance of vegetation at the site and what practices will be employed to ensure that adequate vegetative cover is preserved. Changes to the erosion control phasing plan after plan review and approval shall be submitted to the director for approval. See § 14-207 for erosion control phasing plan and stabilization requirements.

(6) General design performance criteria for permanent stormwater management. The stormwater discharges from new development and redevelopment sites are to be managed such that post-development peak discharge does not exceed the pre-development peak discharge at the site unless approved by the director.

(a) All new development is required to discharge post development flows at the 2, 5, 10, 25, 50 and 100 year storm events at a peak level of pre-existing conditions. The director may require post development flows at other intervals. Discharge for water quality is encouraged to be designed into the project to include green infrastructure or other flow inhibiting designs.

(b) Appendix B¹ contains data for pipe sizing.

(7) Detention requirements. All developments will be designed to incorporate detention with a storage volume sized for the 25-year storm and over-topping of a 100-year storm as outlined in § 14-206(6).

(8) Permanent Stormwater Management Plan (SWMP) requirements. The operators of non-exempt construction activities shall submit a SWMP for post construction permanent BMPs as part of the city's plan review and approval process. The SWMP shall include sufficient information to allow the director to evaluate the environmental characteristics of the project site, the potential impacts of all proposed development on the site (both present and future) on the water resources, and the effectiveness and acceptability of the measures proposed for managing stormwater generated at the project site. The operator may use the SWPPP as the SWMP provided the following information is included:

(a) A topographical base map of the site which extends a minimum of one hundred feet (100') beyond the limits of the proposed development and indicates:

¹Appendix B is of record and available for review in the city clerk's office.

- (i) Existing surface water drainage including streams, ponds, culverts, ditches, sink holes, wet lands and the type, size elevation etc., of the nearest upstream and downstream drainage structures and/or stormwater management facilities;
 - (ii) Current land use including all existing structures, locations of utilities, roads and easements;
 - (iii) All other existing significant natural and artificial features;
 - (iv) Proposed land use with tabulation of the percentage of surface area to be adapted to various uses; drainage patterns; locations of utilities, roads and easements; and the limits of clearing and grading.
- (b) Proposed structural and non-structural BMPs;
- (c) A written description of the site plan and justification of proposed changes in natural conditions may also be required;
- (d) Hydrologic and hydraulic calculations for the pre-development and post-development conditions for a 2, 5, 10, 25, 50 and 100 year design storm. These calculations must show that the proposed stormwater management measures are capable of controlling runoff from the site in compliance with this chapter. Such calculations shall include:
- (i) A description of the design storm frequency, duration, and intensity where applicable;
 - (ii) Time of concentration;
 - (iii) Soil curve numbers or runoff coefficients including assumed soil moisture conditions;
 - (iv) Peak runoff rates and total runoff volumes for each watershed area;
 - (v) Infiltration rates, where applicable;
 - (vi) Culvert, stormwater sewer, ditch and/or other stormwater conveyance capacities;
 - (vii) Flow velocities;
 - (viii) Data on the increase in rate and volume of runoff for a design storm; and
 - (ix) Documentation of sources for all computations methods and field test results.
- (e) A soils report if a stormwater management control measure depends on the hydrologic properties of soils (e.g. infiltration basins). The soils report shall be based on on-site boring logs or soil pit profiles and soil survey reports. The number and location of required soil borings or soil pits shall be determined based on what is needed to determine the suitability and distribution of soil types present at the location of the control measure.
- (f) Detailed maintenance and repair procedures for permanent stormwater management facilities (see § 14-206(9)).

Changes to post-construction permanent BMPs after plan review and approval shall be submitted to the director for approval.

(9) Maintenance and repair plan. The design and planning of all permanent stormwater management facilities shall include detailed maintenance and repair procedures to ensure their continued performance. These plans shall identify the parts or components of a stormwater management facility that need to be maintained and the equipment and skills or training necessary. Provisions for the periodic review and evaluation of the effectiveness of the maintenance program and the need for revisions or additional maintenance procedures shall be included in the plan. Approved maintenance and repair plans shall be recorded in the Shelby County Register's office and shall act as a property deed restriction to ensure maintenance and repair responsibilities are carried out in perpetuity.

(10) Construction plans. Proposed plans for construction shall be stamped by a professional engineer licensed in the State of Tennessee and submitted as part of the city's plan review and approval process. The plans shall include all proposed improvements or modifications to the existing or new stormwater infrastructure, erosion prevention and sediment control practices and other related improvements or modifications.

(a) The city encourages regional watershed management practices and facilities. These practices will be encouraged in order to replace or reduce the implementation of on-site stormwater management facilities.

(b) Each individual project shall be evaluated for consistency with the adopted watershed master plan, when available, for the major watershed or watersheds within which the project site is located. The individual project evaluation will determine if proposed stormwater management practices can adequately serve the property and limit impacts to downstream public and private properties. The presence of a regional facility(s) will be considered in determining the extent to which peak discharge and/or quality controls will be necessary.

(c) In the absence of such a stormwater master plan, a system of uniform requirements shall be applied to each individual project site. In general, these uniform requirements may be based on the criteria that stormwater discharges from new development and redevelopment sites are to be managed such that post-development peak discharge does not exceed the pre-development peak discharge at the site (see § 14-206(6) and (7)).

(d) Minimum development may be permitted in the floodplain; however, the developer may be required by the director to demonstrate "no adverse impact" on upstream or downstream facilities, uses, residences, or related structures. All fill volume permitted in the floodplain shall be offset by an equal volume excavated from the floodplain resulting in a balanced displacement of flood water storage. If

substantial fill alteration is required, the director may require a "no rise" certification.

(e) Under no circumstances shall a site be graded or drained in such a way as to increase surface runoff to sinkholes, dry wells, or drainage wells.

(f) Development of properties containing existing on-site stormwater management facilities may be permitted, at the discretion of the director, provided the property and downstream public and private properties, infrastructure or waters of the state are adequately protected from adverse stormwater impacts.

(g) Soil bioengineering, green and other soft slope and stream bank stabilization methods are encouraged. The use of green way right-of-way for appropriate properties is encouraged along all waters of the state.

(h) The city shall require the set aside of land along all waters of the state (greenbelt) as land development occurs. A permanent waterway buffer shall be applied as specified in Appendix A¹.

(11) Construction activities. It shall be unlawful for any person to permit any discharge of stormwater from a construction activity as defined in § 14-203 without a TNCGP or an individual NPDES permit. Erosion or sedimentation, or transport of other pollutants or forms of pollution, due to various land development activities must be controlled. All construction activities shall be in compliance with applicable permit requirements, federal, state and/or local, and all applicable requirements under this chapter. Additionally:

(a) No earth disturbing activities shall be performed at a construction activity until:

(i) A NOC has been received from TDEC. A copy of the NOC shall be provided to the manager;

(ii) All appropriate permits have been obtained;

(iii) Construction plans have been approved by the director. Building plans will require approval by the director of code enforcement;

(iv) Appropriate erosion prevention and sediment control BMPs, consistent with those described in the BMP manuals referenced in § 14-206(1) and identified in the site's approved SWPPP, are in place; and

(v) A pre-construction meeting has been conducted.

(b) Operators shall control wastes such as but not limited to discarded building materials, concrete truck washout, chemicals, litter, and sanitary waste at the construction site to avoid adverse impacts on water quality;

¹Appendix A is of record and available for review in the city clerk's office.

(c) The manager may stop or cause to have stopped construction or administer other enforcement actions as defined in this chapter on properties that do not have adequate erosion prevention and sedimentation control measures in place or properly maintained.

(d) In activities that have been released from the development phase to the building phase, any changes in the development phase grading of more than two feet (2') (cut or fill) shall require a lot specific grading and drainage plan to show how the owner plans to accommodate drainage to or from adjacent lots. The manager is empowered to stop or cause to be stopped any work on the lot until such time as a grading and drainage plan is submitted and approved by the director.

(e) After construction activities are complete, operators obtaining coverage under the TNCGP or an individual NPDES permit shall submit a Notice of Termination (NOT) to TDEC as specified in section 8 of the TNCGP. The director is hereby empowered to retain or cause to be retained bonds, letters or credits, withholding of use and occupancy permits or other sureties as the director deems appropriate until NOT acceptance by TDEC. Operators shall provide a copy of the approved NOT to the manager. (Ord. #04-14, Oct. 2004, as replaced by Ord. #12-13, Nov. 2012)

14-207. Operation, maintenance and inspection of permanent stormwater management facilities. (1) As-built plans. All operators shall submit as-built plans for all permanent stormwater management structures after final construction is completed to the city's department of engineering and utilities. The plans must show the final flow line elevations, slopes, locations and/or design specifications for all stormwater management facilities, as applicable for the facility, and must bear the seal of a registered professional engineer licensed to practice in the State of Tennessee. The registered professional shall certify that the facilities have been constructed in substantial and essential conformance to the design plan. The director is hereby empowered to retain or cause to be retained bonds, letters of credits, withholding of use and occupancy permits or other sureties as the director deems appropriate until proper as-built plans have been delivered.

(2) Erosion control phasing plan and stabilization requirements. Any area of land from which the natural vegetative cover has been either partially or wholly cleared by a construction activity shall be stabilized. Stabilization measures shall be initiated as soon as possible in portion of the site where construction activities have temporarily or permanently ceased.

(a) Temporary or permanent soil stabilization at the construction site (or a phase of the project) must be completed not later than fifteen (15) days after the construction activity in that portion of the site has temporarily or permanently ceased. Natural or created slopes three to one (3 to 1) or steeper shall be temporarily stabilized not later

than seven (7) days after construction activity on the slope has temporarily or permanently ceased. In the following situations, temporary stabilization measures are not required:

(i) Where the initiation of stabilization measures is precluded by snow cover or frozen ground conditions or adverse soggy ground conditions, stabilization measures shall be initiated as soon as practicable; or

(ii) Where construction activity on a portion of the site is temporarily ceased, and earth disturbing activities will be resumed within fifteen (15) days or seven (7) days for slopes three to one (3 to 1) or steeper.

(b) Permanent stabilization with perennial vegetation (using native herbaceous and woody plants where practicable) or other permanently stable, non-eroding surface shall replace any temporary measures as soon as practicable. The city's standard specifications contains grass seed mix and planting schedules. Unpacked gravel containing fines (silt and clay sized particles) or crusher runs will not be considered a non-eroding surface. Slopes three to one (3 to 1) or steeper shall be solid sodded.

(c) The following criteria shall apply to re-vegetation efforts:

(i) Reseeding must be done with an annual or perennial cover crop accompanied by placement of straw mulch or its equivalent of sufficient coverage to control erosion until such time as the cover crop is established over ninety percent (90%) of the seeded area.

(ii) Replanting with native woody and herbaceous vegetation must be accompanied by placement of straw mulch or its equivalent of sufficient coverage to control erosion until the plantings are established and are capable of controlling erosion.

(iii) Any area of re-vegetation must exhibit survival of a minimum of seventy-five percent (75%) of the cover crop throughout the year immediately following re-vegetation. Re-vegetation must be repeated in successive years until the minimum seventy-five percent (75%) survival for one (1) year is achieved.

(3) Right of access. The owner(s) shall maintain a perpetual right of access for inspection and emergency access by the city. The city has the right, but not the duty, to enter premises for inspection and emergency repairs.

(4) Inspection of stormwater management facilities. Periodic inspections of facilities shall be performed, documented, and reported in accordance with this chapter, as detailed in § 14-208.

(5) Records of installation and maintenance activities. Parties responsible for the operation and maintenance of a stormwater management facility shall make records of the installation of the stormwater facility, and of

all maintenance and repairs to the facility, and shall retain the records for at least three (3) years. These records shall be made available to the city during inspection of the facility and at other reasonable times upon request.

(6) Infrastructure maintenance. It shall be the responsibility of the property owner of record for the maintenance of stormwater infrastructure. Maintenance of stormwater infrastructure consists of a minimum but is not limited to the following items as they apply to the specific stormwater facility: outlet cleaning, mowing, herbicide spraying, litter control, removal of sediment from basin and outlet structures, repair of drainage structures, and other items that may be included in the facilities maintenance and repair plan. All such activities will be conducted in an environmentally sound manner and consistent with applicable codes, rules, and/or standards. No modifications shall be made to open ditches or other wet weather conveyances without coordination with the director. All stormwater management control facilities proposed by the owners and approved by the director for dedication as a public facility shall be maintained by the owner until such time as the director accepts the facilities. Upon acceptance, the facilities shall be publicly owned and/or maintained.

(7) Maintenance documents. Maintenance requirements for new privately owned permanent stormwater management facilities may also be prescribed by a site-specific document between the owner or operator and the city. This document shall be based on an approved site design, a SWPPP, an inspection program (see § 14-208), a long-term maintenance plan to include the requirements listed in § 14-207(6), an emergency repair plan, easements, and proof or surety of financial responsibility. Approved maintenance documents shall be recorded in the Shelby County Register's Office and shall act as a property deed restriction to ensure maintenance and repair responsibilities are carried out in perpetuity.

(8) Failure to meet or maintain design or maintenance standards. If a responsible party fails or refuses to meet the design or maintenance standards required for stormwater facilities under this chapter, the city, after reasonable notice, may correct a violation of the design standards or maintenance needs by performing all necessary work to place the facility in proper working condition. In the event that the stormwater management facility becomes a danger to public safety or public health, the city shall notify in writing the party responsible for maintenance of the stormwater management facility. Upon receipt of that notice, the responsible person shall have thirty (30) days to effect maintenance and repair of the facility in an approved manner. In the event that corrective action is not undertaken within that time, the city may take necessary corrective action. The cost of any action by the city under this section shall be charged to the responsible party. Additionally, the director may assess penalties as detailed in § 14-211. Such an assessment will be used for cost recovery, to abate damages, and to restore impacted areas. (Ord. #04-14, Oct. 2004, as replaced by Ord. #12-13, Nov. 2012)

14-208. Inspection of stormwater management facilities.**(1) On-site stormwater management facilities maintenance document.**

For new construction where the stormwater facility is located on property that is subject to a development agreement, and the development agreement provides for a permanent stormwater maintenance document that runs with the land, the owners of property must execute a document that shall operate as a deed restriction binding on the current property owners and all subsequent property owners and their lessees and assigns, including but not limited to, homeowner associations or other groups or entities. The document shall:

(a) Assign responsibility for the maintenance and repair of the stormwater facility to the owners of the property upon which the facility is located and be recorded as such on the plat for the property by appropriate notation.

(b) Provide that the minimum maintenance and repair needs include, but are not limited to: the removal of silt, litter and other debris, the cutting of grass, cutting and vegetation removal, and the replacement of landscape vegetation, in detention and retention basins, and inlets and drainage pipes and any other stormwater facilities. It shall also provide that the property owners shall be responsible for additional maintenance and repair needs consistent with the needs and standards outlined in the MS4 BMP manuals listed in § 14-206 and the approved maintenance and repair plan as appropriate.

(c) Provide that maintenance needs must be addressed in a timely manner, on a schedule to be determined by the manager.

(d) Provide that if the property is not maintained or repaired within the prescribed schedule, the city shall perform the maintenance and repair at its expense and bill the same to the development owner. The maintenance document shall also provide that the city's cost of performing the maintenance shall be a lien against each lot in the development.

(2) Existing locations--no maintenance document. The city may, to the extent authorized by state and federal law, enter and inspect private property for the purpose of determining if there are illicit non-stormwater discharges, and to establish inspection programs to verify that all stormwater management facilities are functioning within design limits. The applicable portions of § 14-209 shall apply.

(a) Inspection programs may be established on any reasonable basis, including but not limited to: routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; inspection of drainage basins or areas identified as higher than typical sources of sediment or other contaminants or pollutants; inspections of businesses or industries of a type associated with higher than usual discharges of contaminants or pollutants or with discharges of a type which are more likely than the typical discharge to cause

violations of the city's NPDES stormwater permit; and joint inspections with other agencies inspecting under environmental or safety laws.

(b) Inspections may include, but are not limited to: reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in drainage control facilities; and evaluating the condition of drainage control facilities and other BMPs.

(c) The manager shall, in writing, notify the owners of existing locations and developments of specific drainage, erosion or sediment problems affecting or caused by such locations and developments, and the specific actions required to correct those problems. The notice shall also specify a reasonable time for compliance. Discharges from existing BMPs that have not been maintained and/or inspected in accordance with this chapter shall be regarded as illicit.

(3) Requirements for all existing locations and ongoing developments.

The following requirements shall apply to all locations and development at which land disturbing activities have occurred previous to the enactment of this chapter:

(a) Denuded areas must be vegetated or covered under the standards and guidelines specified in § 14-207 and on a schedule acceptable to the manager.

(b) Cuts and slopes must be properly covered with appropriate vegetation and/or retaining walls constructed.

(c) Drainage ways shall be properly covered in vegetation or secured with rip-rap, channel lining, etc., to prevent erosion.

(d) Trash, junk, rubbish, etc. shall be cleared from drainage ways.

(e) Stormwater runoff shall be controlled to the maximum extent practicable to prevent its pollution. Such control measures may include, but are not limited to, the following:

(i) Ponds such as detention ponds, extended detention ponds, retention ponds and other alternate storage methods.

(ii) Constructed wetlands.

(iii) Infiltration systems such as infiltration/percolation trenches, infiltration basins, drainage (recharge) wells, and porous pavements.

(iv) Filtering systems such as catch basin inserts/media filters, sand filters, filter/absorption beds, and filter and buffer strips.

(v) Open channel such as swales and bio-swales.

(4) Corrections of problems subject to appeal. Corrective measures imposed by the manager under this section are subject to appeal under § 14-212 of this chapter. (Ord. #04-14, Oct. 2004, as replaced by Ord. #12-13, Nov. 2012)

14-209. Monitoring and inspection. (1) Monitoring. The manager shall periodically monitor compliance of the stormwater NPDES permit holder.

(2) Detection of illicit connections and improper disposal. The manager shall take appropriate steps to detect and eliminate illicit connections to the MS4, including the adoption of programs to identify illicit discharges and their source or sources and provide public education, public information and other appropriate activities to facilitate the proper management and disposal of used oil, toxic materials and household hazardous waste.

(3) Inspections. (a) The manager or a municipal inspector, bearing proper credentials and identification, may enter properties for inspections, investigations, monitoring, observation, measurement, enforcement, sampling and testing, to effectuate the provisions of this chapter and/or the NPDES stormwater permit. The manager or the municipal inspector shall duly notify the owner of said property or the representative on site and the inspection shall be conducted at reasonable times.

(b) Upon refusal by any property owner to permit a municipal inspector to enter or continue an inspection, the inspector shall terminate the inspection or confine the inspection to areas wherein no objection is raised. The inspector shall immediately report the refusal and the circumstances to the manager.

(c) In the event the manager reasonably believes that discharges into the MS4 may cause an imminent and substantial threat to human health or the environment, an inspection may take place at any time and without notice to the owner of the property or a representative on site. The municipal inspector shall present proper credentials upon request by the owner or representative.

(d) At any time during the conduct of an inspection or at such other times as the manager or municipal inspector may request information from an owner or representative, the owner or representative may identify areas of the facility or establishment, material or processes which contains or may contain a trade secret. If the manager or the municipal inspector has no clear and convincing reason to question such identification, the inspection report shall note that trade secret information has been omitted. To the extent practicable, the manager shall protect all information that is designated as a trade secret by the owner or their representative. (Ord. #04-14, Oct. 2004, as replaced by Ord. #12-13, Nov. 2012)

14-210. Discharges from regulated industrial sources. (1) Purpose. It is the purpose of this chapter to control stormwater runoff from industrial sources in order to minimize to the maximum extent practicable, pollutants discharged from industrial sources into the MS4. This reduction may be

achieved by a combination of management practices, control techniques, system design, engineering methods and plan review.

(2) Industry, defined. An industry is one defined as industry by EPA rule or subject to the Tennessee Multi-Sector Permit (TMSP) for Stormwater Discharges Associated with Industrial Activity.

(3) Right of inspection, defined. Right of inspection is defined in § 14-209.

(4) Information required. The State of Tennessee utilizes a NOI for dischargers to obtain coverage under the general permit program for discharges associated with industrial activities. These documents are subject to change and amendment and therefore the user should obtain the latest versions directly from TDEC. These may be obtained at the state's web page. All industries subject to the TMSP and discharging into the MS4 shall maintain a copy of the SWPPP on the industrial site, available for inspection and copying at reasonable times by the manager.

(5) SWPPP requirements. The SWPPP must follow, at a minimum, the outline of the plan listed in the Tennessee Multi-Sector Permit language or a facilities NPDES stormwater permit language, whichever is applicable.

(6) Sampling at industrial facilities. (a) Samples of stormwater collected for compliance monitoring shall be representative of the discharge. Sampling locations will be those defined in the TMSP or a NPDES permit. Sampling and analysis shall be in accordance with 40 CFR § 122.21 and CFR § 136 and/or applicable permit language.

(b) Samples that may be taken by the manager for the purpose of determining compliance with the requirements of this chapter or rules adopted hereunder may be split with the discharger if requested before the time of sampling.

(c) The manager may require a stormwater discharger to install and maintain, at the discharger's expense, a suitable manhole or sampling facility at the discharger's facility or suitable monitoring access to allow observation, sampling, and measurement of all stormwater runoff being discharged into the MS4. Sampling manhole or access shall be constructed in accordance with plans approved by the director and shall be designed so that flow measurement and sampling equipment can be installed. Access to the manhole or monitoring access shall be available to the manager at all times.

(7) Reporting. (a) Any facility required to sample under either the TMSP or a NPDES stormwater permit shall provide a copy of the monitoring report to the manager.

(b) The manager may require reporting by dischargers of stormwater runoff to the MS4, where a NPDES stormwater permit is not required, to provide information. This information may include any data necessary to characterize the stormwater discharge.

(8) Accidental discharges. In event of a significant spill as defined in definitions or any other discharge which could constitute a threat to human health or the environment, the owner or operator of the facility shall give notice to the manager and the local field office of the TDEC as required by state and federal law following the accidental discharge.

(a) If an emergency response by governmental agencies is needed, the owner or operator should also call the Memphis and Shelby County Emergency Management Agency immediately to report the discharge. A written report must be provided to the manager within five (5) days of the time the discharger becomes aware of the circumstances, unless the requirement is waived by the manager for good cause shown on a case-by-case basis, containing the following particulars:

(i) A description of the discharge, including an estimate of volume.

(ii) The exact dates, times and duration of the discharge.

(iii) Steps being taken to eliminate and prevent recurrence of the discharge, including any planned modification to contingency, SWPPP or maintenance plans.

(iv) A site drawing should be rendered that shows the location of the spill on the impacted property, the direction of flow of the spill in regards to the topographical grade of the property, the impacted watercourse(s), and the property or properties adjacent to the spill site.

(b) The discharger shall take all reasonable steps to minimize any adverse impact to the MS4, including such accelerated or additional monitoring as necessary to determine the nature and impact of the discharge. The interruption of business operations of the discharger shall not be a defense in an enforcement action necessary to maintain water quality and minimize any adverse impact that the discharge may cause.

(c) It shall be unlawful for any entity, whether an individual, residential, commercial or industrial, to fail to comply with the provisions of this section.

(9) Fraud and false statements. Any reports required by this chapter or rules adopted hereunder and any other documents required by the city to be submitted or maintained by the discharger shall be signed by a responsible corporate official and certified as accurate to the best of their personal knowledge after appropriate investigation. It shall be subject to the enforcement provisions of this chapter and any other applicable local and state laws and regulations pertaining to fraud and false statements. Additionally, the discharger shall be subject to the provisions of 18 U.S.C. § 309 of the Clean Water Act, as amended, governing false statements and responsible corporate officials. (Ord. #04-14, Oct. 2004, as replaced by Ord. #12-13, Nov. 2012)

14-211. Enforcement response and abatement. Whenever the manager finds any permittee or person discharging stormwater, or other pollutants into the MS4 or otherwise has violated or is violating this chapter, conditions of a stormwater permit, or order issued hereunder, the manager may use enforcement response and abatement actions specified herein to achieve compliance. Although enforcement and abatement actions should be administered in any sequence as the manager deems appropriate for the violation. If the manager deems it necessary, a complaint may be filed with the Commissioner of TDEC pursuant to Tennessee Code Annotated, § 69-3-118.

(1) Administrative remedies. The enforcement remedies enumerated herein shall be applicable to all sections of this chapter.

(a) Verbal warnings. Municipal inspectors are hereby empowered to administer verbal warnings, of which shall be considered as being the same as issued by the manager. A verbal warning may be given at the discretion of the inspector when it appears the condition can be corrected by the violator within a reasonable time, which time shall be approved by the inspector. A verbal warning may be issued upon the first instance of a violation. In most cases, it isn't the intention of the violator to commit an offense but they are unaware of the ordinance requirements. A verbal warning acts, in this instance, as an educational tool. Violations encountered during routine inspections of construction activities are normally handled verbally. When a verbal warning is utilized, the warning shall specify the nature of the violation and the required corrective action, with deadlines for taking such actions. A verbal warning in no way relieves the discharger of liability for any violations occurring before or after receipt of the warning.

(b) Written notices. Written notices shall stipulate the nature of the violation and the required corrective action, with deadlines for taking such actions. Written notices shall normally be used starting with the least severe and progressively working to the most severe. Written notices shall be in the following forms, listed from least severe to most severe:

(i) Notice of non-compliance (NON). Municipal inspectors are hereby empowered to administer NONs, of which shall be considered as being the same as issued by the manager. A NON is a written follow-up to a verbal warning and is initiated when corrective actions have not been accomplished by the deadline provided in the verbal warning. A NON is also utilized to report violations encountered during construction activity compliance inspections. A NON in no way relieves the discharger of liability for any violations occurring before or after receipt of the NON.

(ii) Notice of violation (NOV). A NOV is a follow-up to a NON and is initiated when corrective actions have not been accomplished by the deadline provided in the NON. This notice

shall be by personal service, or registered or certified mail with return receipt. Within ten (10) days of the receipt date of the notice or by the date specified in the NOV, the recipient of this NOV shall provide the manager with a written explanation for the violation. The response shall also include specified required actions and milestones for completion. Submission of this plan in no way relieves the discharger of liability for any violations occurring before or after receipt of the NOV.

(iii) Stop work order. A stop work order is a follow-up to a NOV. and is initiated when corrective actions have not been accomplished by the deadline provided in the NOV. Additionally, when the manager finds that any person has violated or continues to violate this chapter or any permit or order issued hereunder and such action or inaction has or may have the potential for immediate and significant adverse impact on the MS4 or the stormwater discharges to it, the manager may issue an order to cease and desist all such violations immediately and direct those persons in non-compliance to:

(A) Comply forthwith; or

(B) Take such appropriate remedial or preventable action as may be needed to properly address a continuing or threatened violation, including halting operations and terminating the discharge.

This notice shall be by personal service, or registered or certified mail with return receipt. Within ten (10) days of the receipt date of the notice, the receipt of this stop work order shall provide the manager with a written explanation for the violation. The response shall also include a plan for satisfactory correction and prevention thereof, to include specified required actions and milestones for completion. Submission of this plan in no way relieves the discharger of liability for any violations occurring before or after receipt of the stop work order. Anyone receiving a stop work order shall receive an expedited review and appeal of such order upon written request for the appeal. The appeal must meet the requirements specified in § 14-212 and be made within two (2) business days of receiving such order.

(iv) Show cause notice. A show cause notice is a follow-up to a stop work order, is initiated when corrective actions have not been accomplished by the deadline provided in the stop work order, and is normally the last written notice before administrative and/or civil penalties are assessed. Additionally, the manager may order any person who causes or contributes, or may be a cause or contributor, to a violation of a stormwater permit or order issued hereunder to show cause why a proposed enforcement action

should not be taken. The show cause notice shall be served on the person, specifying the time and place of the meeting, the proposed enforcement action and the reason for such action, and a request that the person show cause why this proposed enforcement action not be taken. This notice shall be by personal service or registered or certified mail with return receipt and postmarked at least ten (10) days prior to the meeting. A show cause notice in no way relieves the discharger of liability for any violations occurring before or after receipt of the notice.

(c) Consent agreement. The manager is hereby empowered to enter into consent agreements, assurances of voluntary compliance, or other similar documents establishing an agreement with the person or persons responsible for the non-compliance. Such agreements will include specific action to be taken by the permittee or person discharging stormwater to correct the non-compliance within a time period specified by the agreements. Consent agreements shall have the same force and effect as compliance orders issued pursuant to § 14-211(1)(d).

(d) Compliance order. When the manager finds that any person has violated or continues to violate this chapter or any other order issued hereunder, he may issue an order to the violator directing that, following a specified time period, adequate structures and/or devices be installed or procedures implemented and properly operated or followed. Orders may also contain such other requirements as might be reasonably necessary and appropriate to address the non-compliance, including the construction of appropriate structures, installation of devices, self-monitoring and related management practices. Compliance orders are normally a component of the NOV or stop work order.

(e) Withholding of approvals or other authorizations. The director is hereby empowered to withhold or cause to be withheld any permits, plat recordings, bond releases or any other instrument that would normally be issued to the violator until such time as the violations cease. Withholding may be performed in conjunction with other enforcement actions as deemed appropriate by the manager.

(2) Civil and administrative penalties. (a) Any person who performs any of the following acts or omissions shall be subject to a civil or administrative penalty of not less than fifty dollars (\$50.00) or more than five thousand dollars (\$5,000.00) per day for each day during which the act or omission continues to occur. Each day a violation is allowed to continue constitutes a separate offense.¹

(i) Violates an effluent standard or limitation or water quality standard established under this chapter or established by

¹State law reference

Tennessee Code Annotated, § 68-221-1106.

Tennessee Code Annotated, title 69, chapter 3, part 1 (State of Tennessee Water Quality Control Act);

- (ii) Fails to obtain any required permit;
- (iii) Violates the terms and conditions of such required permit in subsection (ii) above;
- (iv) Fails to allow or perform an entry, inspection, monitoring or reporting requirement;
- (v) Violates a final determination or order of the manager or the stormwater board of appeals; or
- (vi) Violates any provision of this chapter.

(b) Attachment 1 provides initial assessments for violations of this chapter that may be assessed by the director. Chronic violators may be assessed up to the maximum amount permitted by Tennessee Code Annotated, § 68-221-1106. Additionally, the director, with consent of the mayor, may initiate civil proceedings in any court of competent jurisdiction seeking monetary damages for damages caused to the MS4 by any person, and to seek injunctive or other equitable relief to enforce compliance, with any lawful orders of the manager.

(3) Unlawful acts, misdemeanor. It shall be unlawful for any person knowingly:

- (a) Violate a provision of this chapter;
- (b) Violate the provisions of any permit issued pursuant to this chapter;
- (c) Fail or refuse to comply with lawful notice to abate issued by the manager, which has not been timely appealed to the stormwater appeals board within the time specified by such notice; or
- (d) Violate any lawful order of the manager within the time allowed by such order.

Such person shall be guilty of a misdemeanor; and each day of such violation or refusal to comply shall be deemed a separate offense and punishable accordingly. Any person found to be in violation of the provisions of this chapter shall be punished by a fine as set out in part II, chapter 1, section 1-4, Code of Shelby County. Upon learning of such act or omission, the manager may issue a city ordinance citation charging the person, firm, or entity with violating one (1) or more provisions of this chapter or permit issued thereunder, criminal violation of this chapter may also be the basis for injunctive relief, with such actions being brought and enforced through the Shelby County General Sessions Environmental Court.

(4) Processing a violation. (a) The director may issue an assessment against any person or permittee responsible for the violation.

(b) The director may consider the following factors when assessing an administrative or civil penalty:¹

- (i) The harm done to the public health or environment;
- (ii) Whether the assessment or civil penalty imposed will be an appropriate economic deterrent to the illegal activity by the violator or others in the regulated community;
- (iii) The economic benefit gained by the violator;
- (iv) The amount of effort put forth by the violator to remedy the violation and/or the effectiveness of those remedies;
- (v) Any unusual or extraordinary enforcement costs incurred by the city;
- (vi) The amount of penalty established by ordinance or resolution for specific categories of violations (see Attachment 1);
- (vii) Cause of discharge or violation;
- (viii) The severity of the discharge and its effect on the MS4;
- (ix) The technical and economic reasonableness of reducing or eliminating the discharge;
- (x) Any equities of the situation which outweigh the benefit of imposing any penalty or damage assessment.

(c) The director may also assess damages proximately caused by the violator to the city which may include any reasonable expenses incurred in investigating and enforcing violations or any other actual damages caused including but not limited to costs involved in rectifying damages, costs of the city's maintenance of stormwater facilities when the user of such facilities fails to maintain them as required by this chapter and costs (direct and indirect) and attorney's fees incurred as a result of illegal activities.

(d) Any person against whom an assessment or order has been issued may secure a review of such assessment or order by filing with the manager a written appeal setting forth the specific legal and technical grounds and reasons for his objections and asking for a hearing in the matter involved before the stormwater board of appeals. Applications for appeals must meet the requirements specified in § 14-212. If an appeal for review of the assessment, penalty and/or order is not filed within thirty (30) days after the date of the assessment, penalty and/or order is served, the violator shall be deemed to have consented to the assessment and it shall become final.

(e) Whenever any assessment or penalty has become final because of a person's failure to appeal, the director may apply to the appropriate court for judgment and seek execution of such judgment and

¹State law reference

Tennessee Code Annotated, § 68-221-1106(b).

the court, in such proceedings, shall treat a failure to appeal such assessment as a confession of judgment in the amount of the assessment.¹

(f) Any civil penalty assessed to a violator pursuant to this section may be in addition to any civil penalty assessed by the Commissioner of TDEC in accordance with Tennessee Code Annotated, § 69-3-115; however, the sum of penalties imposed by this section and by the Tennessee Code Annotated, § 69-3-115 shall not exceed ten thousand dollars (\$10,000.00) per day for each day during which the act or omission continues or occurs.

(5) Appeal judicial proceedings and relief. The manager may initiate proceedings in any court of competent jurisdiction against any person who has or is about to:

- (a) Violate the provisions of this chapter;
- (b) Violate the provisions of any permit issued pursuant to this chapter;
- (c) Fail or refuse to comply with any lawful order issued by the manager that has not been timely appealed within the time allowed by this chapter;
- (d) Violates any lawful order of the manager within the time allowed by such order. Any person who shall commit any act declared unlawful under this chapter shall be guilty of a misdemeanor, and each day of such violation or failure shall be deemed a separate offense and punishable accordingly.

(6) Damages, disposition of funds. All damages collected under the provisions of this chapter and civil penalties collected under the provisions of § 14-211(4) following the adjustment for the expenses incurred in making such collections shall be allocated and appropriated to the Stormwater Management Program of the City of Bartlett.

(7) Records retention. All dischargers subject to this chapter shall maintain and preserve for no fewer than five (5) years, all records, books, documents, memoranda, reports, correspondence and any and all summaries thereof, relating to monitoring, sampling, and chemical analysis made by or in behalf of the discharger in connection with its discharge. All records which pertain to matters which are subject of any enforcement or litigation activities brought by the city pursuant hereto shall be retained and preserved by the discharger until all enforcement activities have concluded and all periods of limitation with respect to any and all appeals have expired. (Ord. #04-14, Oct. 2004, as replaced by Ord. #12-13, Nov. 2012)

14-212. Stormwater board of appeals. It shall be the duty of the stormwater board of appeals (the board) to hear and decide any appeal of any

¹State law reference

Tennessee Code Annotated, § 68-221-1106(e).

decision, order or interpretation by the director or manager whose duty it is to enforce the ordinance from which an aggrieved seeks relief, provided that a written application for appeal is filed with the manager within thirty (30) days after the decision, order or interpretation was served.

(1) Application for appeal. An application for appeal shall be based on a claim that the true intent of this chapter or the rules legally adopted hereunder have been incorrectly interpreted, the provisions of this chapter do not fully apply, or the requirements of this chapter are adequately satisfied by other means.

(2) Stays of enforcement. Appeals of orders and penalties (other than emergency orders) shall stay the enforcement of the order or a penalty until the appeal is heard by the board.

(3) Membership. The board shall consist of a minimum of five (5) members. At least one (1) member will be an elected official of the board of mayor and aldermen, at least two (2) members will be professionals or contractors and at least two (2) members shall be citizens. The board shall be appointed by the mayor and shall serve staggered and overlapping terms of four (4) years. All members are eligible for multiple and/or consecutive terms of appointment.

(a) Chairman. The board shall annually select one (1) of its members to serve as chairman. The chairman shall preside at all meetings of the board. The chairman shall represent the board at public affairs and shall maintain the dignity and efficiency of the board in all possible ways. The chairman shall also prepare, or cause to be prepared, any information helpful in acquainting new members with the procedures and/or operations of the board.

(b) Disqualification of member. A member shall not hear an appeal in which that member has a personal, professional or financial interest.

(c) Resignation. A member may resign at any time by providing written notice of their intent to do so to the board chairman and the mayor.

(d) Vacancies. The mayor shall have the authority to remove any member of the board, with or without cause. The mayor shall appoint new members to fill any vacancy on the board and such appointee shall serve the remaining term of the member whose position has been vacated.

(e) Secretary. The mayor shall designate a qualified city staff member to serve as secretary to the board. The secretary shall file a detailed report of all proceedings in the department of engineering and utilities. The secretary is not a member of the board.

(f) Compensation of members. Appointed members shall serve without compensation.

(4) Notice of meeting. The board shall meet upon notice from the chairman, within thirty (30) days of the filing of an appeal.

(5) Open hearings. All hearings before the board shall be open to the public. The appellant, the appellant's representative, the stormwater official and any person whose interests are affected shall be given the opportunity to be heard. A quorum shall consist of not less than two-thirds (2/3) of the board membership.

(6) Board decision. The board shall affirm, modify or reverse the decision of the stormwater official. Modifications and reversals require a majority vote of those present. Modifications may increase the amount of penalties assessed but shall not reduce any penalties assessed to less than fifty dollars (\$50.00).

(a) The decision of the board shall be recorded. Copies shall be furnished to the appellant and to the manager.

(b) The manager shall take immediate action in accordance with the decision of the board. (Ord. #04-14, Oct. 2004, as replaced by Ord. #12-13, Nov. 2012)

14-213.--14-215. [Deleted.] (Ord. #04-14, Oct. 2004, as deleted by Ord. #12-13, Nov. 2012)

CHAPTER 3**TRAILERS AND TRAILER COURTS****SECTION**

14-301. Location regulated.

14-302. Permit required.

14-303. Water and sewer connections required.

14-304. Jurisdiction.

14-301. Location regulated. The mayor and aldermen shall govern the locations of house trailers to be located within the corporate limits of the City of Bartlett, Tennessee. (Ord. #65-6, Sept. 1965)

14-302. Permit required. (1) The board of mayor and aldermen must pass on and issue permits for the locations of house trailers to be used as a dwelling place within the corporate limits of the City of Bartlett, Tennessee.

(2) If and when a permit has been issued for a location of a house trailer, it is not to exceed twelve (12) months from date of issuance without application being made for renewal.

(3) No permit for a house trailer shall be transferred from one owner to another.

(4) The privilege permit fee shall be one hundred dollars (\$100.00) per annum. (Ord. #65-6, Sept. 1965)

14-303. Water and sewer connections required. All house trailers must be connected to the city water lines and to the sanitary sewer. (Ord. #65-6, Sept. 1965)

14-304. Jurisdiction. (1) This chapter shall apply to any and all trailer courts or trailer parks.

(2) All house trailers and trailer courts or parks be governed by all City of Bartlett and Shelby County Health Department ordinances. (Ord. #65-6, Sept. 1965)

CHAPTER 4

SIGN ORDINANCE

SECTION

- 14-401. Definitions.
- 14-402. General requirements.
- 14-403. Annual sign inspection required.
- 14-404. Nationally or state registered logos and trade emblems permitted/approved.
- 14-405. Obscene copy prohibited.
- 14-406. Traffic control copy prohibited.
- 14-407. Confusing or obstructive signs prohibited.
- 14-408. Changeable copy signs.
- 14-409. Misleading signs prohibited.
- 14-410. Moving signs prohibited.
- 14-411. Changing signs.
- 14-412. Banners, pennants, streamers, light strings, spinners prohibited; exceptions.
- 14-413. Special signage for approved sidewalk sales.
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- 14-427. Sign erection permits refused.
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- 14-429. Off premises signs prohibited.
- 14-430. Window signs prohibited.
- 14-431. Permitted window signs.
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- 14-434. Grand opening signs and closing signs permitted.
- 14-435. Special provisions for service stations.
- 14-436. Historical markers permitted.
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- 14-438. Directional signs in complexes permitted.
- 14-439. Club and organization identification signs prohibited.
- 14-440. Construction and real estate signs.
- 14-441. Subdivision identification signs permitted.
- 14-442. Temporary subdivision signs permitted.
- 14-443. Identification signs in multi-family districts permitted.
- 14-444. Residential shielding required.
- 14-445. Signs of non-profit organizations restricted.
- 14-446. Private sale sign permitted.
- 14-447. Wall sign requirements generally.
- 14-448. Signs permitted in a commercial and office district.
- 14-449. Entrance sign for commercial, industrial or office complexes.
- 14-450. Theater marquee signs.
- 14-451. Directory and project identification signs.
- 14-452. Signs permitted in other districts.
- 14-453. Applications.
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- 14-458. Appeal from decision of the building official.
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- 14-460. Notice to remove illegal sign.
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- 14-465. Ground sign restrictions.
- 14-466. Informational signs.
- 14-467. Signs erected on buildings not enclosed and heated.
- 14-468. Vending machine signs regulated.
- 14-469. Signs on ornamental or decorative structures.
- 14-470. Signs for industrial park zoning.
- 14-471. Establishment of a special sign corridor.
- 14-472. Signs for motor vehicle sales.
- 14-473. Penalties.

14-401. Definitions. The following definitions shall apply to the use of terms within this chapter:

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

(2) "Animated sign." Any sign which includes any moving parts. For purposes of this ordinance, this term does not refer to flashing or changing, all of which are separately defined.

(3) "Area measurement of sign." The area of a sign shall be measured by one (1) or two (2) of the smallest, contiguous geometric shapes: square; rectangle; circle; half circle and triangle.

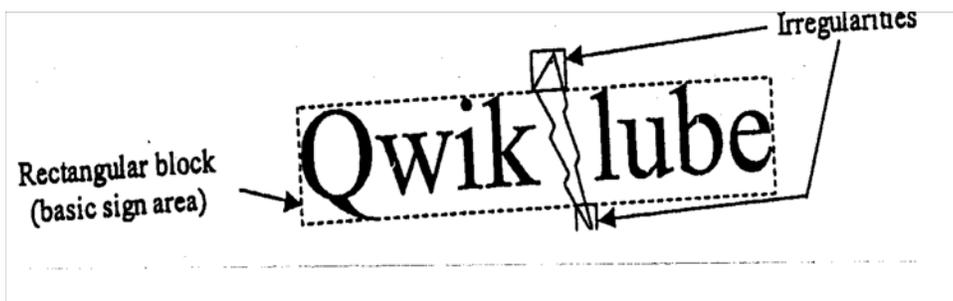
Measurement Examples



Any pictorial element is part of a sign and extends outside of the geometric shapes shall be treated as an irregularity rather than an extension of the lettering.

(a) An additional five percent (5%) of the permitted total square footage will be allowed for irregularities in sign copy which are in excess of the geometric shapes formed by the outermost points.

(b) For irregularities that exceed five percent (5%) of the total area, the irregularities shall be individually blocked and considered as part of the total area of the sign. Logos shall be blocked separately and considered as part of the total sign area.



(4) "Banners." Any streamer, flag-like pennant or other object, whether constructed of fabric or of other materials which, with or without insignia, attracts the attention of citizenry to a location or business.

(5) "Beacon." A sign or a sign lighting mechanism which focuses a beam of light by whatever mechanism created and regardless of intensity.

(6) "Building face or wall." All window and wall areas of a building in one plane or elevation.

(7) "Building identification sign." A sign that may be located on a building to identify the name of the building, such as a historic building.

(8) "Building official." That person designated by the board of mayor and aldermen to act as the administrator and enforcing officer of this ordinance, or his duly authorized designee.

(9) "Business identification sign." A ground or wall sign that identifies the name of the business or occupant that is located on the premises.

(10) "Changeable copy sign (manual)." A sign on which copy may be changed manually in the field, such as reader boards with changeable letters or changeable pictorial panels.

(11) "Changing sign (automatic)." A sign wherein different copy changes are shown on the same sign face by means of lighting or otherwise such as an electronically or electrically controlled public service time, temperature and date sign, message center or readerboard.

(12) "Collector street." As shown on the official City of Bartlett Major Street Plan.

(13) "Commercial complex." A group of five (5) or more businesses or enterprises sharing a common parking lot and common ingress and egress upon a single subdivided tract of record.

(14) "Commercial district." That area in the city which has been officially zoned for commercial use as retail stores, service establishments and offices, but not to include residential uses.

(15) "Construction sign." A temporary sign erected upon a construction site while physical construction is underway under a valid building permit issued by the City of Bartlett.

(16) "Copy." The wording, numbers, letters, logos and other graphics on a sign surface.

(17) "Design review commission." A commission appointed by the mayor to review and approve or disapprove all proposed signs except as otherwise specified in this ordinance.

(18) "Directional sign." A sign purveying only informational traffic control insignia such as an "in," "out," "no parking," "fire lanes," "handicap parking," etc. on private property or public property.

(19) "Directory." A sign erected to display the identity of five (5) or more occupants in a single building, business or office complex.

(20) "District." As defined under the zoning ordinance¹ and zoning district map.

(21) "Erected." This term shall mean attached, altered, built, constructed, reconstructed, enlarged or moved.

¹The zoning ordinance is included in this municipal code as Appendix B.

(22) "Face of sign." The entire area of sign on which copy could be placed, and in the instance where a double face sign is utilized the area of only one face shall be included to determine face square footage.

(23) "Flashing sign." Any sign which contains an intermittent or flashing light source, or which included the illusion of intermittent or flashing light by means of animations, or an externally mounted intermittent light source.

(24) "Front footage." The linear width measured parallel to the street frontage of the heated and enclosed structure, upon a premises not including out buildings or appurtenant structures, unless said structure has no street frontage in which instance the front footage shall be the structure's side width of principle entrance.

(25) "Ground level." Immediate surrounding grade.

(26) "Ground sign." A sign mounted at ground level.

(27) "Height of sign." The vertical distance measured from the surrounding grade to the highest point of sign or supporting structure.

(28) "Illegal signs." A sign which contravenes this ordinance, and which does not qualify as a variance sign or a nonconforming sign under this ordinance.

(29) "Interior property line." Property lines other than those forming a dedicated public right-of-way.

(30) "Lighting." That method or manner by which a sign is illuminated during the period from thirty (30) minutes prior to sundown and thirty (30) minutes after sunrise.

(31) "Lot of record." A lot which is part of a subdivision, the map of which has been recorded in the office of the County Recorder of Shelby County.

(32) "Major street." As shown on the official City of Bartlett Major Street Plan.

(33) "Nonconforming sign." A sign which contravenes this sign ordinance but which was in compliance with prior regulations at the time of its erection and for which a permit as required under the prior ordinance was obtained; a sign erected under a prior variance and not in strict compliance with prior regulations is not a nonconforming sign.

(34) "Occupant." Any person, firm, corporations, partnership, or other entity in possession of a premises or a part thereof whether under lease, hold over tenancy or other interest.

(35) "Office." That building or district as defined by the zoning ordinance wherein professional treatment or professional services generally are provided as opposed to the sale, distribution or repair of goods.

(36) "Opening sign." A temporary sign erected only for that limited period during which an enterprise not theretofore in operation begins its operation initially or at a new location.

(37) "Owner." A person, firm, corporation, partnership, or other entity recorded as such on official records and including duly authorized agent, a

purchaser, devisee, and/or any person having a vested or contingent interest in the property in question.

(38) "Pole sign." A sign mounted upon the ground but which by reason of height, width or other characteristics does not qualify as a "ground sign."

(39) "Political signs." A sign erected to publish the name of a candidate or of any ballot proposition or measure to enlist votes in any official public election.

(40) "Premises." An area of land with its appurtenances and buildings which, because of its unity of use, may be regarded as the smallest conveyable unit of real estate.

(41) "Private sale sign." A sign which is erected for a limited period to advertise the sale of individual property not in the ordinary course of business.

(42) "Primary use." A substantive use to which property or structures thereon are committed and specifically shall include uses auxiliary to the principal business or use there conducted and/or appurtenant thereto and/or directional to said principal business or uses.

(43) "Residential limited occupancy." That area or zoning district in the city specified by the zoning ordinance to include only low density single family and/or duplex construction.

(44) "Residential multi-occupancy." That area or zoning district in the city specified by the zoning ordinance for construction or erection of occupancy greater than duplex construction.

(45) "Real estate sign." A temporary sign employed to announce or display the sale of real property, said sign being erected on the property for sale.

(46) "Roof line." The edge of the main roof on the plain or elevation of the structure or building on which the sign is to be mounted. For the purpose of this ordinance, a mansard with an angle of up to forty-five (45) degrees from vertical, with or without roofing materials, is not considered a roof. Signs may be mounted on mansards, but shall not extend above the top of the mansard.

(47) "Set back." The minimum horizontal distance between either the face of curb, the edge of pavement, or the right-of-way line and the sign structure as specified in a particular section of this ordinance.

(48) "Sign." (a) Any identification, description, illustration or device which is visible from any public place, whether located on private property or public property which directs attention to a product, location, service, place, activity, person, institution or business, generally including columns, statues, roof color or design; any exterior situated merchandise or any emblem, painting, banner, pennant, or placard, designed to direct customers to, or advertise, identify or convey information; said items still constituting a sign with or without copy, except permitted on-copy internal window display, religious symbols and national flags. For the purpose of this ordinance, signs shall also include all sign structures.

(b) Unless specifically exempted, all signs, as herein described, are subject to the review and approval of the design review commission, director of planning or duly authorized representative. Meeting the minimum requirements of this ordinance shall not constitute approval of a sign. The design review commission, director of planning or duly authorized representative shall review the aesthetic appropriateness of each sign submitted for review and reserves the right to deny approval of any sign application which, in the judgment of a majority of the members, detracts from the aesthetic appeal of the property upon which such sign is proposed.

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

(50) "Street." A public thoroughfare which affords the principal means of access to abutting property.

(51) "Temporary signs." A sign which is not permanent and is allowed for a specific time period. Temporary signs, with the exception of real estate signs in a limited residential district and private sale signs, are subject to approval by the design review commission, director of planning or duly authorized representative. A valid temporary sign permit must be issued before erection of a temporary sign (other than the exceptions listed above) and such signs may not remain in place once the temporary sign permit has expired.

(52) "Traffic directional sign." Any sign which aids the flow of traffic.

(53) "Use." The purpose for which a building, lot, sign, or other structure is arranged, intended, designed, occupied or maintained.

(54) "Visibility triangle." To prevent traffic hazards at intersections, sight, blocking structures shall not be placed inside a triangle formed by fifty (50) foot lines along the street edges of both streets starting at the intersection of both street edges.

(55) "Wall sign." A sign providing the name or other approved information or graphics of the business, institution, or organization which is attached to or erected against the wall of a building with the face parallel to the plane of the building wall or attached to the structure as approved by the design review commission, director of planning or duly authorized representative. The sign shall extend no more than eighteen inches (18") from the building or structure. This sign may also be referred to as a "building sign."

(56) "Window sign." Any sign, temporary or permanent, advertising sales or specials attached to or within five (5) feet of glass surface of any fixed window (glazing) visible from a public right-of-way; provided however, the display of non-copy merchandise shall be permitted provided the packaging and/or labels are not so extreme as to render it substantially advertising copy. (Ord. #79-10, May 1979, as amended by Ord. #85-22, Oct. 1985, Ord. #87-18, Feb. 1988, Ord. #91-3, June 1991, Ord. #95-13, Sept. 1995, Ord. #00-03, March 2003, and Ord. #13-01, March 2013).

14-402. General requirements. The general sign requirements of this ordinance shall apply to all signs in the City of Bartlett in any district for any purpose subject only to the time compliance requirements hereinafter specified. All signs which are not expressly permitted by this ordinance are hereby declared to be illegal signs or nonconforming signs. This section does not apply to city owned or leased facilities or city approved events. (Ord. #79-10, May 1979, as amended by Ord. #91-3, June 1991, modified)

14-403. Annual sign inspection required. (1) The City of Bartlett will establish an annual sign inspection for all permitted signs located on businesses in the city unless specifically exempted by this ordinance.

(2) The annual sign inspection fee for businesses in the City of Bartlett shall be established and may be changed from time to time by resolution. (Ord. #88-3, March 1988, as amended by Ord. #13-01, March 2013)

14-404. Nationally or state registered logos and trade emblems permitted/approved. Nationally or state registered, logos, trade emblems or graphic pictorials shall be permitted if included within the allotted sign square footage upon specific review and approval of the design review commission, director of planning or duly authorized representative. (Ord. #91-3, June 1991, as amended by Ord. #13-01, March 2013)

14-405. Obscene copy prohibited. Signs which contain words or pictures of an obscene, indecent or immoral character which would offend public morals or decency are absolutely prohibited. (Ord. #79-10, May 1979)

14-406. Traffic control copy prohibited. Signs which contain or are an imitation of an official traffic sign or signal, such as, "stop," "go slow," "caution," "danger," "warning," or similar words are absolutely prohibited. (Ord. #79-10, May 1979)

14-407. Confusing or obstructive signs prohibited. Signs which are of a size, location, movement, content, coloring or manner or illumination which may be confused with or construed as a traffic control device or which hides from view any traffic or street sign or signal are absolutely prohibited. (Ord. #79-10, May 1979)

14-408. Changeable copy signs. (1) Changeable copy signs with interchangeable letters are permitted subject to the inclusion of same within allotted sign square footage and enclosed under locked and vandal proof case, said case and structure subject to design review commission review, director of planning or duly authorized representative and approval, and only for public facilities, such as city hall, performing arts centers, churches, schools, theater

marquees and gasoline price signs for service stations. No other changeable copy signs shall be allowed under this ordinance.

(2) Public facilities, such as city hall, performing arts centers, churches, and high or secondary schools may, in lieu of the changeable copy ground sign, utilize an electronic changeable ground sign (LED). This type of sign shall not advertise or promote any product and will have text only messages, amber in color and message duration of three (3) minutes. Messages shall not scroll, flash or imitate motion. These signs shall be consistent with the size requirements for ground signs.

Electronic changeable gas price signs shall be allowed at locations selling gasoline and diesel automobile fuel. The size, color and location of these signs are subject to the approval of the design review commission.

All electronic changeable signs shall come equipped with dimming technology that automatically adjusts the display's brightness based on ambient light conditions. The brightness of the electronic changeable signs shall not exceed 0.3 foot candles above ambient light conditions.

The following electronic signs are prohibited in all districts:

(a) Electronic graphic displays. Electronic signs displaying both text and pictorial images. These signs have the technical capacity to display high-quality, photo-like images in addition to text information.

(b) Electronic video displays. Electronic sign whose display is characterized by motion and pictorial imagery. These signs may possess the ability to display television-like images and programs.

(3) City-owned or leased buildings or city-sponsored events are exempt from the sign ordinance. (Ord. #91-3, June 1991, modified, as amended by Ord. #13-01, March 2013)

14-409. Misleading signs prohibited. Signs which advertise an activity, business, product, or service not conducted on the premises upon which a sign is located are prohibited. (Ord. #79-10, May 1979)

14-410. Moving signs prohibited. Signs which have any moving parts or which by design or illumination have the appearance of moving parts are absolutely prohibited. Hand-held signs advertising businesses, products or services are specifically prohibited. (Ord. #79-10, May 1979, as amended by Ord. #13-01, March 2013)

14-411. Changing signs. Changing signs are controlled as provided in § 14-408 above. (Ord. #79-10, May 1979, as amended by Ord. #13-01, March 2013)

14-412. Banners, pennants, streamers, light strings, spinners prohibited; exceptions. Notwithstanding other provisions of this chapter, a commercial business may display a sale or special event sign or banner on the

storefront elevation of the business not to exceed a face area of thirty-two (32) square feet on two (2) separate occasions in a twelve (12) month period. These signs or banners shall be further subject to the general requirements of this chapter. These sale or special event signs and banners will be approved by the building official and will not be reviewed by the design review commission. The sign or banner may be displayed for a maximum period of fourteen (14) days and there shall be a period of at least sixty (60) days between the display of such signs or banners.

All other signs which contain or consist of banners, pennants, posters, ribbons, awnings, streamers, strings of lights, spinners, dimensional characters, statues, trade emblems or other similar objects, with or without copy, are absolutely prohibited, except as provided in §§ 14-413, 14-434 and 14-440. (Ord. #79-10, May 1979, modified, as amended by Ord. #07-12, Sept. 2007, and Ord. #13-01, March 2013)

14-413. Special signage for approved sidewalk sales. (1) In addition to the aforementioned signage allowed in commercial districts, there is hereinafter allowed in conjunction with an approved outdoor sale by multiple businesses in a shopping center one temporary banner, in conformance with § 14-434, on each street face on which the shopping center fronts. Each banner shall be located a minimum of fifteen (15) feet from the face of the curb, be mounted not over five (5) feet in height, and outside of any traffic visibility triangle.

(2) Temporary signage authorized by this section may be in place only for the duration of the outdoor sales event plus one day in advance.

(3) In addition to the window signage permitted by § 14-431 a two (2) foot by three (3) foot professionally made sign bearing the official "sidewalk sale" logo and other indication of participation in the discounts or other aspects of the event is allowed in the window of each participating business for the same length of time as the banners described herein.

(4) No sign allowed under this section will require a sign permit, nor require approval of the design review commission, but will be subject to inspection by the building official and all other provisions of the City of Bartlett Sign Ordinance. (Ord. #79-10, May 1979, as amended by Ord. #94-7, June 1994, and Ord. #02-03, March 2002)

14-414. Awnings exceptions. (1) Awnings recognized as architecturally necessary which contribute rather than detract from the legislative intent of this ordinance, with or without lettering or insignia, may be installed with the specific approval of the design review commission, director of planning or duly authorized representative.

(2) For the purposes of measuring sign area to be placed on an awning, the entire surface of an internally illuminated awning containing sign copy shall be counted as sign area, unless said illumination is restricted to a transparent

area designed to illuminate solely the sign copy area, in which case only the copy area will be considered when determining signage. (Ord. #79-10, May 1979, as amended by Ord. #95-13, Sept. 1995, and Ord. #13-01, March 2013)

14-415. Reflective materials prohibited. Signs which contain mirrors, highly polished surfaces or other materials being substantially reflective in nature are prohibited. (Ord. #79-10, May 1979)

14-416. Structurally unsound signs prohibited. Signs which are structurally unsound or which are rendered structurally sound by guy wires or unapproved facing are prohibited. (Ord. #79-10, May 1979)

14-417. Vehicle signs prohibited. (1) Any vehicle which has any sign, or other copy, wrapped or painted on it or suspended from it or otherwise attached to it shall be parked at the rear of the building where said business is located as close to said business' building as parking space will permit. If there is insufficient space to allow said vehicle to be parked at the rear of said building, it shall be parked at the side of said building and as close to said building as parking space will permit.

(2) Only in the event of a situation or location where there is no rear or side parking space will such vehicle be permitted to park in the front of said business, and then only in the area closest to the front of said business' building.

(3) In no event shall any such vehicle be parked off of or away from the premise which owns it, except during the normal course of business, such as deliveries, picking up merchandise or service calls. The building official may direct that violating vehicles be removed at the owner's expense by towing. (Ord. #91-3, June 1991, as amended by Ord. #13-01, March 2013)

14-418. Sign lighting restricted. Internal and external sign illumination and/or back lighting shall be permitted, provided that all sign lighting shall be for illumination and not in and of itself by color or design constitute an attraction and that same be further so shaded, shielded or directed that the light intensity will not be objectionable to surrounding areas, said lighting subject to the approval of the design review commission, director of planning or duly authorized representative. (Ord. #79-10, May 1979 as amended by Ord. #13-01, March 2013)

14-419. Lighted open signs. (1) Any business establishment, service organization, or other commercial enterprise located in a commercial, office, or industrial district shall be entitled to utilize or display one (1) exposed neon tube or internally lighted self-contained manufactured type sign, which may exhibit the word "OPEN" and no other copy of any description and may use no more than two (2) colors.

(2) Any sign displayed under the terms of this section shall be no greater in overall size than four (4) square feet and shall be located on the inside of the front window, in a horizontal or vertical position in an authorized location approved by the building official.

(3) Signs displayed in accordance with the provisions of this section shall be in addition to all other signs allowed under the sign ordinance. This sign will not require the approval of the design review commission and will not require a sign permit and be included in the annual inspection provided in § 14-455 of this chapter. (Ord. #00-03, March 2000 as amended by Ord. #13-01, March 2013)

14-420. Beacon lights prohibited. Beacon lights are hereby prohibited in the City of Bartlett. (Ord. #79-10, May 1979)

14-421. Illumination not to interfere with traffic signals. Neither the direct nor reflected light from primary light sources shall be permitted to create a traffic hazard to the operators of motor vehicles on public streets. (Ord. #79-10, May 1979)

14-422. Exposed bulbs prohibited. Exposed bulbs shall not be permitted on the exterior surface of any sign. (Ord. #79-10, May 1979)

14-423. Abandoned signs prohibited. All signs and sign structures that no longer correctly direct or exhort any person, advertise a bona fide business in progress, lessor, owner, project or activity conducted or product available shall be removed and the exterior of the building repaired or restored to original condition by the owner of said property within thirty (30) days from the cessation of said activity. The landlord/owner may not lease the premises until said conditions are met. (Ord. #79-10, May 1979, as amended by Ord. #95-13, Sept. 1995, and Ord. #00-03, March 2000)

14-424. Pole and other signs prohibited. Pole signs are absolutely prohibited and only those ground mounted signs specifically allowed and defined by this ordinance shall be permitted. (Ord. #79-10, May 1979)

14-425. Multi-face sign restricted. All signs that exhibit more than two (2) faces are absolutely prohibited; provided further that no double-face signs shall be permitted if the distance between the back of the faces is at any point greater than twelve (12) inches.

Exception: More than twelve (12) inches in depth may be granted on a case-by-case basis by the design review commission. (Ord. #00-03, March 2000)

14-426. Political signs restricted. (1) Political signs. Signs relating to the election of a candidate for public office or the passage of any ballot proposition or measure shall be permitted, subject to the following conditions:

(a) Signs shall not exceed eighteen (18) by twenty-four (24) inches or four hundred thirty-two (432) square inches in size.

(b) No sign shall be erected or displayed earlier than forty-five (45) days before the election day to which it relates, nor later than five (5) days following such election.

(c) Signs shall not be attached to any utility pole or upon any public right-of-way or public property, and be no closer than fifteen (15) feet to the face of the curb or five (5) feet to the back of the sidewalk and shall be permitted only upon occupied privately owned lots with the consent of the owner.

(d) Signs shall not be erected in such a manner that they will or reasonably may be expected to interfere with, obstruct, confuse or mislead traffic.

(e) Signs not erected or maintained in accordance with the provisions of this section shall be the responsibility of the owner of the property upon which the sign is located, shall be deemed a public nuisance, and may be abated, without notice, by such property owner, the candidate or person advocating the vote described on the sign, or the city building official.

(2) Political sign distributor's permit. (a) Any candidate or political committee desiring to distribute, cause to be distributed, display, place, or erect any political sign shall file an application with the building department upon forms to be furnished by said building department, and provide such pertinent information as said building department may require.

(b) Forthwith upon filing such application, said building department shall issue a political sign distributor's permit to the applicant, together with a serial number therein. No fee shall be charged in connection with the issuance of such permit.

(3) Polling place signs. No signs will be allowed at polling places earlier than one (1) day before an election or early voting period and must be removed not later than one (1) day after said election or early voting period. For signs at polling places no permit or bond will be required, but the requirements of all other subsections of this section will apply. (Ord. #00-17, Aug. 2000, as amended by Ord. #07-16, Nov. 2007)

14-427. Sign erection permits refused. No permit for the construction or erection of any sign not in strict compliance with this chapter shall be issued from the effective date of the ordinance comprising this chapter and then only after the approval of same by the design review commission,

director of planning or duly authorized representative. (Ord. #79-10, May 1979 as amended by Ord. #13-01, March 2013)

14-428. Sign as a nonconforming primary use--exception. In the circumstances where a sign itself is a primary use of the property upon which it is erected as defined under this chapter the burden shall be upon the owner of said sign to document within sixty (60) days from the effective date of the ordinance comprising this chapter:

(1) That the sign is in fact a nonconforming sign legally erected without variance under prior regulations.

(2) That the sign is in fact the primary use of the property, being neither auxiliary to, nor appurtenant to, nor directional to, nor the advertisement of adjacent businesses or uses; upon proper documentation as above provided the use may be continued and the owner shall make application within the sixty (60) days of the effective date of the ordinance comprising this chapter to the design review commission in the ordinary course, whose responsibility it shall be, upon the advice and recommendation of the police chief, fire chief and building inspector, to require such modifications in size, copy, and location with respect to streets, ingress and egress, lighting and traffic parameters, to remove hazards to safety and/or encroachments upon adjacent occupants. The failure of documentation shall render the sign an illegal sign subject to removal and the penalties hereinafter provided. (Ord. #79-10, May 1979, as amended by Ord. #91-3, June 1991)

14-429. Off-premises signs prohibited. All signs must be located upon the physical property of the occupant, goods or services exhorted, except as provided in § 14-427. (Ord. #79-10, May 1979)

14-430. Window signs prohibited. All window signs are prohibited generally, except for those provided for in § 14-431; provided, however, an occupant may elect to utilize window space for location of a permanent wall sign, in which case the square footage of the window sign shall be included in the calculation of allotted square footage; provided, further and in addition to sign footage allotments, all occupants shall be permitted to use a window or door sign in addition to other sign allotments of area not to exceed two (2) square feet to display the identity of the business, hours of operation, credit information, telephone numbers, or other general information. (Ord. #91-3, June 1991)

14-431. Permitted window signs. (1) In addition to any other sign allotment permitted by the City of Bartlett Sign Ordinance, any retail or other commercial enterprise shall be permitted to utilize: fifteen percent (15%) of its window area for window signs provided no window may be covered more than thirty percent (30%). Where windows are provided in more than one (1) side of the building, the window signs shall be separately calculated for each side of the

building and the window signs shall conform to the above regulations for each side of the building.

For the purposes of this ordinance, an individual window is defined as a piece of glass surrounded by a frame. The individual window area is calculated on the basis of the area within the frame whether or not it is separated by Muntin Bar(s). The total window area shall include the frame and glass area.

(2) All such window signs must be neat in appearance and professionally prepared or professional in appearance.

(3) All business are allowed a minimum of six (6) square feet of window signs.

(4) Signs allowed under this section will be submitted to the city staff along with the proper size calculations for review and approval. Signs allowed under this section will not require a sign permit, nor require approval of the design review commission, but will require a determination by city staff. If the city staff determines that the proposed window signs are inappropriate and inconsistent with this ordinance, the staff may refer the window signs to the DRC for review and approval. Window signs will be subject to inspection by the building department's sign inspector and all other provisions of the City of Bartlett Sign Ordinance. (Ord. #91-3, June 1991 as amended by Ord. #13-01, March 2013)

14-432. Billboards prohibited--exception. Billboards are absolutely prohibited as off-premises signs provided however, billboards which constitute the primary and nonconforming use of property as provided in § 14-428 hereof shall be permitted to remain subject to the limited review in § 14-428. (Ord. #79-10, May 1979)

14-433. Street number signs permitted. In addition to whatever sign allotment is available to an occupant said occupant shall be additionally entitled to display a street number, provided however, said street number shall not exceed one and one half (1½) square feet of face area. (Ord. #79-10, May 1979)

14-434. Grand opening signs and closing signs permitted. Notwithstanding other provisions of this chapter, a newly established or relocated commercial business, in addition to the hereinafter specified sign allotment, may, for a period of twenty (20) days, display a grand opening sign or banner on the storefront elevation of the business not to exceed a face area of thirty-two (32) square feet, and further subject to the general requirements of this chapter. Also, an established business may have a one (1) time closing sign (going out of business) for a period of thirty (30) days not to exceed thirty-two (32) square feet and mounted on the inside surface of the window. Further, temporary uses permitted by the zoning ordinance but not otherwise provided for herein may have a sign meeting these requirements. In any case, no opening or closing ground mounted signs will be permitted. Opening and

closing signs and banners and other temporary signs described herein will be approved by the building official and will not be reviewed by the design review commission. A one (1) time extension, for up to thirty (30) days for the display of a grand opening sign or banner may be approved at the discretion of the building official, if an application for permanent signage has been submitted for review by the design review commission. (Ord. #79-10, May 1979, Ord. #85-22, § 5, Oct. 1985, as amended by Ord. #91-5, June 1991, Ord. #95-13, Sept. 1995, and Ord. #01-17, Nov. 2001, modified, and replaced by Ord. #10-01, March 2010)

14-435. Special provisions for service stations. A service station which is solely engaged in the retail distribution of petroleum and petroleum products in addition to the sign allotment hereinafter provided shall be further entitled to the following additional signs:

(1) One (1) permanent price sign per street front said sign not to exceed four (4) square feet in face area, and located upon the pump island nearest to said street or upon the face of the station building or canopy.

(2) Gas branding signs shall be permitted on the gas pumps not to exceed four (4) square feet. Advertising shall also be permitted on the pumps not to exceed two (2) square feet.

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

(4) Electronic changeable gas price signs shall be allowed at locations selling gasoline and diesel automobile fuel. The size, color and location of these signs are subject to the approval of the design review commission.

(5) All signs permitted under § 14-435 and other signs required by state and federal law provided same are of size no greater than the minimum requirements of said law and for design, size and lighting shall be approved by the design review commission, director of planning or duly authorized representative. (Ord. #79-10, May 1979, as amended by Ord. #85-22, Oct. 1985, and Ord. #13-01, March 2013)

14-436. Historical markers permitted. The City of Bartlett exclusively upon the affirmative vote of two-thirds ($\frac{2}{3}$) of the entire board shall be permitted to erect historical markers provided same are attractively designed and safely located. (Ord. #79-10, May 1979)

14-437. Street signs and public service signs permitted. Signs erected by the City of Bartlett to identify the streets or provide direction to public services and/or buildings shall be permitted. (Ord. #79-10, May 1979, as amended by Ord. #85-22, Oct. 1985, and Ord. #13-01, March 2013)

14-438. Directional signs in complexes permitted. Every commercial complex shall be permitted upon the approval of the design review commission to erect certain directional control signs in parking areas or at entrances and exits provided that said directional signs do not exceed two (2) square feet in face area and are set back no less than ten (10) feet from the curb or street right-of-way and do not exceed in height five (5) feet, provided however, this section shall not be interpreted to prohibit directional signs applied to the driving surface itself subject to the approval of the design review commission, director of planning or duly authorized representative. The design review commission may approve larger directional signs if they determine that the directional signage is appropriate and in keeping with the scale of the building. (Ord. #79-10, May 1979, as amended by Ord. #85-22, Oct. 1985, and Ord. #13-01, March 2013)

14-439. Club and organization identification signs prohibited. Non profit organizations, clubs and/or service organizations shall be bound by the same standards and regulations as hereinafter provided for commercial areas and no off premises signs shall be permitted; provided however, the City of Bartlett may erect sign supports at the major entrances to the city for the display of said non-profit organizations, clubs and service organizations subject to the approval of the design review commission, director of planning or duly authorized representative. (Ord. #79-10, May 1979, as amended by Ord. #13-01, March 2013)

14-440. Construction and real estate signs. (1) Construction signs.

(a) During the course of physical construction of any commercial, office institutional or industrial building, under a valid building permit issued by the City of Bartlett, a ground sign not to exceed thirty-two (32) square feet shall be permitted; provided, however, said construction signs shall be of height no greater than eight (8) feet. The sign shall be located on the physical property for which the building permit is issued, and located no less than thirty (30) feet from the curb or street right-of-way; provided, further, construction signs must obtain approval from the design review commission, director of planning or duly authorized representative and a temporary sign permit before erection of said sign.

(b) In addition to the foregoing, during the construction of any residential structure, a ground sign not to exceed six (6) square feet in sign area and of height no greater than three (3) feet shall be permitted and shall meet the other requirements of this chapter.

(2) Real estate signs. (a) One (1) ground sign or wall sign advertising the sale or lease of real estate shall be permitted upon the physical property for sale or lease, provided said signs do not exceed dimensions of:

(i) Two (2) feet by three (3) feet (total maximum square footage of six (6) square feet, with a maximum of two (2) sides on a single plane of material) in a limited occupancy residential district; or

(ii) Twenty (20) square feet (both sides if used for copy calculated in said allotment) in all other districts.

(b) Further the maximum height of said sign shall be:

(i) Three (3) feet in residential districts and

(ii) Five (5) feet in all other districts.

(c) Said signs shall be set back no less than fifteen (15) feet from the face of curb or street right-of-way.

(d) Non-residential real estate signs shall be approved by the building official as temporary signs and a sign permit issued. Signs are to be reviewed and renewed every six (6) months.

(3) Time limits for construction and real estate signs. All construction signs and real estate signs, except off-premises subdivision directional signs under § 14-442, shall be permitted without prior approval by the design review commission and shall be permitted to stand for a period not to exceed ninety (90) days without formal approval of the design review commission, except for construction in a commercial or office district, which construction signs shall be permitted to stand no longer than the period during which construction is physically in progress under a valid building permit.

(4) Flags/banners. Well maintained flags and/or banners attached to flag poles shall be allowed at model home/sales office sites, which are to be staffed at least forty (40) hours per week and located within residential subdivisions.

The number of flags and/or banners allowed shall be limited to one (1) for each fifteen (15) feet of lot width at the curb, but in no case shall it exceed six (6) per lot.

Placement of the flags and/or banners shall be allowed across the front yard or, front yards on corner lots, and may be placed in one (1) or more rows or in a cluster.

The height of the flag/banner pole shall not exceed fourteen (14) feet from ground level and must be located a minimum twelve (12) feet and a minimum of two (2) feet from the interior edge of the sidewalk.

Pennants, balloons, streamers or other attention attracting devices are not permitted.

(5) Signage. One (1) professionally built, properly maintained thirty-two (32) square feet maximum area sign, showing the builder's name and logo, the hours of operation and contact information on one or both sides shall be allowed at model home sites. The area around the sign shall be landscaped with evergreen shrubs or seasonal plants to form a landscaped base for the sign. Sign location must be a minimum of fifteen (15) feet from the curb, generally centered on the street frontage of the addressed property; maximum height ten (10) feet.

(6) Lighting. Lighting of the sign shall be allowed at model home sites so that prospective homebuyers can obtain the information at night. For security purposes, low-intensity lighting of the house is also allowed.

(7) Permit required. Builders shall be required to submit drawings of the model home lot, the flags and or banners, the signage and the sign's landscaping plan to the building official who will have the authority to issue a permit.

(8) Builder's pre-sale or custom construction sign. In lieu of the permitted 2' x 3' realtor sign and the 2' x 3' construction sign, there may be placed a sign, maximum area of twelve (12) square feet and maximum height eight (8) feet, identifying the builder and the sale of the house or the builder and nature of the custom construction of the house. This sign must be removed at the time the property is issued a use and occupancy permit. This sign must be located a minimum of fifteen (15) feet back from the curb. (Ord. #79-10, May 1979, as amended by Ord. #87-18, Feb. 1988, Ord. #91-3, June 1991, Ord. #91-5, June 1991, Ord. #95-13, Sept. 1995, Ord. #00-03, March 2000, Ord. #06-17, Aug. 2006, Ord. #07-12, Sept. 2007, and Ord. #13-01, March 2013)

14-441. Subdivision identification signs permitted. In limited occupancy residential districts of a subdivision, as defined by a formally filed and duly recorded subdivision plat, there shall be permitted no more than two (2) subdivision identification signs at the subdivision entrance on every major connector street entering said subdivision, provided that said subdivision identification signs are permanent and approved ground signs and contain only the name of the subdivision, do not exceed twenty-five (25) square feet in sign area and are set back no less than twenty (20) feet from the face of curb or street right-of-way. The height of said subdivision identification sign shall not exceed six (6) feet. However, in the event the developer or builder has elected or shall elect to utilize a fence, pillars, post or other ornamental or decorative structure which is commonly known as a "subdivision entrance," then all subdivision identification signs must be exclusively located on such structures rather than ground signs, and such signs must comply with § 14-469 of this chapter, and shall not exceed twenty-five (25) square feet in sign area per sign.

Subdivision entrance features such as fences, signs, structures and landscaping are permitted on common open space, designated on the subdivision final plat, and for which a homeowner's association is responsible for ownership and maintenance of said sign, structure and features. Such fences, signs, structures and landscaping are subject to approval by the design review commission.

A subdivision identification sign may also be placed on a corner lot with administrative approval if the following criteria are met:

(1) The sign will be constructed of durable structural and exterior materials. These will be cast concrete, brick or stone.

(2) The sign will be located on a corner lot with a location and an access/maintenance easement approved by the city engineer.

(3) The sign may be placed, with the property owner's permission, on a lot in an older established neighborhood or may be part of a new subdivision approval where there will be no Home Owners Association (HOA) or Common Open Space (COS).

(4) The sign will have three (3) basic parts; the footing, the body and a cap. The actual nameplate will be placed within the area of the body portion of the structure.

(5) The body portion will have a maximum face area of twenty-five (25) square feet. The maximum height of the sign structure will be six (6) feet.

(6) The neighborhood identification sign plate may occupy up to fifty percent (50%) of the face area of the structure. This plate will be a cast concrete panel.

(7) The sign becomes the property of the City of Bartlett, after a one time maintenance fee is paid.

(8) Yard maintenance, including the city easement, is the responsibility of the property owner. (Ord. #91-3, June 1991, as amended by Ord. #07-13, Sept. 2007))

14-442. Temporary subdivision signs permitted. While a formally recorded subdivision, approved on a plat of record, is under physical construction there shall be permitted two (2) temporary off-premise signs of no more than sixteen (16) square feet per side, and a height of no more than six (6) feet. The sign content may include, but not be limited to the subdivision name, directions to the location, price and builder(s) name. The sign shall consist of a single plank, both sides of which could display content, and must have a professional, finished appearance. The developer must pull a temporary sign permit, which should be renewable annually at the discretion of the building official. One (1) on-premise sign is allowed at each major entrance with a maximum of two (2) on-premise signs per subdivision. The on-premise signs may be no more than thirty-two (32) square feet per side and a maximum height of nine (9) feet with the same requirements as off-premise signs. (Ord. #91-3, June 1991, as amended by Ord. #08-14, Jan. 2009)

14-443. Identification signs in multi-family districts permitted. All multi-family projects, either apartments or condominiums, may display one (1) externally lighted ground sign for identification at each of its entrances, not to exceed two (2) signs regardless of the number of entrances. Said signs shall not exceed twenty-five (25) square feet in face area, may be double faced, shall not exceed six (6) feet in height, shall be placed no less than forty (40) feet from any adjacent property line and shall be no less than fifteen (15) feet from the curb or street right-of-way and meet all landscaping requirements.

(Ord. #79-10, May 1979, as amended by Ord. #91-5, June 1991, and Ord. #95-13, Sept. 1995)

14-444. Residential shielding required. All residential districts, limited occupancy and/or multi-family, shall be protected from sign display or lighting incident thereto so as to prevent as much as possible the visible encroachment of same upon the residences in said areas, and it shall be the right and obligation of the design review commission, director of planning or duly authorized representative to accommodate same in the course of review and approval. (Ord. #79-10, May 1979, as amended by Ord. #13-01, March 2013)

14-445. Signs of non-profit organizations restricted. Churches, schools, clubs, and non-profit organizations generally shall be subject to the same restrictions as provided for offices and commercial businesses. However, churches and schools may use changeable copy signs in accordance with § 14-408 of this chapter. (Ord. #91-3, June 1991)

14-446. Private sale sign permitted. In residential districts, one (1) private sale sign is permitted, provided that said sign is a ground sign upon the premises where the sale is conducted, of square footage not to exceed three (3) feet, and subject to the general requirements of this chapter, and set back from the curb or street right-of-way no less than fifteen (15) feet, and shall be permitted for no longer than five (5) days. One (1) off-premises sign will be permitted for a period not to exceed two (2) days. The building official may remove and dispose of any off-premises sign remaining more than two (2) days or creating a traffic hazard. (Ord. #91-3, June 1991)

14-447. Wall sign requirements generally. (1) All wall signs permitted by this section shall be permanently affixed to the wall of the structure upon which the front footage is calculated under § 14-401(22) whose premises it exhorts; provided

(2) With approval of the design review commission, director of planning or duly authorized representative, a wall sign may be affixed to a side wall or a rear wall, but the permitting of such shall not act to increase either the allowed square footage nor the number of signs allowed, nor shall the manner of calculating the allowable square footage be affected.

(3) All wall signs shall be mounted with the face parallel to the plane of the structure wall upon which it is mounted and the face of the sign shall not extend more than eighteen (18) inches from said building wall upon which it is mounted, said mounting to be approved by the design review commission, director of planning or duly authorized representative upon the review and recommendation of the building department. (Ord. #80-11, May 1980, as amended by Ord. #13-01, March 2013)

14-448. Signs permitted in a commercial and office district.

(1) Signs for commercial enterprise buildings with one hundred feet (100') or less building frontage and within one hundred feet (100') of the street right-of-way. Every business establishment, retailer, service organization or other commercial enterprise specifically located in a commercial or office district shall be entitled to no more than two (2) signs of total accumulated square footage not to exceed one (1) square foot of sign for every foot of building footage. They may have either two (2) wall signs or one (1) wall sign and a ground sign, where permitted, that do not exceed one hundred (100) square feet of total sign area.

Provided however, that commercial enterprises on a corner lot may have two (2) business identification wall signs and a ground sign. The size of the wall signs shall be based on one (1) square foot for every lineal foot of building frontage facing a street, less the area of the ground sign on that side of the building. The total square footage of signage for the building and ground signs may exceed one hundred (100) square feet, but the square footage of the wall sign and ground sign combined on each side of the building may not exceed one hundred (100) square feet.

These signs are subject to the following restrictions:

(a) Notwithstanding the building footage the minimum square footage sign allotment shall be thirty (30) square feet.

(b) Notwithstanding the building front footage the maximum square footage of total signs shall not exceed one hundred (100) square feet, except as provided above for corner lots.

(c) The allotted square footage must be displayed on wall signs or wall signs and a ground sign or permanent window sign.

(d) If a wall sign is selected it shall not be mounted higher than the roof line and must be physically located on the premises of the building whose enterprise it exhorts.

(e) Multi-tenant buildings are not restricted as to number of signs permitted. However, the allotment of one (1) square foot of sign area for each linear foot of tenant frontage applies.

(f) There shall be no roof-mounted signs.

(g) All such signs are otherwise subject to the design review commission, director of planning or duly authorized representative for approval, permit, inspection, and the general provisions of this chapter.

(2) Signs for commercial enterprise buildings with greater than one hundred (100) lineal feet of building frontage and setback more than one hundred feet (100') from the street right-of-way. Every business establishment, retailer, service organization or other commercial enterprise specifically located in a commercial or office district shall be entitled to signs as provided below:

Total sign area:

(a) All buildings with greater than one hundred (100) lineal feet (lf) in frontage shall be allowed a total of one hundred (100) square feet

in sign area for the first one hundred lineal feet (100 lf) of building frontage. In addition they shall be allowed additional square footage based on the following sign area chart:

SIGN AREA CHART		
Distance from right-of-way	Sign area calculation	Maximum sign area
Within 100'	1 sq. ft for every 1 lf. of the first 100' of building frontage	100 sq. ft.
101' to 249'	1 sq. ft for every 1 lf. of the first 100' of building frontage plus 0.25 sq. ft. for every 1 lf. of building frontage greater than 100'	200 sq. ft.
250' to 499'	1 sq. ft for every 1 lf. of the first 100' of building frontage plus 0.5 sq. ft. for every 1 lf. of building frontage greater than 100'	300 sq. ft.
500' to 749'	1 sq. ft for every 1 lf. of the first 100' of building frontage plus 0.75 sq. ft. for every 1 lf. of building frontage greater than 100'	400 sq. ft.
Greater than 750'	1 sq. ft for every 1 lf. of the first 100' of building frontage plus 1 sq. ft. for every 1 lf. of building frontage greater than 100'	500 sq. ft.

(b) The allotted square footage may be displayed on a wall sign or a combination of wall signs and a ground sign.

(c) If a wall sign is selected it shall not be mounted higher than the roof line and must be physically located on the premises of the building whose enterprise it exhorts.

(d) There may be a maximum of one (1) wall sign for each one hundred feet (100') of building frontage.

(e) The maximum size for any one (1) wall sign shall be the greater of three hundred (300) square feet or sixty percent (60%) of the total wall signage allotment permitted, whichever is greater.

(f) Multi-tenant buildings are not restricted as to number of signs permitted. However, the allotment of one (1) square foot of sign

area for each linear foot of tenant frontage applies, subject to the above chart.

(g) There shall be no roof-mounted signs.

(h) All such signs are otherwise subject to the design review commission approval, permit, inspection, and the general provisions of this chapter. (Ord. #79-10, May 1979, as amended by Ord. #87-18, Feb. 1988, and Ord. #13-01, March 2013)

14-449. Entrance sign for commercial, industrial or office complexes. In addition to any other signs allowed under the terms of this chapter, any commercial, industrial or office complex which qualifies to have a directory or project identification sign but does not desire to utilize a directory or project identification sign as permitted by § 14-451 of this chapter, may display, subject to approval by the design review commission, director of planning or duly authorized representative, complex identification signs at its main entrance, or main entrances, if said complex has frontage and entrances on two (2) major streets, in accordance with the following restrictions:

(1) If single face ground signs, then no larger than twenty-five (25) square feet.

(2) Any ground signs approved must comply with § 14-465 (ground sign restrictions), except that it shall have only a single face.

(3) In lieu of single face ground signs, a sign which does not exceed twenty-five (25) square feet and meets the requirements of § 14-465 of this chapter may be approved.

(4) Any sign approved under the provisions of this section shall exclusively contain the name of the complex it identifies, together with the street number or numbers if desired, and shall not contain tenant information or advertising copy.

(5) No more than two (2) signs for each main entrance may be approved. One (1) sign must be placed on either side of said entrance, and two (2) entrances on the same street will not qualify the complex for additional signs. (Ord. #91-3, June 1991, as amended by Ord. #13-01, March 2013)

14-450. Theater marquee signs. (1) Any theater which is engaged in the business of showing motion pictures shall, if it has more than four (4) screens, be entitled to, in addition to any other signs it may be allowed, a sign which complies with § 14-465 (project sign) as to size, height and setback, except that the name of the project and the titles of movies shall be submitted for the names of the businesses or occupants and shall be changeable copy type signs and must comply with § 14-408 of this chapter.

(2) Any theater which has four (4) or fewer screens shall be allowed an additional ground sign which must comply with § 14-465 of this chapter and which may also have the changeable copy feature.

(3) All signs allowed under or in accordance with this section shall be used exclusively to display the name of theaters and movie titles. (Ord. #91-3, June 1991)

14-451. Directory and project identification signs. In a project or development wherein five (5) or more businesses, tenants or occupants are contained, with individual street frontage, a common parking lot a total square footage of at least ten thousand (10,000) square feet in said project, there shall be permitted, in addition to the allotted square footage heretofore recited, a ground sign on each major road frontage, subject to the following restrictions:

(1) The directory or project sign shall be set back no less than twenty (20) feet from the curb or street right-of-way, however, with the approval of the design review commission, set-back may be reduced to ten (10) feet if the required twenty (20) foot setback creates a hardship as to parking or visibility of sign.

(2) The height of said directory or project sign shall be determined as shown below, but in no instance shall it exceed twenty (20) feet, regardless of the number of occupants.

SQUARE FEET IN CENTER	MAXIMUM PROJECT SIGN HEIGHT
10,000 - 24,999	6 feet
25,000 - 99,999	10 feet
100,000 and over	20 feet

(3) The maximum width of said project sign shall be no more than ten (10) feet, and maximum height no more than twenty (20) feet. The design review commission reserves the right to approve the architectural details of the sign structure, as well as the copy area of the sign itself.

(4) Said signs may be internally lighted, but only with the white lighting of intensity and focus not to infringe upon neighboring properties or street traffic.

(5) The area between the bottom of the face of the project sign shall be of solid construction and shall not be landscaping or shrubbery and shall have a brick or decorative stone base.

(6) The name of the center itself must exclusively be located upon the top of the project or directory sign, said name designation to be the same width as the overall sign and of vertical height no more than five (5) feet.

(7) The collective square footage of tenant signage shall not exceed one hundred twenty (120) square feet. No single tenant shall be allowed more than twenty-five (25) square feet of sign area. The allotment of tenant signage and sign size up to the maximum area herein described, is the responsibility of the property owner or his designated agent.

(8) After initial approval of the directory sign, changes of names or copy on the tenant signs may be made upon approval by the building official without appearing before the design review commission.

(9) All project and directory signs shall be ground signs, and the face of said sign shall be located not more than three (3) feet and not less than two (2) feet from the surrounding grade, and the face shall be rectangular in shape; it is specifically prohibited to have spaces or gaps between occupant signs and the center designation signs.

(10) The design review commission shall be required to approve all project and/or directory signs prior to installation, and the same are further subject to the general requirements of this section. (Ord. #79-10, May 1979, as amended by Ord. #80-6, May 1980, Ord. #85-22, Oct. 1985, and Ord. #95-13, Sept. 1995)

14-452. Signs permitted in other districts. In districts other than those hereinbefore defined as residential limited occupancy, residential multi-occupancy, office and commercial districts, signs shall be permitted no more comprehensive than those permitted in the district which in the discretion of the design review commission most closely approximates the additional classification; provided, however, the design review commission upon thorough review of the proposed sign in said district shall refer same along with its accompanying recommendation of the board of mayor and aldermen for final approval and with a proposal for terms of amendment to the sign ordinance to accommodate the unaddressed use classification. (Ord. #79-10, May 1979)

14-453. Applications. (1) The application for sign approval and check list shall include the submission requirements and all appropriate fees. These requirements may be changed from time to time and the sign permit applications and check list shall be revised accordingly.

(2) No application shall be brought before the design review commission without a completed checklist attached to the application and the required sign application fee.

(3) (a) All new multi-tenant commercial or office complexes shall submit to the design review commission a sign policy for future wall tenant signage. This may be submitted with or without a site plan application but must be submitted prior to the application for tenant signage. All sign policy proposals shall follow the sign policy guidelines. Upon the approval of the sign policy, the planning director or designee will have the authority to approve tenant signage or forward the sign application to the design review commission. All tenant signage must have the landlord's or leasing agent's approval with the sign application.

(b) Sign policy guidelines. (i) Elevation sketch or elevation plan shall indicate where signs are to be located on the building, windows, or doors etc.;

- (ii) Maximum sign cabinet height or letter height;
- (iii) Maximum sign area;
- (iv) Typography;
- (v) A statement of permitted use of national or regional chain store typography or logo;
- (vi) Materials (aluminum thickness);
- (vii) Lighting (neon type, color and size, LED, fluorescent tube with UL standards, etc.);
- (viii) Colors (PMS numbers); and
- (ix) Installation and mounting materials.

(4) A tenant/owner representative shall be encouraged to attend the design review commission meeting with the sign company representative. (Ord. #79-10, May 1979, as amended by Ord. #85-22, Oct. 1985, Ord. #95-13, Sept. 1995, Ord. #00-03, March 2000, Ord. #09-06, March 2009, and Ord. #13-01, March 2013)

14-454. Scope of authority. The design review commission,¹ director of planning or duly authorized representative shall not have the authority to alter or amend the sign ordinance nor to approve a sign not in conformity herewith and is directed to cooperate with the building official in the enforcement of same, including but not limited to the following functions:

(1) The design review commission, director of planning or duly authorized representative, upon approving a sign, shall forward the application to the building official with approval noted thereon.

(2) The design review commission, director of planning or duly authorized representative may take other action within its authority to insure safety, eliminate hazards, eliminate encroachment upon public streets and property and encroachment upon adjoining land or uses.

(3) The design review commission, director of planning or duly authorized representative, while it may not approve signs in violation of this chapter, said design review commission, director of planning or duly authorized representative has the specific and general authority to refuse approval of signs, otherwise in compliance with this chapter, which because of unsafe location, unsafe construction, distracting design, insufficient structure and/or encroachment upon surrounding property, violate the spirit of this chapter, which is dedicated to the safety and public welfare of all citizens and businesses in the City of Bartlett.

(4) The Building Official of the City of Bartlett shall have the authority to approve the moving of a sign from one address or location to another address or location within the same shopping center, provided the sign is not altered or

¹Municipal code reference

Design review commission: title 2, chapter 1.

changed as to its design or size when it is moved, and continues to advertise or identify the same business.

(5) The building official shall also have the authority to approve a change in or to the copy only of a sign, if the sign is to remain at the same location and continues to advertise or identify the same business as long as the design or size is not changed. (Ord. #79-10, May 1979, as amended by Ord. #91-5, June 1991, Ord. #95-13, Sept. 1995, and Ord. #13-01, March 2013)

14-455. Permit fees required. Every owner, erector or other applicant for a sign permit shall, with this application, submit a sign application fee. Once approved a sign permit fee will be required. Signs will be inspected annually and an annual sign inspection fee will be collected. These fees shall be established and may be changed as needed by resolution. (Ord. #79-10, May 1979, as amended by Ord. #85-22, Oct. 1985, Ord. #95-13, Sept. 1995, and Ord. #13-01, March 2013)

14-456. Sign permit restrictive. A sign permit shall exclusively warrant and permit the erection of the sign of type, construction, color, lighting, layout and design as specifically approved by the design review commission, director of planning or duly authorized representative and if the final erection varies in any respect from the approved design or location, the same shall be considered an illegal sign. Further, should the sign specified under an application not be erected within a period of six (6) months then the permit is rendered null and void requiring renewed application and review by the design review commission, director of planning or duly authorized representative to consider the permit in view of changed circumstances. (Ord. #79-10, May 1979, as amended by Ord. #13-01, March 2013)

14-457. Enforcement--building official designated. The building official is hereby authorized and directed to enforce all of the provisions of this chapter. Upon presentation of proper credentials the building official or his duly authorized representative shall be permitted by the owner or occupant to enter at reasonable times any building, structure or premises in the City of Bartlett to perform any duty imposed upon him by this chapter. (Ord. #79-10, May 1979)

14-458. Appeal from decision of the building official. Any persons aggrieved by any decision or order of the building official, director of planning or duly authorized representative with regard to this sign ordinance may appeal, within a period not to exceed ten (10) days from said action, to the design review commission by serving written notice to the building official, director of planning or duly authorized representative who, in turn, shall immediately transmit the notice to the design review commission which shall meet to hear said appeal within forty-five (45) days thereafter. (Ord. #79-10, May 1979, as amended by Ord. #95-13, Sept. 1995, and Ord. #13-01, March 2013)

14-459. Appeal from decision of the design review commission.¹

The decision of the design review commission may be appealed directly to the board of mayor and aldermen upon written notice of appeal to the board within five (5) days of said action. This appeal shall be heard at a regularly scheduled meeting of the board of mayor and aldermen. The board of mayor and aldermen may accept, reject or modify the action of the design review commission. Any action on an appeal from the design review commission shall require a minimum of four (4) affirmative votes of the board of mayor and aldermen and in the absence thereof the action of the design review commission shall become final and binding. (Ord. #79-10, May 1979)

14-460. Notice to remove illegal sign. In addition to the other rights and privileges created hereby, the building official, upon determining that a sign, sign structure or appurtenance thereto, is in violation of the sign ordinance, may, in addition to other penalties, deliver notice to the owner and/or occupant to remove same within ten (10) days, and upon noncompliance, the building official may cause to be issued summons by the clerk of the city court, citing the violator to appear and answer the charge of violation before the Bartlett City Court, which finding may be appealed as any other conviction of the sign ordinance violations to the circuit court. (Ord. #79-10, May 1979, as amended by Ord. #91-3, June 1991)

14-461. Removal of unsafe structures. Upon notice by the chief building official to the owner or occupant of property upon which an illegal sign, or unsafe sign, unsafe sign structure or unsafe appurtenance thereto, is located, the said owner or occupant, within twenty-four (24) hours, shall remove same, or in the alternative with the leave of the mayor, the building official may remove same or provide for its removal immediately and the cost of said removal is to be borne by the owner and/or occupant. (Ord. #85-22, Oct. 1985)

14-462. Repair and/or replacement of signs. It shall be the obligation of the building official to maintain routine inspections upon all signs in the City of Bartlett, independently and/or upon the referral of the design review commission, to insure all signs are reasonably maintained, promptly repaired, remains in compliance with this chapter and still exhorts the business of the occupant. In the event that the building official determines that a sign is deficient as above recited he shall cause to be delivered a formal written notice to the owner and/or occupant directing the correction of the deficiency within ten (10) days.

¹Municipal code reference

Design review commission: title 2, chapter 1.

Upon failure to properly correct the deficiency of said notice, within the time allotted, the sign shall be rendered an illegal sign subject to the enforcement provision as hereinabove provided. (Ord. #79-10, May 1979)

14-463. Provisions of federal and state law excepted. No provision of this chapter shall contravene by term or application any existing or later enacted statute or regulation of the federal or state governments and in the event of said conflict the provisions of state and/or federal regulations shall control and signs permitted by said statute may be erected in size, dimensions, set back and design at the minimum requirements of the state and/or federal law or regulation, and subject to the review and approval of the design review commission and upon reference to the city attorney upon his certification of the law to the commission. (Ord. #79-10, May 1979)

14-464. Conditions for ground sign exception. The design review commission, director of planning or duly authorized representative may at its discretion approve a ground sign as one of the two (2) signs (one (1) of three (3) signs for corner lots) allowed by this section, provided it shall not increase the number of signs allowed nor the amount of square footage and further subject to the following conditions:

(1) The enterprise of the owner or occupant is not located within a commercial complex and is thus not legally entitled to signage upon a project or directory sign; and

(2) The building or enterprise does contain but a single occupant; provided, however, subject to review of the design review commission, director of planning or duly authorized representative, the commission has the authority to approve ground signs for multiple occupancy buildings, where a strict application of this section would constitute an inequity, and provided no more than one (1) ground sign is permitted per building, and is not approved when a project or directory sign is used.

(3) The erection of a ground sign will not in any way create a safety hazard, encroach on adjoining properties or impede visibility nor constitute on the frontage such congestion with other signs so as to adversely affect traffic or belabor the identification of other services; and

(4) The owner or occupant has physical frontage upon the street whereon the ground sign is to be located.

(5) The ground sign and its specific location must receive the approval of the design review commission with regard to traffic visibility, ingress, egress, pedestrian visibility, and the propensity for safety hazards upon consideration of the existing businesses and the possibility of future occupancy at or near the location, the proximity to critical traffic point, school children traffic, traffic signals, or school crossings. (Ord. #80-9, May 1980, as amended by Ord. #85-22, Oct. 1985, and Ord. #13-01, March 2013)

14-465. Ground sign restrictions.¹ Upon the review, approval and certification of the conditions for ground sign exception by the design review commission, director of planning or duly authorized representative, the owner or occupant may erect in place of a wall sign, provided it shall not increase the number of signs allowed, a ground sign subject to the following requirements:

(1) A ground sign and supporting structure shall not be over six (6) feet in overall height.

(2) A ground sign shall contain no more than twenty-five (25) square feet of sign surface on either of its faces and shall have no more than two (2) faces. The supporting structure is not included in the sign square footage calculation. Ground signs listing between two (2) and four (4) building occupants as provided under § 14-464(2) shall contain no more than thirty-two (32) square feet of sign surface on either of its faces and shall have no more than two (2) faces. In cases with multiple occupants, the sign faces shall be consistent in design and color.

(3) A ground sign shall be no less than ten feet (10') from the curb line, effective with the adoption of this section.²

(4) A ground sign shall be no less than fifteen feet (15') from any adjoining property, in use or vacant, or curb cut or ingress and egress to any other enterprise.

(5) A ground sign may be externally or internally lighted. Subject to the specific approval of same by the design review commission, director of planning or duly authorized representative. External lights shall not shine onto adjacent property or public streets so as to create a traffic hazard or public nuisance.

(6) The area between the bottom of the face of the ground sign shall be of solid construction and shall not be landscaping or shrubbery.

(7) The ground sign shall have a decorative or stone base.

(8) The accepted ground sign shall be landscaped for a distance of three feet (3') in all directions so as to protect the sign from vehicular traffic and inhibit pedestrian traffic in and about the sign, and if located in a parking area exposed to vehicular traffic shall have a six inch (6") solid curb on all sides exposed to such traffic.

(9) The location, size, and direction of said accepted ground sign shall be subject to review and approval of the design review commission, director of planning or duly authorized representative. (Ord. #87-18, Feb. 1988, as amended by Ord. #91-3, June 1991, Ord. #05-08, Oct. 2005, and Ord. #13-01, March 2013)

¹See Attachment C, Planting Screen for Ground Signs, located at the end of this chapter.

²The original ordinance is Ord. #87-18, Feb. 1988.

14-466. Informational signs. (1) Any business, club, or other organization may, with approval of the design review commission, director of planning or duly authorized representative, in addition to any other signs allowed under this ordinance, erect informational signs upon demonstrating a valid need for such sign.

(2) An informational sign shall be defined as any sign designed exclusively to convey information to the general public in any commercial or business district or complex or residential district where signs are authorized.

(3) The design review commission shall specify the size and location of such signs and shall not approve as informational signs any sign where the request appears to be an attempt by a business or organization to obtain additional sign allowance as a means of calling attention to said business or organization. (Ord. #80-5, May 1980, as amended by Ord. #13-01, March 2013)

14-467. Signs erected on buildings not enclosed and heated. Notwithstanding the definition of front footage in § 14-401(22) a business may qualify for signage as outlined in § 14-448 under the following conditions:

(1) The building is an existing building or is approved by the planning commission and the design review commission.

(2) The business is operated under an unenclosed structure which is not enclosed and heated because of the nature of the business.

(3) The business is carried on solely in said open type building or structure; the structure being neither appurtenant to nor issued in conjunction with an enclosed structure.

(4) If more than one (1) structure is used, even though connected in some manner, sign allowance shall only be claimed or allowed on one (1) such structure, which shall be the principal structure on which the principal entrance to said business is located.

(5) Nothing in this section shall be construed to permit a business to claim sign allowance for porches, breezeways, awnings or other type overhead covers.

(6) All signs allowed under this section shall be subject to approval of the design review commission, director of planning or duly authorized representative and shall meet all other requirements of this chapter. (Ord. #80-8, May 1980, as amended by Ord. #13-01, March 2013)

14-468. Vending machine signs regulated. (1) Vending machines defined. A vending machine shall for the purpose of this section be defined as any device used to dispense goods or products by either mechanical or manual operation by coin.

(2) Unlighted vending machines. Any unlighted vending machine shall not be considered to be a sign as contemplated by this section provided, that the location of same must be submitted to the design review commission

which may require shielding or enclosure if the number, size or location of same constitute an encroachment upon adjoining businesses or the public generally.

(3) Lighted vending machines. Any lighted vending machine shall not be considered to be a separate sign, but if visible to the public from any street located off the business premises, the lighted area of said machine shall be calculated in determining the amount of square footage allowed to said business even though the machine shall not be considered to be a separate sign. (Ord. #80-10, May 1980)

14-469. Signs on ornamental or decorative structures. (1) In addition to areas where signs may be placed as provided in this chapter, signs may also be placed in the following locations with approval of the design review commission.

- (a) Fences;
- (b) Pillars;
- (c) Posts; or

(d) Other ornamental or decorative structures either existing or which may in the future be approved by the planning commission and/or the design review commission.

(2) Any sign so approved must be mounted flat against the plane of said structure and shall extend away from said plane no more than six (6) inches, said mounting to be approved by the design review commission.

(3) Only external lighting may be utilized to light any sign approved under this section.

(4) Any sign approved under this section must meet all other requirements of this chapter, and shall not create a safety or health hazard to the general public. (Ord. #80-12, May 1980)

14-470. Signs for industrial park zoning. (1) Only three (3) signs per single tenant building shall be permitted, a ground sign and two (2) building signs. The ground sign shall not be more than one hundred (100) square feet in area, nor over ten (10) feet in height. The ground sign may be illuminated with industrial type spot lighting, back lighting, or internal lighting. Flashing or intermittent illumination is prohibited. The sign area for building (wall) signs shall be based upon the Sign Area Chart provided in § 14-448 above.

(2) On multi-tenant buildings, wall signs shall be permitted based on square footage not to exceed one (1) square foot of sign for every linear foot of building frontage occupied by the business or enterprise, subject to the following restrictions:

- (a) No business or enterprise shall have more than one (1) sign.
- (b) Notwithstanding the amount of building frontage, each business shall be allowed a minimum sign allotment of thirty (30) square feet.

(c) The allotted sign footage must be displayed on a wall or permanent window sign.

(d) If a wall sign is selected it shall not be mounted higher than the roof line; and must be located on the premises of the enterprise it exhorts.

(e) No sign shall be a roof mounted sign, and must comply with § 14-401(44).

(3) In addition to the wall signs permitted in the preceding subsection, a multi-tenant building owner shall be entitled to a ground sign, which shall exclusively be used to identify the building and shall contain no tenant identification or advertising copy. The owner shall be entitled to a minimum of twenty-five (25) square feet of sign surface and a maximum of one hundred (100) square feet of sign surface, based on the total square feet contained in the building, one (1) square foot being allowed for every one hundred (100) square feet of floor space and subject to the minimum and maximum hereinbefore stated.

(4) Ground signs approved under the authority of this section must also comply with the requirements established for other ground signs by §§ 14-464 and 14-465 of this chapter which are not in conflict with this section, except that the six (6) foot limitation on height may be exceeded on ground signs which are allowed in excess of twenty-five (25) square feet as directed by the design review commission, but shall not exceed ten (10) feet in height. (Ord. #91-3, June 1991, as amended by Ord. #13-01, March 2013)

14-471. Establishment of a special sign corridor. A special sign corridor is hereby established for those tracts of land of five (5) acres or more in the City of Bartlett located east of Fletcher Creek with road frontage on U.S. Highway 64, and along Germantown Parkway from Highway 64 north to a point two thousand feet (2000') north of Highway 64, and having C-H, Highway Commercial Zoning. Each tract of land meeting these criteria shall be allowed a ground sign with a maximum area of two-hundred (200) square feet and a maximum height of twenty feet (20'), and a maximum width of ten feet (10'). Setback, lighting, landscaping, and base material requirements are set forth in § 14-465 of this chapter. Wall or building signs shall be controlled by § 14-464 above. (Ord. #91-3, June 1991, as amended by Ord. #13-01, March 2013)

14-472. Signs for motor vehicle sales. Motor vehicle sale businesses located within the special sign corridor and containing five (5) or more acres are permitted to have signage in accordance with § 14-471 above. In addition, such businesses shall be allowed to provide additional signage as follows:

(1) **Ground signs.** Motor vehicle sales businesses shall be allowed to have a ground sign for each three hundred (300) lineal feet of street frontage. If this business is located on a corner lot, it shall be permitted to have an additional ground sign on the secondary street, provided that there is three

hundred feet (300') of street frontage on that street. The primary ground sign may have a maximum area of two hundred (200) square feet, a maximum height of twenty feet (20'), and a maximum width of ten feet (10'), each additional ground sign may have a maximum area of fifty (50) square feet, and a maximum height of fifteen feet (15'), and a maximum width of ten feet (10').

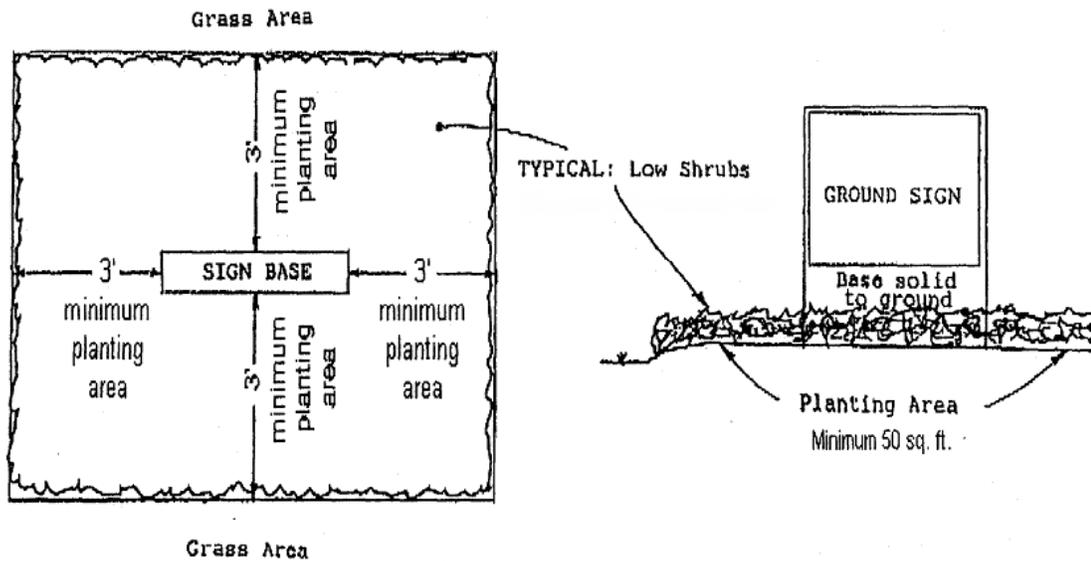
(2) Wall signs. Wall or building signs shall be controlled by § 14-448 above, provided, however, that the number of wall signs may be increased to include a sign for each major brand (Ford, Chevrolet, Dodge, Toyota, Honda, etc.) of new motor vehicle sold on the premises. An additional wall sign may be provided for used cars sold on the premises. The wall sign area for all signs shall conform to the requirements of § 14-471.

All signs allowed under §§ 14-471 and 14-472 shall be subject to approval of the design review commission, director of planning or duly authorized representative and shall meet all other requirements of this chapter. (Ord. #99-20, Jan. 2000, as amended by Ord. #13-01, March 2013)

14-473. Penalties. Any person, firm or corporation violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined not more than fifty dollars (\$50.00), each day's continuance of a violation constituting a separate offense. The owner of any sign, building or premises, or part thereof, where a sign in violation of this chapter shall be placed, or shall exist, and any person who may have assisted in the commission of any such violation shall be guilty as an accessory of the offense. (Ord. #79-10, May 1979)

Attachment C Planting Screen for Ground Signs

[Sign Ordinance and Regulations, § 14-465, 'Ground Sign Restrictions,' Part 8: "The accepted ground sign shall be landscaped so as to protect the sign from vehicular traffic and inhibit pedestrian traffic in and about the sign, and if located in a parking area exposed to vehicular traffic shall have a six-inch (6") solid curb on all sides exposed to such traffic. Landscaping shall consist of a minimum planting area of fifty (50) square feet extending a minimum of three feet (3') from any edge of the sign. The use of plants that provide seasonal color is encouraged, but not required.]



Planting Screen for Ground Signs

CHAPTER 5
TREE ORDINANCE¹

¹Municipal code reference

The Bartlett Tree Ordinance, as enacted by Ord. #89-21, was replaced by Ord. #05-08, and is now in Article VI, § 23 of the Zoning Ordinance, Appendix A of this municipal code.

CHAPTER 6

TREE PROTECTION AND GRADING

SECTION

- 14-601. General requirements.
- 14-602. Submittal of written proposal.
- 14-603. Approval.
- 14-604. Right to appeal.
- 14-605. Violations.

14-601. General requirements. A permit shall be required for all grading, earthmoving, changing of elevation of property, or removal of fifteen (15) percent or more of live trees six (6) inches or greater in diameter at a point five (5) feet above the ground level with the following exception: construction on a parcel of land for an individual single-family homesite, accessory buildings or private drives. (Ord. #88-1, Feb. 1988)

14-602. Submittal of written proposal. (1) Permits for work covered by a development contract between the developer and the city may be obtained by complying with applicable regulations governing all development other than construction on a parcel of land for an individual single-family homesite, accessory buildings or private drives. Permits for all other work may be obtained after the submission to the planning commission of a written statement of the purpose of the work and a site plan which shall include:

(a) General location of all trees to be removed. On site plan applications for all construction other than single family, individual trees larger than six (6) inches in diameter shall be located and indicated by type. On subdivision plans, planned developments, and other plans involving large tracts of land, general area of tree coverage shall be located and the general type and size of trees indicated.

(b) The nature and extent of the proposed grading, earthmoving or change in elevation; and

(c) The applicant's plans for controlling on-site generated sedimentation, erosion and runoff.

(2) Any grading permit application shall be approved if it can be determined that:

(a) The grading plan, including tree removal, has been prepared and will be performed in accordance with good flood, erosion and sedimentation control practices and good forestry practices;

(b) The application provides for sufficient and timely replanting of trees to compensate for the removal of trees and foliage;

(c) The applicant intends to complete development according to a time schedule or has taken steps to prevent any negative impacts resulting from the work proposed. (Ord. #88-1, Feb. 1988)

14-603. Approval. The planning commission shall review and approve or deny the application within thirty (30) days after the day same is submitted. In the event of denial of the application, the specific reasons for denial of same shall be set forth in writing and a copy of same shall be furnished to the applicant. (Ord. #88-1, Feb. 1988)

14-604. Right to appeal. Any dissatisfied applicant under this chapter shall appeal a denial of his application to the board of mayor and aldermen within ten (10) days after the date of the notice of denial and shall make written application to the board of mayor and aldermen to consider his application. (Ord. #88-1, Feb. 1988)

14-605. Violations. Any person violating any of the provisions of this chapter shall be guilty of an offense, an offense being defined as the clearing, grubbing and/or grading of land or the cutting of one (1) excess tree and a separate offense shall be deemed committed for each day of violation of this chapter. The foregoing provision relative to an offense shall not in any way prevent the City of Bartlett from seeking injunctive relief against a violator of this chapter, and the violation of this chapter shall be deemed a nuisance for injunctive relieve purposes. (Ord. #88-1, Feb. 1988)