Zoning Ordinance for the City of Bartlett, Tennessee

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ADOPTED BY THE BOARD OF MAYOR AND ALDERMEN
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Prepared by
Bartlett Department of Planning and Economic Development

ORDINANCE 80-18

AN ORDINANCE AND ZONING MAP ESTABLISHING COMPREHENSIVE ZONING REGULATIONS FOR THE CITY OF BARTLETT, TENNESSEE, AND PROVIDING FOR THE ADMINISTRATION, ENFORCEMENT, AND AMENDMENT THEREOF, IN ACCORDANCE WITH THE PROVISIONS OF TENNESSEE CODE ANNOTATED SECTION 13-701 ET SEQ., AND FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT HEREWITH

WHEREAS, T.C.A. Section 13-701 et seq. empowers the City of Bartlett, Tennessee, to enact a Zoning Ordinance and to provide for its administration, enforcement, and amendment: and

WHEREAS, the Board of Mayor and Aldermen deems it necessary, for the purpose of promoting the health, safety, morals, or general welfare of the City to enact such an Ordinance: and

WHEREAS, the Board of Mayor and Aldermen, pursuant to the provisions of T.C.A. Section 13-701 et seq., has appointed a Planning Commission to recommend the boundaries of the various original districts and appropriate regulations to be enforced therein: and

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

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

WHEREAS, the Planning Commission has submitted its final report to the Board of Mayor and Aldermen: and

WHEREAS, the Board of Mayor and Aldermen, has given due public notice of hearings relating to zoning districts, regulations, and restrictions, and has held such public hearings: and

WHEREAS, all requirements of T.C.A. Section 13-701 et seq., with regard to the preparation of the report of the Planning Commission and subsequent

action of the Board of Mayor and Aldermen of Bartlett, Tennessee, have been fulfilled.

NOW, THEREFORE, BE IT ORDAINED by the Board of Mayor and Aldermen of the City of Bartlett, Tennessee, the following Ordinance and Map, hereinafter referred to as the Bartlett Zoning Ordinance and Map, which is attached hereto and incorporated herein as if specifically set out.

SEVERABILITY

Should any section or provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinance as a whole, or any part thereof other than the part so declared to be unconstitutional or invalid.

EFFECTIVE DATE

This Ordinance shall take effect immediately upon its adoption, the public welfare requiring it.

First Reading	May 27, 1980
Second Reading	June 10, 1980
Third Reading	July 8, 1980

This edition of the Zoning Ordinance is current through March 2006. The last amendment incorporated is Ordinance 05-08.

(Bartlett's first Zoning Ordinance was adopted June 4, 1966.)

TABLE OF CONTENTS

SUBJECT **PAGE**

Article I. Definitions of Terms Used in This Ordinance A--I-1

Section 1 - Interpretation A--I-1

Section 2 - Definitions A--I-1

Article II. Establishment of Districts, Provision for Official Zoning Map A--II-24

Section 1 - Establishment Of Districts A--II-24

Section 2 - Official Zoning Map A--II-25

Section 3 - Replacement Of Official Zoning Map A--II-25

Article III. Rules for Interpretation of District Boundaries . . A--III-27

Article IV. Application of District Regulations A--IV-28

Article V. Schedule of District Regulations A--V-29

Section 1 - A-0 - Agricultural and Open Land District A--V-29

Section 2 - R-E - Residential Estate District A--V-29

Section 3 - RS-18 - Single Family Residential District A--V-30

Section 4 - RS-15 - Single Family Residential District A--V-30

Section 5 - RS-12 - Single Family Residential District A--V-30

Section 6 - RS-10 - Single Family Residential District A--V-30

Section 7 - R-TH - Townhouse Residential District A--V-31

Section 8 - R-D - Two Family Residential District A--V-31

Section 9 - R-M - Multiple Family Residential District A--V-31

Section 10 - 0-R 1 - Neighborhood Office District A--V-32

Section 11 - 0-R-2 - Neighborhood Office District A--V-32

Section 12 - 0-C - Office Center District A--V-33

Section 13 - C-L - Neighborhood Business District A--V-34

Section 14 - C-G - General Business District A--V-34

Section 15 - C-H - Highway Business District A--V-34

Section 16 - SC-1 - Planned Unit Commercial Development . . A--V-35

Section 17 - 1-0 - Wholesale and Warehouse District A--V-37

Section 18 - I-P - Planned Industrial Park A--V-37

Section 19 - FW - Floodway District A--V-38

Section 20 - POS - Public Open Space District A--V-38

Attachment A. Site Plan Approval A--V-45

Article VI. Supplementary District Regulations A--VI-47

Section 1 - Temporary Uses A--VI-47

Section 2 - Home Occupation A--VI-50

Section 3 - Planned Unit Residential Development A--VI-51

Section 3A - PRD-I - Planned Residential Development in Bartlett Station A--VI-54

Section 3B - Planned Residential Development 55+ Senior Housing A--VI-66

Section 4 - Planned Commercial or Industrial Development Regulations A--VI-71

Section 5 - Day Nurseries and Kindergartens A--VI-81

Section 6 - Accessory Buildings A--VI-82

Section 7 - Automobile Service Stations A--VI-84

Section 8 - Garages for Sales, Storage and Services; Sales Lots for New or Used Motor Vehicles: Parking Lots; Service Stations and Similar Structures and Uses A--VI-85

Section 9 - Parking, Storage, or Use of Major Recreational Equipment A--VI-85

Section 10 - Parking and Storage of Certain Vehicles A--VI-85

Section 11 -Off-Street Parking Lots in Residential Districts . . A--VI-86

Section 12 -Minimum Off-Street Parking Requirements A--VI-86

Section 13 -Structures to Have Access A--VI-93

Section 14 -Erection of More Than One Principal Structure . . A--VI-93

Section 15 -Visibility at Intersections in Residential Districts A--VI-93

Section 16 -Exceptions to Height Regulations A--VI-94

Section 17 -Required Landscaping A--VI-94

Section 18 -Satellite Dish A--VI-95

Section 19 .Fences A--VI-95

Section 20 -Special Use Permits A--VI-108

Section 21 -F-P -Floodplain Overlay Zone A--VI-115

Section 22 -Wireless Communication Supporting Structures A--VI-141

Section 23 -Tree Ordinance A--VI-143

Section 24 - [H - Historic Preservation Overlay Zone] A--VI-170

Section 25 - Historic Preservation A--VI-171

Section 26 - MS - Main Street Commercial Overlay District . A--VI-187

Section 27 - Special Events A--VI-195

Section 28 - Guest Units A--VI-204

Section 29 - RC - Residential Condominium Overlay District A--VI-206

Article VII. Non-Conforming Lots, Uses of Land, Structures, Uses of Structures and Premises, and Non-Conforming Characteristics of Use A--VII-209

Section 1 - Intent A--VII-209

Section 2 - Non-Conforming Lots Of Record A--VII-209

Section 3 - Non-Conforming Uses of Land (or Land With Minor Structures Only) A--VII-209

Section 4 - Non-Conforming Structures A--VII-210

Section 5 - Non-Conforming Uses of Structures or of Structures and Premises In Combination A--VII-210

Section 6 - Repairs, Maintenance and Building Expansion . A--VII-211

Article VIII. Administration and Enforcement - Building Permits and Certificates of Zoning Compliance A--VIII-212

Section 1 - Administration and Enforcement A--VIII-212

Section 2 - Building Permits Required A--VIII-212

Section 3 - Application for Building Permit A--VIII-212

Section 4 - Certificates of Zoning Compliance for New, Altered or Non-Conforming Use A--VIII-214

Section 5 - Expiration of Building Permit A--VIII-214

Section 6 - Construction and Use to Be as Provided in Applications, Plans, Permits, and Certificates of Zoning Compliance A--VIII-215

Section 7 - Abandonment of Construction Activity A--VIII-215

Article IX. Board of Zoning Appeals A--IX-216

Section 1 - Establishment A--IX-216

Section 2 - Proceedings of the Board of Zoning Appeals A--IX-216

Section 3 - Hearings; Appeals; Notice A--IX-216

Section 4 - Stay of Proceedings A--IX-217

Section 5 - Powers and Duties A--IX-217

Section 6 - Appeals from the Board of Zoning Appeals A--IX-219

Article X. Duties of The Board of Mayor and Aldermen A--X-220

Article XI. Establishment of Fees, Charges and Expenses . . . A--XI-221

Article XII. Amendments A--XII-222

Section 1 - Public Hearing Required before Amendment . . . A--XII-222

Section 2 - Re-Application A--XII-222

Article XIII. Legal Status Provisions A--XIII-223

Section 1 - Provisions of Ordinance Declared to be Minimum Requirements A--XIII-223

Section 2 - Complaints Regarding Violations A--XIII-223

Section 3 - Penalties for Violation A--XIII-223

FIGURES

Figure I-1. Lot Types A--I-12

Figure I-2. Required Yards A--I-23

Figure [VI-12a]. Parking Design Requirements A--VI-89

Figure [VI-19]. Residential Fence Setbacks A--VI-97

PLATE A [Fence for Double-Frontage Lot] A--VI-104

PLATE B [Fence for Double-Frontage Lot] A--VI-104

PLATE C [Fence for Double-Frontage Lot with Maintenance by Homeowners Association] A--VI-105

PLATE C [Fence Detail for Plate 19C] A--VI-106

PLATE D [Fence for Double-Frontage Lot] A--VI-107

Commercial Streetscape:
Plate 23A A--VI-166
Plate 23B A--VI-167
Plate 23C A--VI-168

Screen Between Single-Family Residential and All Other Land Uses
Plate 23D A--VI-169

TABLES

Chart 1. Uses Permitted in Zoning Districts A--V-39

Chart 2. Bulk Regulations And Permitted Residential Densities . . . A--V-45

Table VI-6. [Accessory Building Setbacks and Height] A--VI-83

Table VI-12a. [Off-Street Parking Space Requirements] A--VI-89

Table VI-12b. [Accessible Parking Spaces Required] A--VI-93

ATTACHMENT "A." [Trees by Category and Size] A--VI-163

Table [VI-27a]. Special Event Maximum Duration A--VI-198

AMENDMENTS, 1995 THROUGH OCTOBER 2005

Date Adopted	Ordinance No.	Description
3/28/95	95-5	Added Art. V, Sec. 11 - OR-2 - Neighborhood Office District; and made related amendments to Art. V, Charts 1 and 2
3/12/96	96-2	Amended Art. VI, Sec. 18 -Fences, adding words to paragraph D and adding paragraph F and Plates A, B, and C
12/9/97	97-10	Amended Art. VI, Sec. 5 (now 6) -Accessory Buildings, paragraph B, to allow 1½-story accessory buildings in all residential zones except RS-10
5/12/98	98-03	Added Art. VI, Sec. 22 - Wireless Communication Facilities; and made related amendments to Art. I, Sec. 2 -Definitions; Art. V, Chart 1 -Uses Permitted in Zoning Districts; and Art. VI, Sec. 15 - Exceptions to Height Regulations
5/26/98	98-05	Added Art. VI, Sec. 4 - Planned Commercial or Industrial Development Regulations
10/26/99	99-12	Added Art. VI, Sec. 24, [H -Historic Preservation Overlay Zone]; and Art. VI, Sec. 25, Historic Preservation
1/11/00	99-16	Added Art. VI, Sec. 3A, PRD-1 - Planned Residential Development in Bartlett Station
9/26/00	00-19	Amended parts D.5 and D.8 of Art. VI, Sec. 3A, PRD-1 -Planned Residential Development in Bartlett Station
4/24/01	01-05	Amended Art. V, Chart 2, for the SC-1 district
6/26/01	01-08	Added Art. VI, Sec. 26 -Main Street Commercial Overlay District
6/26/01	01-10	Amended schedule of off-street parking and loading space requirements in Art. VI, Sec. 12, Part B

Date Adopted	Ordinance No.	Description
11/13/01	01-17	Amended Art. VI, Sec. 1 to provide for inventory reduction sales in the industrial districts
3/12/02	02-03	Amended Art. I, Sec. 2 to define yard sales and Art. VI, Sec. 1 regarding temporary uses, to add yard sales and refer to special events; add Art. VI, Sec. 27 to provide for special events
4/9/02	02-04	Amended Art. V, Chart 1 and Art. VI, Sec. 20 to add nursing home, subject to special use permit, in residential zoning districts
8/13/02	02-10	Amended Art. V, Chart 1 to add restaurant (sit-down) in C-L district, with special use permit
10/8/02	02-12	Amended Art. VI, Sec. 12 to add accessible parking spaces requirement
12/10/02	02-16	Amended Art. V, Chart 1, to add and amend permitted uses; amend Art. I to add and amend definitions; amend Art. IX, Sec. 5 to delete Special Exceptions authority from the Board of Zoning Appeals, delete references to special exceptions throughout the Zoning Ordinance, and amend Art. V, Sec. 5 administrative review and variance provisions to conform to statutory language
11/12/02	02-17	Amended Art. VI, Sec. 6 provisions for accessory buildings and added related definitions to Art. I
5/27/03	03-07	Ordinance to Amend Zoning Ordinance, Article V, Chart 1,to add "Church" as permitted use in the 0-R-1, 0-R-2, 0-C and C-L Zoning Districts
7/8/03	03-12	Ordinance to Amend Zoning Ordinance Article V, Chart 2, to Remove the Requirement for Additional Front Yard depth where lots in Non-Residential Zoning Districts abut Major Streets
9/9/03	03-18	Ordinance to Amend the Zoning Ordinance to Add Satellite Automobile Rental as a permitted use in certain districts, with a Special Use Permit; and to add criteria for the approval of such use

Date Adopted	Ordinance No.	Description
2/10/04	04-01	Ordinance to Amend the Zoning Ordinance to add a guest unit as a permitted use in single-family residential districts, and to add criteria for the approval of such use
6/8/04	04-07	Ordinance to Amend the Zoning Ordinance to add Psychic or Fortune Telling Businesses and Day Labor facilities as permitted uses in the C-H highway business district, with special use permits, and to clarify the definition and narrow the locations of Pawn Shops
9/13/05	05-05	Ordinance to Amend Requirements of the Zoning Ordinance regarding the R-THE Zoning District, to Amend the Definition of "Townhouse" and to delete the requirement for Arterial Frontage
9/13/05	05-06	Ordinance to Amend Requirements of the Zoning Ordinance regarding the C-H Zoning District, to amend the maximum height requirement and minimum yard requirements
9/13/05	05-07	Ordinance to Add a Residential Condominium Overlay District to the Zoning Ordinance and to add definitions for Open Space
10/25/05	05-08	Ordinance to Amend Zoning Ordinance Article VI, Section 23, Tree Ordinance, and Article VI, Section 19, Fences and to Amend the Sign Ordinance regarding Landscaping Around Monument Signs

ARTICLE I.

DEFINITIONS OF TERMS USED IN THIS ORDINANCE

Section 1 - Interpretation

For the purpose of interpreting this Ordinance, certain words or terms used are herein defined. Except as defined herein, all other words used in this Ordinance shall have their customary dictionary definition.

All words used in the present tense include the future tense; words used in the singular number include the plural and words used in the plural number include the singular; the word "person" includes a firm, association, organization partnership, corporation, trust and company, as well as an individual; the word "lot" includes the word "plot" or "parcel;" the word "building" includes the word "structure;" the word "shall" is always mandatory and not merely directory; the words "used" or "occupied" as applied to any land or building shall be construed to include the words "intended, arranged, or designed to be used or occupied," the word "map," "Zoning Map," or "Bartlett Zoning Map," shall mean the "Official Zoning Map of the City of Bartlett, Tennessee."

Section 2 - Definitions

Accessory Building: (Ord. 02-17, 11/12/02, amended by Ord. 06-05, 4/25/06)

A structure detached from the principal building, housing a use that (1) is subordinate in area, extent, and purpose to the principal use; (2) contributes to the comfort, convenience, or necessity of the principal use; (3) is located on the same lot and in the same zoning district as the principal use; and (4) is not a principal use, that is, not a use permitted in Article V, Chart 1.

Accessory Use or Structure:

A use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use of the structure.

Administrative Services: (Ord. 02-16, 12/10/02)

Overall management and general supervisory functions, such as executive, personnel, finance, legal, and sales activities. See "Offices."

Agricultural Building: (Added by Ord. 06-05, 4/25/06)

A structure designed and constructed to house farm implements, hay, grain, poultry, livestock or other horticultural products. This structure shall not be a place of human habitation or a place of employment where agricultural products are processed, treated or packaged, nor shall it be a place used by the public.

Amusements, Commercial Indoor: (Ord. 02-16, 12/10/02)

The provision of entertainment or games of skill to the general public for a fee and that is wholly enclosed in a building, including but not limited to a bowling alley or billiard parlor.

Amusements, Commercial Outdoor: (Ord. 02-16, 12/10/02)

The provision of entertainment or games of skill to the general public for a fee where any portion of the activity takes place outside of a building, including but not limited to a golf driving range, archery range, miniature golf course, car race track, or merry-go-round.

Animal Grooming Service: (Ord. 02-16, 12/10/02)

Any place or establishment where animals are bathed, clipped, or combed for the purpose of enhancing their aesthetic value and/or health and for which a fee is charged.

Antique Store: (Ord. 02-16, 12/10/02)

An establishment primarily engaged in retailing works of art, pieces of furniture, decorative objects, or the like, of or belonging to the past, of which 80 percent or more are over 50 years old or have collectible value. This does not include "retail secondhand store."

Assisted-Care Living Facility: (Ord. 02-16, 12/10/02)

Under the terms of Tennessee Code Annotated Title 68, Chapter 11, Part 2, a building, establishment, complex or distinct part thereof which accepts primarily aged persons for domiciliary care; and provides on site to its resident, room, board, non-medical living assistance services appropriate to the residents' respective needs, and medical services as prescribed by each resident's treating physician, subject to the limitations of the statute. An assisted-care living facility resident is primarily an aged ambulatory person who requires domiciliary care, and who may require one (1) or more of the services described in the statute.

ATM: See "Automated Teller Machine." (Ord. 02-16, 12/10/02)

Attic: (Ord. 02-17, 11/12/02, amended by Ord. 06-05, 4/25/06)

Interior space that is enclosed wholly by the roof slope rather than vertical exterior walls; which space typically houses environmental systems (HVAC, water heater), is vented to the outdoors, is neither finished (except for a floor) nor heated, and requires a ladder or uses pull-down stairs for access.

Automated Teller Machine (ATM): (Ord. 02-16, 12/10/02)

A mechanized consumer banking device operated by a financial institution for the convenience of its customers, whether outside or in a building. An ATM located within a building is considered accessory to the principal use unless the ATM is likely to be an independent traffic generator. An ATM outside of a building is considered an accessory use to a principal financial institution in the building.

Automobile: (Ord. 02-16, 12/10/02)

A term referring in this ordinance to passenger cars, trucks, and vans; motorcycles and all-terrain vehicles; and motorized recreational vehicles; and, unless otherwise stated, referring to trailers normally pulled by such vehicles, such as camper, horse, and boat trailers.

Automobile Gas Station: (Ord. 02-16, 12/10/02)

A facility used for the retail sale of automobile fuels, oil, and minor accessories.

Automobile Oil Change and Lubrication Shop: (Ord. 02-16, 12/10/02)

An operation that provides lubrication and/or checking, changing, or additions of those fluids and filters necessary to the maintenance of a vehicle.

Automobile Paint or Body Shop: (Ord. 02-16, 12/10/02)

An establishment primarily engaged in repairing or painting bodies of autos and associated trailers, not including manufactured (mobile) homes.

Automobile Rental: (Ord. 02-16, 12/10/02)

Rental of automobiles and light trucks and vans, including incidental parking and servicing of vehicles for rent or lease. Typical uses include auto rental agencies and taxicab dispatch areas.

Automobile Repair, General: (Ord. 02-16, 12/10/02)

An establishment primarily engaged in providing (1) any of a wide range of mechanical and electrical repair and maintenance services for autos and associated trailers or (2) engine repair and replacement; except for such services otherwise specifically listed herein.

Bank, Commercial: See "Commercial Bank." (Ord. 02-16, 12/10/02)

Bed and Breakfast: (added by Ord. 07-14, 9/11/07)

"Bed and Breakfast establishment," referred to in this part as the "establishment," means a private home, inn or other unique residential facility offering bed and breakfast accommodations and one (1) daily meal and having four (4) but not more than twelve (12), guest rooms furnished for pay, with guests staying not more than fourteen (14) days, and where the innkeeper resides on the premises or property immediately adjacent to it. Guest rooms shall be established and maintained distinct and separate from the innkeeper's quarters.

Board of Zoning Appeals:

A semi-judicial body that is given certain powers under this Ordinance.

Boarding House: (Ord. 02-16, 12/10/02)

An establishment with lodging for five or more persons where meals are regularly prepared and served for compensation and where food is placed upon the table family style, without service or ordering of individual portions from a menu. *See also* "Hotel," "Rooming House."

Buildable Area:

The portion of a lot remaining after required yards have been provided.

Business Credit Establishment: (Ord. 02-16, 12/10/02)

An establishment engaged in providing credit or capital to businesses and other organizations. See "Finance - Financial Lending Establishment, Miscellaneous."

Business Services: (Ord. 02-16, 12/10/02)

The provision of services primarily to businesses rather than to individuals. *See also* "Offices."

Cemetery: (Ord. 02- 16, 12/10/02)

A place used for interment of human or animal remains or cremated remains, including a burial park for earth interments, a mausoleum for vault or crypt interments, a columbarium for cinerary interments, or a combination thereof; including necessary sales and maintenance facilities; and including a funeral home when operated within the boundary of such cemetery.

Child or Children: (Ord. 02-16, 12/10/02)

A person or persons under eighteen (18) years of age.

Child Care: (Ord. 02-16, 12/10/02)

The provision of supervision and protection, and, at a minimum, meeting the basic needs, of a child or children for less than twenty-four (24) hours a day.

Child Care Center: (Ord. 02-16, 12/10/02)

Under the terms of Tennessee Code Annotated Title 71, Chapter 3, Part 5, any place or facility operated by any person or entity that provides child care

- for three (3) or more hours per day;

- for at least thirteen (13) children who are not related to the primary caregiver;

provided, that all children, related or unrelated shall be counted in the group sizes applicable to child care centers; with the exception, that if the child care center is operated in the occupied residence of the primary caregiver, children nine (9) years of age or older who are related to the primary caregiver will not be counted in determining the group sizes applicable to child care centers if such children are provided a separate space from that occupied by the child care center.

Child Care Home, Family: (Ord. 02-16, 12/10/02)

Under the terms of Tennessee Code Annotated Title 71, Chapter 3, Part 5, any place or facility which is operated by any person or entity that provides child care

- for three (3) or more hours per day;

- for at least five (5) children but not more than seven (7) children who are not related to the primary caregiver;

provided, that the maximum number of children present in the family child care home, including related children of the primary caregiver shall not exceed twelve (12), with the exception that, if the family child care home is operated in the occupied residence of the primary caregiver, children related to the primary caregiver nine (9) years of age or older will not be counted in determining the maximum number of children permitted to be present in a "family child care home" if those children are provided a separate space from that occupied by the family child care home.

Child Care Home, Group: (Ord. 02-16, 12/10/02)

Under the terms of Tennessee Code Annotated Title 71, Chapter 3, Part 5, any place or facility operated by any person or entity that provides child care

- for three (3) or more hours per day;

- for at least eight (8) children who are not related to the primary caregiver;

provided, however, that the maximum number of children present in a group child care home, including those related to the primary caregiver, shall not exceed twelve (12) children, with the exception that, if the group child care home is operated in the occupied residence of the primary caregiver, children related to the primary caregiver nine (9) years of age or older will not be counted in determining the maximum number of children permitted to be present in a group child care home, if those children are provided a separate space from that occupied by the group child care home; and, provided, further, that up to three (3) additional school age children, related or unrelated to the primary caregiver, may be received for child care before and after school, on school holidays, on school snow days and during summer vacation.

Child Drop-In Center: (Ord. 02-16, 12/10/02)

Under the terms of Tennessee Code Annotated Title 71, Chapter 3, Part 5, a place or facility operated by any person or entity providing child care, at the same time, for fifteen (1 5) or more children, who are not related to the primary caregiver, for short periods of time, not to exceed ten (10) hours per week and for not more than six (6) hours per day for any individual child, while the parents or other custodians of the children are engaged in short-term activities that do not include employment of the parent or other custodian of the child.

Drop-in centers operated by not-for-profit organizations that provide child care for no more than two (2) hours per day with a maximum of ten (10) hours per week without compensation, while the parent or other custodian is engaged in short-term activities on the premises of the organization, shall not be deemed to be a drop-in center or regulated as a drop-in center.

Church: (Ord. 02-16, 12/10/02)

A building wherein persons regularly assemble for religious worship and which is maintained and controlled by a religious body organized to sustain public worship, together with all accessory buildings and uses customarily associated with such primary purpose; including a synagogue, temple, mosque, or other such place for worship and religious activities.

City:

The City of Bartlett, Tennessee.

Club: (Ord. 02-16, 12/10/02)

A building or facility owned or operated by a corporation, association, person or persons, for a social, educational, or recreational purpose, to which membership is required for participation and not primarily operated for profit nor to render a service that is customarily carried on as a business.

Condominium:

Joint or common ownership of some portions of a building, land or improvements by individual owners in a development.

Convenience Store: (Ord. 02-16, 12/10/02)

A retail establishment typically of no more than 2,500 square feet that offers for sale convenience goods, such as prepackaged food items, beverages, motor oil and other automotive items, and other household goods.

Country Club: (Ord. 02-16, 12/10/02)

A club with recreation facilities for members, their families and invited guests.

Credit Union: (Ord. 02-16, 12/10/02)

An establishment engaged in accepting members' share deposits in a cooperative that is organized to offer consumer loans to its members. (NAICS 52213). See also "ATM," "Finance - Commercial Bank, Credit Union, or Savings Institution."

Day labor hiring: (Ord. 04-07, 06/08/04)

A location at which job-seekers congregate, seeking to be hired by the day or by the job for short periods of time, where persons must be present to receive a job offer and be transported to a job site.

Dwelling, Single Family:

A detached residential dwelling unit, other than a mobile home, designed for and occupied by one (1) family only.

Dwelling, Multiple Family:

A residential building designed for or occupied by three (3) or more families, with the number of families in the residence not exceeding the number of dwelling units provided.

Dwelling Unit:

One (1) room or rooms connected together, constituting a separate, independent housekeeping establishment for owner occupancy or rental or lease on a weekly, monthly, or longer basis and physically separated from any other rooms or dwelling units which may be in the same structure, and containing independent cooking and sleeping facilities.

Family:

One or more persons occupying a single dwelling unit. Unless all members are related by blood or marriage, no such family shall contain over five (5) persons. Domestic servants employed on the premises may be housed on the premises without being counted as a family or families.

Finance - Commercial Bank: (Ord. 02-16, 12/10/02)

An establishment primarily engaged in accepting demand and other deposits and granting withdrawals; making commercial, institutional, and consumer loans; and providing other customer financial transactions. (NAICS 52211). See also "ATM," "Credit Union."

Finance - Consumer Lending Establishment:

An establishment primarily engaged in providing unsecured cash loans to individuals or consumers for nonspecified purposes. (NAICS 522291)

Finance - Financial Lending Establishment, Miscellaneous:
(Ord. 02-16, 12/10/02)

A nondepository credit intermediation establishment under NAICS code 5222 such as a business credit establishment, mortgage loan broker, real estate credit establishment, or other establishment providing similar financial services; excluding NAICS 5222 establishments separately listed herein.

Finance - Securities, Commodity Contracts, and Other Financial Investments and Related Activities: (Ord. 02-16, 12/10/02)

An establishment primarily engaged in one of the following: (1) underwriting securities issues and/or making markets for securities and commodities; (2) acting as agent (i.e., broker) between buyers and sellers of securities and commodities; (3) providing securities and commodity exchange services; and (4)

providing other services, such as managing portfolios of assets; providing investment advice; and trust, fiduciary, and custody services. (NAICS 523)

Flag lots - A lot on which the buildable area is connected to the street by a strip of land, more narrow than the typical minimum lot width required in the zoning ordinance, provided that the width at the front building line at least equals the required lot width of the zoning ordinance.

Fortune telling (See also "Psychic"): (Ord. 04-07, 6/8/04)

A use involving the foretelling of the future in exchange for financial or other valuable consideration. Fortune telling shall be limited to uses where the fortune is told through astrology, augury, card or tea reading, cartomancy, clairvoyance, clairaudience, crystal gazing, divination, magic mediumship, necromancy, palmistry, psychometry, phrenology, prophecy, spiritual reading or any similar means. Fortune telling does not include forecasting based on historical trends or patterns, religious dogma, or any of the previously listed arts when presented in an assembly of people who purchase tickets or means in exchange for the presentation at a site licensed for such purpose.

Funeral Chapel: (Ord. 02-16, 12/10/02)

A building used primarily for human funeral services, provided that such building shall not contain the other facilities defined for a "funera1 home."

Funeral Home: (Ord. 02-16, 12/10/02)

A building or part thereof used for human funeral services. Such building may contain space and facilities for (a) embalming and the performance of other services used in the preparation of the dead for burial; (b) the performance of autopsies and other surgical procedures; (c) the storage of caskets, funeral urns, and other related funeral supplies; (d) the storage of funeral vehicles; and (e) facilities for cremation. A funeral home may include a funeral chapel.

Greenhouse, Commercial: (Ord. 02- 16, 12/10/02)

A building used for the growing of plants, all or part of which are sold at retail or wholesale.

Half-Story: (Ord. 02-17, 11/12/02, amended by Ord. 06-05, 4/25/06)

Interior space above ground-floor that is enclosed in part or wholly by the roof slope rather than solely vertical exterior walls; which space is closed for heating rather than vented to the outdoors, has a fixed stairway for access, and often has dormers for additional useable floor area and to accommodate windows.

Home for the Aged: (Ord. 02-16, 12/10/02)

Under the terms of Tennessee Code Annotated Title 68, Chapter 11, Part 2, a home represented and held out to the general public as a home which accepts primarily aged persons for relatively permanent, domiciliary care. A home for the aged provides room, board and personal services to one (1) or more nonrelated persons. A home for the aged resident is a person who is ambulatory and who requires permanent, domiciliary care but will be transferred to a licensed hospital, a licensed assisted living facility, or a licensed nursing home when health care services are needed which must be provided in such other facilities.

Hospital: (Ord. 02-16, 12/10/02)

Under the terms of Tennessee Code Annotated Title 68, Chapter 11, Part 2, any institution, place, building or agency represented and held out to the general public as ready, willing and able to furnish care, accommodations, facilities and equipment for the use, in connection with the services of a physician or dentist, of one (1) or more nonrelated persons who may be suffering from deformity, injury or disease or from any other condition for which nursing, medical or surgical services would be appropriate for care, diagnosis or treatment. "Hospital" does not include any hospital or institution, operated by the department of mental health and developmental disabilities, specially intended for use in the diagnosis, care and treatment of those suffering from mental illness, mental retardation, convulsive disorders, or other abnormal mental conditions.

Hotel: (Ord. 02-16, 12/10/02)

A building in which lodging is provided and offered to the public for compensation, and which is open to transient guests and is not a rooming or boarding house as herein defined. See also "Boarding House," "Motel," "Rooming House."

Laboratory: (Ord. 02-16, 12/10/02)

A building or group of buildings in which are located facilities for scientific research, investigation, testing, or experimentation, but not facilities for the manufacture or sale of products, except as incidental to the main purpose of the laboratory.

Loading Space, Off-Street:

Space logically and conveniently located for bulk pickups and deliveries, scaled to delivery vehicles expected to be used, and accessible to such vehicles when required off-street parking spaces are filled. Required off-street loading space

is not to be included as off-street parking space in computation of required off-street parking. Required off-street loading spaces shall not be less than 10 feet in width and shall have an unobstructed vertical clearance of not less than 14 feet. The minimum length of loading spaces shall be 50 feet.

Lodge: (Ord. 02-16, 12/10/02)

A membership organization that holds regular meetings and that may, subject to other regulations controlling such uses, maintain dining facilities, serve alcohol, or engage professional entertainment for the enjoyment of dues-paying members and their guests. There are no sleeping facilities. This definition shall not include fraternities or sororities.

Lot:

A parcel of land of at least sufficient size to meet minimum zoning requirements for use, coverage, and area, and to provide such yards and other open spaces as are herein required. Such lot shall have frontage on an improved public street, or on an approved private street, and may consist of:

1. A single lot of record.

2. A portion of lot of record.

3. A combination of (a) complete lots of record, (b) of complete lots of record and portions of lots of records, or (c) portions of lots of record.

4. A parcel of land described by metes and bounds.

In the case of division or combination of a lot or parcel, no residual lot or parcel may be created which does not meet the minimum zoning requirements of the Ordinance.

Lot Frontage:

The front of a lot is the portion nearest the street. For the purpose of determining yard requirements on comer lots and through lots, all sides of a lot adjacent to streets shall be considered frontage, and yards shall be provided as indicated under "Yards" in this section.

Lot Measurements:

1. Depth of a lot shall be considered to be the distance between the midpoints of straight lines connecting the foremost points of the side lot lines in front and the rearmost point of the side lot lines in the rear.

2. Width of a lot shall be considered to be the distance between straight lines connecting front and rear lot lines at each side of the lot, measured

across the rear of the required minimum front yard. The width between side lot lines at their foremost points (where they intersect with street line)shall not be less than eighty (80) percent of the required lot width except in the case of lots where the eighty (80) percent requirement shall not apply. Lots on coves may be allowed to vary the minimum lot width by five (5) feet in the RS- 10, RS- 12, RS-15, and RS-18 zones, and twenty-five (25) feet in the R-E, Residential Estate zone.

Lot of Record:

A parcel of land in a subdivision recorded in the Shelby County Register's Office, or a parcel of land described by metes and bounds or platted which has been recorded prior to March 6, 1956, in accordance with Ord. #02-18.

Lot Types:

The diagram (Figure I-1) which follows, illustrates terminology used in this Ordinance with reference to CORNER lots, INTERIOR lots, and THROUGH lots.

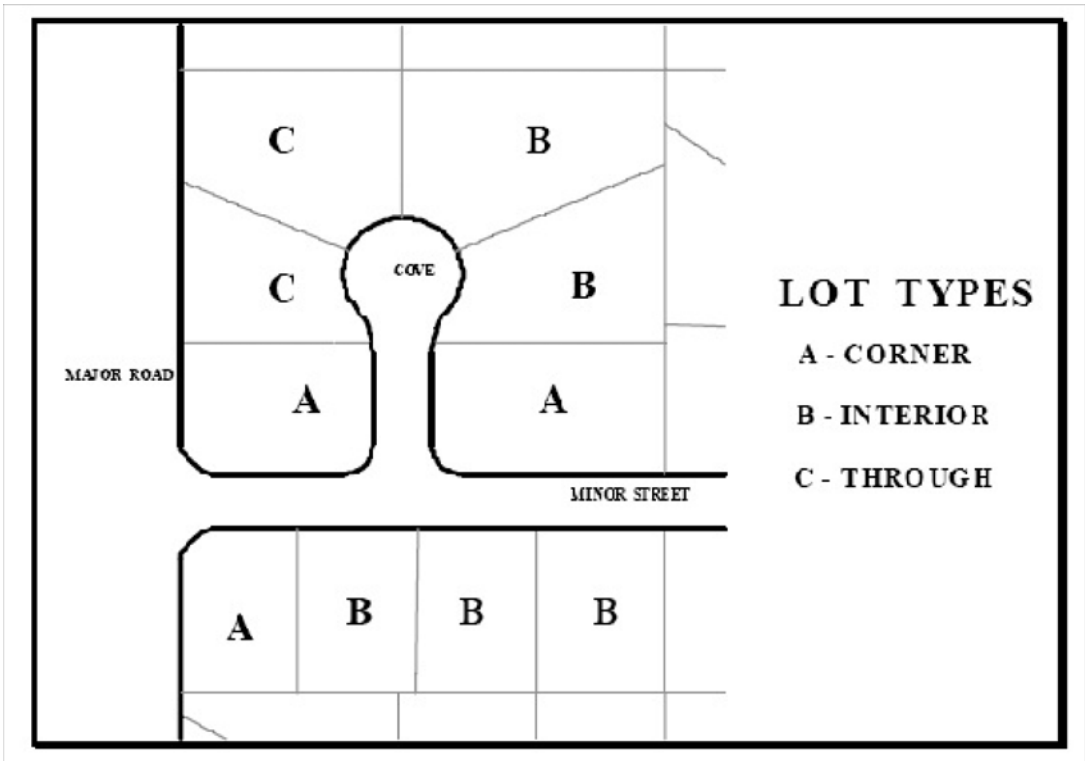


Figure I-1

In the diagram:

1. CORNER lot (A) is a lot located at the intersection of two (2) or more streets. A lot abutting on a curved street or streets shall be considered a corner lot if straight lines drawn from the foremost points of the side lot lines to the foremost point of the lot, meet at an interior angle of less than 135 degrees.

2. INTERIOR lot (B) is a lot other than a corner lot with only one (1) frontage on a street.

3. THROUGH lot (C) is a lot other than a corner lot with frontage on more than one street. Through lots abutting two (2) streets may be referred to as double frontage lots.

Lumber Yard: (Ord. 02-16, 12/10/02)

An establishment where lumber and other building materials such as brick, tile, cement, insulation, roofing materials, and the like are sold at retail. The sale of items, such as heating and plumbing supplies, electrical supplies, paint, glass, hardware, and wallpaper is permitted at retail and deemed to be customarily incidental to the sale of lumber and other building materials at retail.

Manufactured (Mobile) Home Dealer: (Ord. 02-16, 12/10/02)

An establishment primarily engaged in retailing new and/or used manufactured homes (i.e., mobile homes), parts, and equipment.

Minor Auto Repair:

This use is allowed as a special use and may include the following services: adjusting and repairing brakes; balancing and alignment of wheels; oil change; and auto lubrication. Minor auto repairs do not include removal of the head or crankcase, other major mechanical and body work, straightening of body parts, painting, welding and storage of automobiles not in operating condition. All of the permitted services and repairs shall be conducted inside a structure.

Mortgage Loan Broker: (Ord. 02-16, 12/10/02)

An establishment engaged in arranging loans by bringing borrowers and lenders together on a commission or fee basis. See "Finance - Financial Lending Establishment, Miscellaneous.

Motel: (Ord. 02-16, 12/10/02)

A building or group of buildings in which lodging is provided to transient guests, offered to the public for compensation, and in which access to and from each room or unit is through an exterior door. See also "Boarding House," "Hotel," "Rooming House."

Motor Vehicle: (Ord. 02-16, 12/10/02)

Any self-propelled vehicle designed primarily for transportation of persons or goods along public streets or other public ways; including any motor vehicle legal for use on public streets.

NAICS: (Ord. 02-16, 12/10/02)

North American Industry Classification System, published by the U.S. Census Bureau, U.S. Department of Commerce.

Nursery: (Ord. 02-16, 12/10/02)

An establishment for the growth, display, and/or sale of plants, shrubs, trees, and materials used in indoor or outdoor planting, conducted within or without an enclosed building.

Nursing Home (Ord. 02-04, 4/9/02)

Any institution or facility defined as such pursuant to state law or the rules and regulations for nursing homes promulgated by the Board for Licensing Health Care Facilities. Excluded are hospitals, clinics, or similar institutions devoted primarily to the diagnosis and treatment of the sick or injured, facilities providing surgical services, or facilities providing care for alcoholism, drug addiction, mental disease, or communicable disease.

Offices: (Ord. 02-16, 12/10/02)

Administrative, executive, professional, research, or similar services, provided that no merchandise is sold on the premises, except such as is incidental or accessory to the principal permissible use. See also "Professional Services."

Open Space: (Ord. 05-07, 9/13/05)

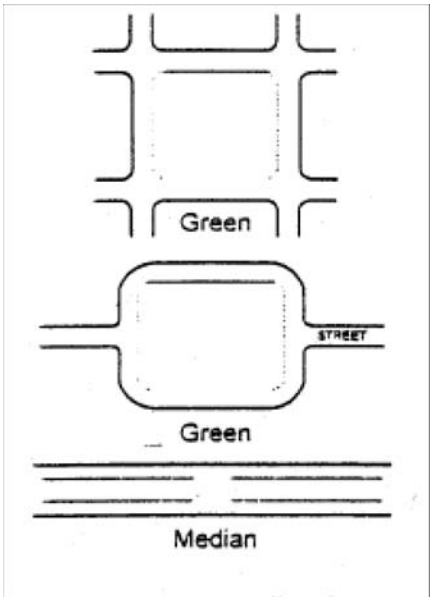
"Open space," where the term is used without further elaboration, means land that is retained for use as active or passive recreation areas or for resource protection in an essentially undeveloped state, vegetated except for approved pedestrian or bicycle paths or approved pedestrian amenities such as benches or shelters.

Open space includes "connector open space," general open space," and "usable open space," terms applied in conservation subdivisions. Land that is owned in

common by the homeowners in a conservation subdivision but that does not meet the minimum dimensions of connector, general, or usable open space is not included in this definition.

Open space does not include any land in public street right-of-ways, private streets, or alleys. In a residential subdivision, open space does not include any land in individually-owned lots.

Open space may be further specified as one of the following types, the sizes and characteristics of which may be further elaborated for particular uses or districts:



- **Court**. A private exterior space partially surrounded by a building and also opening to a thoroughfare. It is often used as a vehicular entrance or drop-off, and the landscape may be paved.

- **Green**. A block of open space typically smaller than a neighborhood park, encircled and separated from surrounding dwelling units or other land uses by streets; distinguished from a "median" in that surrounding dwelling units or other land uses face onto a green on all (usually four) sides but face onto a median on only two sides; landscaped with grassy areas and trees, naturalistically disposed and requiring only limited maintenance; and optionally containing pavilions or memorials but no recreational facilities.

Where a minimum area is required, a circle one hundred (100) feet in diameter will fit everywhere within the boundaries of a green; except that the square corners (90-degree internal angle) of the tract beyond the circle also may be counted as part of a green.

- **Meadow**. An area available for unstructured recreation outside a neighborhood. A meadow is naturalistic, consisting of native plants, growing unchecked, and requiring minimal maintenance.

- **Natural corridor**. A natural public or common open space, typically linear in configuration, bordered on portions of its boundary by streets or other public ways that provide access. The preferred width is at least 200 feet.

- **Neighborhood park**. A natural or landscaped open space, typically two acres or less, bordered by streets or other public ways on at least two sides. Neighborhood parks may be used for active or passive recreation.

- **Playground or pocket park**. A natural or landscaped open space within a block, typically one-half (½) acre, used for active or passive recreation, mainly by small children; usually fenced and may include an open shelter; typically interspersed within residential areas, a short walking distance from dwellings.

- **Plaza**. An open space adjacent to streets and adjacent to commercial or civic buildings; with landscape consisting of durable pavement for interim surface parking and trees requiring little maintenance. Paving on plazas should not be marked or detailed as parking lots.

- **Sports park**. A landscaped open space for large-scale active recreation such as soccer and baseball, generally greater than two acres and bordered by at least one street or other public way; typically confined to the edges rather than interiors of neighborhoods, where the large size won't disrupt street and pedestrian networks.

- **Square**. A landscaped open space, seldom larger than a block, bordered by streets or other public ways on at least three sides; with streetscape consisting of paved walks, lawns, trees, and civic buildings, all formally disposed. Squares may contain a civic building, pavilion or memorial within the site. In the neighborhood, a square attached to a building site may be called an attached green.

- **Quadrangle**. A private open space entirely surrounded by multiple buildings with only minor openings to a thoroughfare, common in campuses.

- **Terrace**. A level, paved area accessible directly from a building as its extension. A terrace is smaller than a plaza and usually private.

Parking Space, Off-Street:

A space adequate for parking an automobile with room for opening doors on both sides, together with properly related access to a public street or alley and

maneuvering room. Required off-street parking areas for three or more automobiles shall have individual spaces marked, and shall be so designed, maintained, and regulated that no parking or maneuvering incidental to parking shall be on any public street, walk, or alley, and so that any automobile may be parked and unparked without moving another. Each space shall be not less than nine (9) feet wide and twenty (20) feet long. For purposes of rough computation, an off-street parking space and necessary access and maneuvering room may be estimated at three hundred (300) square feet, but off-street parking requirements will be considered to be met only when actual spaces meeting the requirements are provided and maintained, improved in a manner appropriate to the circumstances of the case, and in accordance with all ordinances and regulations of the City.

Pawn Shop: (Ord. 02-16, 12/10/02, as amended by Ord. 04-07, 06/08/04)

See Tennessee Code Annotated, Title 45, Chapter 6, Pawnbrokers. Included is a buy-sell agreement or loan of money with personal property such as an automobile as collateral.

Personal Services: (Ord. 02-16, 12/10/02)

The provision of services primarily to individuals rather than to businesses. See also "Offices," "Services."

Pharmacy:

A business with the primary purpose of the sale of drugs and medicines. This use is generally located as part of an office building or complex. This use may have limited retail sales as opposed to a drug store which consists of primarily retail sales and also has a pharmacy.

Principal Use:

The purpose for which land or structures thereon is designed, arranged, or intended to be occupied or used, or for which it is occupied, maintained, rented or leased.

Professional Services: (Ord. 02-16, 12/10/02)

Services provided by a member of a recognized profession. A profession is a vocation, calling, occupation, or employment requiring training in the liberal arts or sciences, or combination thereof, requiring advanced study in a specialized field (e.g., law, medicine, engineering, architecture); often requiring licensing by the state and maintenance of professional standards applicable to the field.

Psychic (See also "Fortune telling"): (Ord. 04-07, 06/08/04)

Pertaining to predictions of the future based on intuitive or mental powers or supernatural influences and not statistical or otherwise empirical evidence.

Real Estate Credit Establishment: (Ord. 02-16, 12/10/02)

An establishment engaged in lending funds with real estate as collateral. See "Finance - Financial Lending Establishment, Miscellaneous."

Repair, Equipment and Large Vehicle: (Ord. 02-16, 12/10/02)

An establishment providing mechanical or electrical repair, body repair, paint, or maintenance services for motor vehicles not encompassed by "Auto Repair, General" or "Auto Paint and Body Shop"; for construction and other equipment; not including manufactured (mobile) homes.

Retail Secondhand Store: (Ord. 02-16, 12/10/02)

An establishment selling at retail previously used merchandise, such as clothing, household furnishings or appliances, or sports/ recreational equipment; not including secondhand motor vehicles, parts, or accessories. This does not include "Antique Store."

Rooming House: (Ord. 02-16, 12/10/02)

A residential building with three or more sleeping rooms for lodgers, and wherein no dining facilities are maintained for the lodger, as distinguished from a boarding house. See also "Boarding House," "Hotel."

Sales Financing: (Ord. 02-16, 12/10/02)

An establishment primarily engaged in lending money for the purpose of providing collateralized goods through a contractual installment sales agreement, either directly from or through arrangements with dealers.

Satellite Dish:

A Satellite Dish receiving antenna is a structure for the reception of satellite delivered communications service whether received only or transmitted and received.

Savings Institution: (Ord. 02-16, 12/10/02)

An establishment primarily engaged in accepting time deposits, making mortgage and real estate loans, and investing in highgrade securities. Savings

and loan associations and savings banks are included. (NAICS 52212). See also "ATM," "Finance - Commercial Bank, Credit Union, or Savings Institution."

Services: (Ord. 02-16, 12/10/02)

The provision primarily of labor (physical or mental) benefitting the customer personally or the customer's business or property, rather than the provision primarily of tangible goods. [See "Business Services," "Personal Services," and "Professional Services."]

Sexually Oriented Business:

Certain businesses described and regulated under City of Bartlett Ordinance 90-21, including adult arcade, adult bookstore or adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, nude model studio, or sexual encounter center or, for the purposes noted in Section l(c) (6) of Ordinance 90-21, adult telecommunications business.

Sign:

Any identification, description, illustration, or device which directs attention to a product, location, service, place, activity, person, institution or business. Signs are regulated under Ordinance 79-10 and other ordinances of the City of Bartlett, and may have additional regulations in the Zoning Ordinance.

Single Family Attached:

A dwelling designed for and occupied by not more than one (1) family having a fire wall in common with one (1) other dwelling unit.

Special Use:

A use that is normally appropriate when permitted in certain districts specified in Article V, Chart 1, provided however, that standards and conditions may be required to eliminate or minimize any potentially harmful characteristic or impact of such special uses on the character of other uses permitted in the zoning district in which they will be located. Special uses may be permitted in accordance with the procedures established in Article VI, Section 20.

Stealth Design:

Any tower or WCF which is designed to enhance compatibility with adjacent land uses, including, but not limited to, architecturally screened roof-mounted antennas, antennas integrated into architectural elements, and tower structures designed to look other than like a WCF and with a visual appearance whereby the structure suggests a purpose other than a WCF. This includes steeples,

flagpoles and trees. Towers and other WCF utilizing Stealth Design may be approved by the Design Review Commission and do not require a Special Permit under this Ordinance.

Street Line:

The right-of-way line of a street.

Storage, Climate Controlled: (Ord. 10-05, 07/27/10)

Indoor units available for self-storage with mechanical systems (HVAC) which control temperature and humidity variations. No outdoor storage is permitted under this definition.

Structure:

Anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground. Structures include buildings, mobile homes, walls, fences, billboards, and poster panels.

Tattoo or Body-Piercing Establishment: (Ord. 02-16, 12/10/02)

An establishment engaged primarily in permanently marking or scarring the skin or piercing the body for non-medical purposes.

Townhouse: (Ord. 05-05, 9/13/05)

A one-family dwelling unit, with a private entrance, which is part of a structure in which three (3) or more dwelling units are attached horizontally only, and having at least two totally exposed walls (front and rear or front and one side) to be used for access, light, and ventilation.

Travel Trailer:

A vehicular, portable structure built on a chassis, designed to be used as a temporary dwelling for travel and recreational purposes, having a body width not exceeding eight (8) feet.

Truck: (Ord. 02-16, 12/10/02)

Except as otherwise specified, a heavy truck, that is, a truck or similar vehicle, including truck tractor, with two or more rear axles or dual rear wheels.

Truck, Light: (Ord. 02-16, 12/10/02)

A truck or similar vehicle with a single rear axle and single rear wheels.

Variance:

A relaxation of the terms of the Zoning Ordinance where such relaxation will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the Ordinance would result in unnecessary and undue hardship. A variance

is authorized only for height, area, and size of structure or size of yards and open spaces. The establishment or expansion of a use otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of non-conformities in the zoning district or uses in adjoining zoning district. The Board of Zoning Appeals hears and decides on all requests for variances.

Vehicle Wash: (Ord. 02-16, 12/10/02)

A facility for the washing, waxing, and cleaning of private automobiles, light trucks and vans, but not commercial fleets; including a detailing shop.

Vehicle Wash, Industrial: (Ord. 02-16, 12/10/02)

A facility for the washing, waxing, and cleaning of trucks and buses.

Veterinary Clinic: (Ord. 02-16, 12/10/02)

An establishment for the medical or surgical treatment of small animals, including household pets.

Wireless Communications:

Wireless communications shall mean any personal wireless services as defined in the Telecommunications Act of 1996, which includes Federal Communications Commission (FCC) licensed commercial telecommunications services including cellular, personal communications services (PCS), specialized mobile radio (SMR) enhanced specialized mobile radio (ESMR), paging, and similar services that currently exist or may be under development.

Wireless Communications Facility (WCF):

A WCF is any unstaffed facility for the transmission and/or reception of wireless telecommunication services, usually consisting of an antenna array, cabling and associated equipment and a support structure.

Wireless Communications Structure: (Amended by Ord. 02-16, 12/10/02)

A communications tower is a structure designed to support an antenna array. A monopole tower is permitted within the guidelines of this Ordinance. Guyed towers hereinafter referred to as Communications Towers, and requiring external wire supports are allowed only in the C-H, I-O and I-P Districts with a special use permit.

Yard:

A required open space other than a court unoccupied and unobstructed by any structure or portion of a structure from thirty (30) inches above the general

ground level of the graded lot upward. Exceptions are: Fences, walls, poles, posts and other customary yard accessories, ornaments, and furniture may be permitted in any yard, except front yards, subject to height limitations and requirements limiting obstructions of visibility. Chimneys, belt courses, sills, pilasters, ornamental features, cornices, gutters and eaves projecting not more than twenty-four (24) inches from an exterior wall. Bay windows, porches and balconies and steps projecting not more than thirty-six (36) inches from an exterior wall for a distance not more than one-third (⅓) of the length of such wall.

Yard, Front:

A yard extending between side lot lines across the front of a lot adjoining a public street. In the case of through lots unless the prevailing front yard pattern on adjoining lots indicates otherwise, front yards of full depth shall be provided on all frontages. Where one of the front yards that would normally be required on a through lot is not in keeping with the prevailing yard pattern, the Building Official may waive the requirement for the normal front yard and substitute a special yard requirement which shall not exceed the average of the yards provided on adjacent lots. In the case of corner lots and lots with more than two (2) frontages, the required front yard depths shall be required on all frontages. Depth of required front yards shall be measured at right angles to a straight line joining the foremost point of the side lot lines. The foremost point of the side lot line, in the case of rounded property corners at street intersections, shall be assumed to be the point at which the side and front lot lines would have met without such rounding. Front and rear yard lines shall be parallel to the property line.

Yard, Side:

A yard extending from the rear line of the required front yard to the rear lot line, or in the absence of any clearly defined rear lot line, to the point on the lot farthest from the intersection of the lot line involved with the public street. In the case of through lots, side yards shall extend from the rear lines of required front yards. In the case of corner lots, yards remaining after full depth front yards have been established shall be considered side yards. Width of a required side yard shall be measured in such a manner that the yard established is a strip of the minimum width required by district regulations with its inner edge parallel with the side lot line.

Yard, Rear:

A yard extending across the rear of the lot between inner side yard lines. In the case of through lots and corner lots, there will be no rear yards, but only front and side yards. Depth of a required rear yard shall be measured in such a

manner that the yard established is a strip of the minimum width required by the district regulations with its inner edge parallel with the rear lot line.

Yard Sale: (Ord. 02-03, 3/12/02)

The display and offering for sale to the public of used items normally accumulated by a household, where the property on which such display and offering occur is zoned and used as a residence. A single motor vehicle parked on a driveway and offered for sale is not included within this definition, provided the vehicle is the personal property of a person for whom the property is the principal residence.

Yard, Special:

A yard behind any required yard adjacent to a public street, required to perform the same functions as a side or rear yard, but adjacent to a lot line so placed or oriented that neither the term "side yard" nor the term "rear yard" clearly applies. In such cases, the Building Official shall require a yard with minimum dimensions as generally required for a side yard or a rear yard in the district, determining which shall apply by the relation of the portions of the lot on which the yard is to be located to the adjoining lot or lots, with due regard to the orientation and location of structures and buildable areas thereon.

Figure I-2 illustrates locations and methods of measuring yards on rectangular and non rectangular lots.

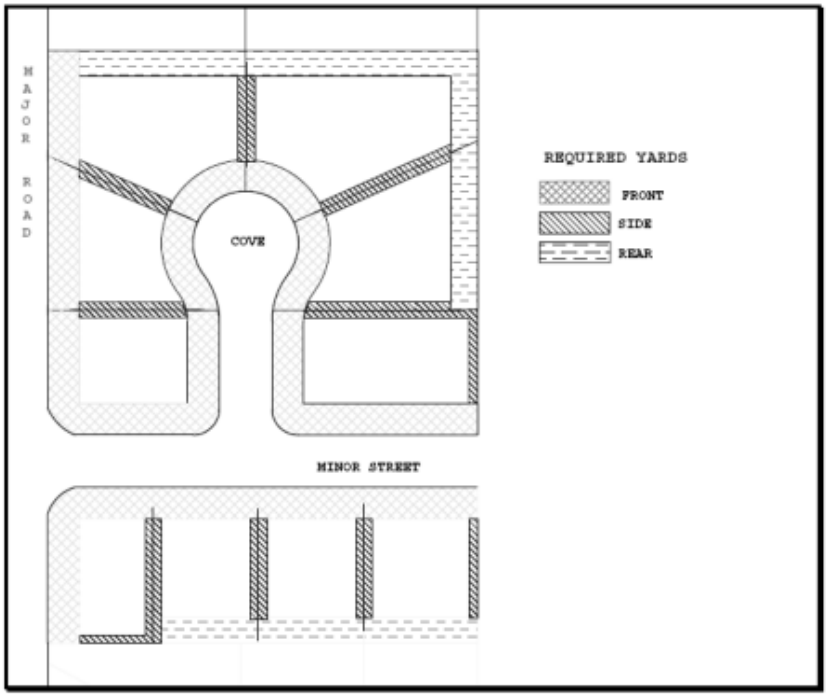


Figure I-2. Required Yards

ARTICLE II.

Establishment of Districts, Provision for Official Zoning Map

Section I - Establishment Of Districts

The City is hereby divided into zones, or districts, listed below and as shown on the Official Zoning Map which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this Ordinance.

The Zoning Districts shall be known as:

1. A-0 Agricultural and Open Land District
2. R-E Residential Estate District
3. RS-18 Single Family Residential District
4. RS-15 Single Family Residential District
5. RS-12 Single Family Residential District
6. RS-10 Single Family Residential District
7. R-TH Townhouse Residential District
8. R-D Two Family Residential District
9. R-M Multi-Family Residential District
10. 0-R-1 Neighborhood Office District
11. 0-R-2 Neighborhood Office District
12. 0-C Office Center District
13. C-L Neighborhood Business District
14. C-G General Business District
15. C-H Highway Business District
16. SC-1 Planned Unit Commercial Development District
17. I-O Wholesale and Warehouse District
18. I-P Planned Industrial Park

19. FW Floodway District

20. POS Public Open Space District

Section 2 - Official Zoning Map

The Official Zoning Map shall be identified by the signature of the Mayor and Chairman of the Planning Commission and attested by the City Clerk, and bear the seal of the City under the following words: "This is to certify that this is the Official Zoning Map referred to in Article II of Ordinance 80-18 of the City of Bartlett, Tennessee," together with the date of the adoption of this Ordinance.

If, in accordance with the provisions of this Ordinance and T.C.A. Section 13-701 et seq., changes are made in district boundaries or other matter portrayed on the Official Zoning Map, such changes shall be entered on the Official Zoning Map promptly after the amendment has been approved by the Board of Mayor and Aldermen with an entry on the Official Zoning Map indicating the date of change, a brief description of the change, and such entry shall be signed by the Mayor and Chairman of the Planning Commission, and attested by the City Clerk. No amendment to this Ordinance which involves matter portrayed on the Official Zoning Map shall become effective until after such change and entry have been made on the map.

No changes of any nature shall be made in the Official Zoning Map or matter shown thereon except in conformity with the procedures set forth in this Ordinance. Any unauthorized change of whatever kind by person or persons shall be considered a violation of this Ordinance and punishable as provided under Article XIII. Regardless of the existence of purported copies of the Official Zoning Map which may from time to time be made or published, the Official Zoning Map which shall be located in the office of the City Planner shall be the final authority as to the current zoning status of land and water areas, buildings, and other structures in the City.

Section 3 - Replacement Of Official Zoning Map

In the event that the Official Zoning Map becomes damaged, destroyed, lost, or difficult to interpret because of the nature or number of changes and additions, the Board of Mayor and Aldermen may by Resolution adopt a new Official Zoning Map which shall supersede the prior Official Zoning Map. The new Official Zoning Map may correct drafting or other errors or omissions in the prior Official Zoning Map, but no such correction shall have the effect of amending the original Official Zoning Map or any subsequent amendment thereof.

The new Official Zoning Map shall be identified by the signature of the Mayor and the Chairman of the Planning Commission and attested by the City Clerk and bearing the seal of the City under the following words: "This is to certify

that this Official Zoning Map supersedes and replaces the Official Zoning Map adopted July 8, 1980, as part of Ordinance 80-18 of the City of Bartlett, Tennessee." Unless the prior Official Zoning Map has been lost, or has been totally destroyed, the prior map or any significant parts thereof remaining, shall be preserved, together with all available records pertaining to its adoption or amendment.

ARTICLE III.

Rules for Interpretation of District Boundaries

Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning Map, the following rules shall apply:

A. Boundaries indicated as approximately following the center lines of streets, highways, alleys, or railroad lines shall be construed to follow such center lines.

B. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.

C. Boundaries indicated as approximately following city limits shall be construed as following such city limits.

D. Boundaries indicated as approximately following the center lines of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such center lines.

E. Boundaries indicated as parallel to or extensions of features indicated in Subsections A through D above shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale on the map.

F. Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, or in other circumstances not covered by Subsections A through E above, the Board of Zoning Appeals shall interpret the district boundaries.

G. Where a district boundary line divides a lot which was in single ownership at the time of passage of this Ordinance, the extension of the regulations for either portion of the lot beyond the district line into the remaining portion of the lot may be approved only as an amendment to the zoning map under the terms of Article XII.

(Amended by Ord. 02-16, 12/10/02)

ARTICLE IV.

Application of District Regulations

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

A. No building, structure, or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved, or structurally altered except in conformity with all of the regulations herein specified for the district in which it is located.

B. No building or other structure shall hereafter be erected or altered:

1. to exceed the height or bulk;
2. to accommodate or house a greater number of families;
3. to occupy a greater percentage of lot areas;
4. to have narrower or smaller rear yards, front yards, side yards, or other open spaces, than herein required, or in other manner contrary to the provisions of this Ordinance.

C. No part of a yard, or other open space, or off-street parking or loading space required about or in connection with any building for the purpose of complying with this Ordinance, shall be included as part of a yard, open space, or off-street parking or loading space similarly required for any other building.

D. No yard or lot existing at the time of passage of this Ordinance shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this Ordinance shall meet at least the minimum requirements established by this Ordinance.

E. All territory which may hereafter be annexed into the City shall be considered to be in the A-0 district until otherwise classified.

ARTICLE V.

Schedule of District Regulations

District regulations shall be as set forth in the Schedule of District Regulations below, and in Article VI of this Ordinance, entitled "Supplemental District Regulations." The uses permitted in the districts, the special uses that may be allowed in the districts and the uses for which site plans review and approval are required are listed on Chart 1 unless otherwise regulated in this Ordinance. The minimum lot and yard requirements, maximum height, maximum gross dwelling unit density and the maximum lot coverage which govern any use in the districts are listed on Chart 2 unless otherwise regulated in this Ordinance. The requirements for off-street parking in the districts are as regulated in Article VI, Section 12. All signs, where allowed, must be approved by the Design and Review Commission.

Section 1 - A-O - Agricultural and Open Land District

A. GENERAL DESCRIPTION

The intent of this district is to permit lands best suited for agriculture to be used for agricultural purposes and to impose only minimum restrictions on the use of land for such purposes. As the need and demand for additional open land suitable for urban development is determined by the Planning Commission, selected portions of this district may be rezoned for more intensive forms of development.

Section 2 - R-E - Residential Estate District

A. GENERAL DESCRIPTION

This district is intended to provide single family residential homes on lots of one acre or larger. The intent of this Ordinance is to protect existing areas with large lots and new subdivisions from resubdivisions that would harm the low density open space character of these areas. Additional structures and uses required to serve governmental, educational, religious, and other immediate needs of such areas are permitted outright or are permissible as special uses within such districts, subject to restrictions and requirements intended to preserve and protect the character of the district.

(Amended by Ord. 02-16, 12/10/02)

Section 3 - RS-18 - Single Family Residential District

A. GENERAL DESCRIPTION

This district is intended primarily to be single family residential with a low population density. Additional structures and uses required to serve governmental, educational, religious, and other immediate needs of such areas are permitted outright or are permissible as special uses within such districts, subject to restrictions and requirements intended to preserve and protect the character of the district.

(Amended by Ord. 02-16, 12/10/02)

Section 4 - RS-15 - Single Family Residential District

A. GENERAL DESCRIPTION

This district is intended to be a single family residential district providing low population densities. Additional structures and uses required to serve governmental, educational, religious, recreational and other immediate needs of such areas are permitted outright or are permissible as special uses, subject to restrictions and requirements intended to preserve and protect the character of the district.

(Amended by Ord. 02-16, 12/10/02)

Section 5 - RS-12 - Single Family Residential District

A. GENERAL DESCRIPTION

This district is intended to be a single family residential district providing low population densities. Additional structures and uses required to serve governmental, educational, religious, recreational and other immediate needs of such areas are permitted outright or are permissible as special uses, subject to restrictions and requirements intended to preserve and protect the character of the district.

(Amended by Ord. 02-16, 12/10/02)

Section 6 - RS-10 - Single Family Residential District

A. GENERAL DESCRIPTION

This district is intended to be a single family residential district providing low population densities. Additional structures and uses required to serve governmental, educational, religious, recreational and other immediate needs of such areas are permitted outright or are permissible as special uses, subject to restrictions and requirements intended to preserve and protect the character of the district.

(Amended by Ord. 02-16, 12/10/02, and Ord. 05-05, 9/13/05)

Section 7 - R-THE - Townhouse Residential District

A. GENERAL DESCRIPTION

This district is intended to encourage low to medium density townhouse development in suitable areas. Densities will be regulated to insure adequate sunlight, air, and open space. The intensity of land use should not be so great as to cause congestion of building or traffic or to preclude the amenities of good housing. The district may require condominium forms of ownership of dwelling units, improvements and real estate.

Every development must be reviewed and approved by the Planning Commission. In its review and approval the Planning Commission may impose conditions regarding layout, circulation, and performance of the proposed development. The proposed development must be designed to produce an environment of stable and desirable character not out of harmony with the surrounding development, and must provide standards of open space and areas for parking adequate for the occupancy proposed.

Section 8 - R-D - Two Family Residential District

A. GENERAL DESCRIPTION

This district is intended to be a single-family and two-family residential district providing low to medium population densities. Additional structures and uses required to serve governmental, educational, religious, noncommercial recreational and other immediate needs of such areas are permitted outright or are permissible as special uses within such districts, subject to restrictions and requirements intended to preserve and protect the character of the district.

(Amended by Ord. 02-16, 12/10/02)

Section 9 - R-M - Multiple Family Residential District

A. GENERAL DESCRIPTION

This district is intended to promote and encourage areas suitable for medium-density multiple-family dwellings. Densities will be regulated to ensure adequate sunlight, air, and open space. The intensity of land use should not be so great as to cause congestion of building or traffic or to preclude the amenities of good housing. An R-M district must front on a major arterial street as depicted on the Major Road Plan.

Section 10 - O-R 1 - Neighborhood Office District

A. GENERAL DESCRIPTION

This district is intended primarily to provide locations for neighborhood and community serving offices and related services at locations within the city which are easily accessible. The district is normally small and may include older homes undergoing conversion. The district is often situated between business and residential districts, and the regulations are designed to protect and be compatible with nearby residential districts.

When petitioning rezoning the petitioner shall submit to the Planning Commission a preliminary site plan of the proposed development which shall be in adequate detail to determine compliance with the provisions of this section. An O-R district shall be of such size, shape, and location as to enable development of well-organized facilities with proper access streets, ingress and egress, offstreet parking, and other requirements and amenities. In addition, all required parking shall be provided in rear or side yards. Parking is not permitted in the front yard.

Approval may be granted to the entire development for construction purposes or approval may be granted by stages. Any unauthorized deviation from the final site plan as approved shall constitute a violation of the Building Permit. If site is to be subdivided, it must meet all requirements of the Subdivision Ordinance.

Section 11 - O-R-2 - Neighborhood Office District

A. GENERAL DESCRIPTION

This district is intended primarily to provide locations for neighborhood and community serving offices and related services at locations within the city which are easily accessible. The district is normally small and may include older homes undergoing conversion. The district is often situated between business and residential districts, and the regulations are designed to protect and be compatible with nearby residential districts.

When petitioning rezoning the petitioner shall submit to the Planning Commission a preliminary site plan of the proposed development which shall be in adequate detail to determine compliance with the provisions of this section. An O-R-2 district shall be of such size, shape, and location as to enable development of well- organized facilities with proper access streets, ingress and egress, offstreet parking, and other requirements and amenities. In addition, all required parking shall be provided in front or side yards. Parking is not permitted in the rear yard.

Approval may be granted to the entire development for construction purposes or approval may be granted by stages. Any unauthorized deviation from the final site plan as approved shall constitute a violation of the Building Permit. If site is to be subdivided, it must meet all requirements of the Subdivision Ordinance.

Section 12 - O-C - Office Center District

A. GENERAL DESCRIPTION

This district is intended primarily to provide centralized locations for office and related services at locations within the City which are accessible to major highways. This is a restricted business district and is designed for areas where large retail business operations are undesirable.

When petitioning rezoning the petitioner shall submit to the Planning Commission a preliminary site plan of the proposed development which shall be in adequate detail to determine compliance with the provisions of this section.

An O-C district shall be of such size, shape and location as to enable development of well-organized facilities with proper access streets, ingress and egress, off-street parking, and other requirements and amenities.

In those instances where an office center is designed as an integrated unit, to be developed based on a predetermined plan, a final site plan must be submitted to and approved by the Planning Commission prior to the issuance of a building permit. It is recognized that an office center may also develop as a subdivision with uses being on separate lots rather than an integrated unit. In those instances, it is also required that prior to the issuance of any Building Permit, a final site plan must be submitted to and approved by the Planning Commission.

Section 13 - C-L - Neighborhood Business District

A. GENERAL DESCRIPTION

This district is established to provide areas in which to meet the needs of the immediate neighborhood. This is a restricted business district, limited to a narrow range of retail service and convenience goods and services. This district is designed for areas where large business operations are undesirable. All uses and structures not specifically noted in Chart 1 are prohibited and shall not be permitted unless Chart 1 has been amended as provided in Article XII.

Section 14 - C-G - General Business District

A. GENERAL DESCRIPTION

This district is intended for a wide range of general retail business. It is not the intent of this district to encourage the extension of strip commercial areas, but rather to provide concentration of general commercial activities with adequate off-street parking.

Section 15 - C-H - Highway Business District

A. GENERAL DESCRIPTION

This highway commercial district is established to provide areas in which the principal use of land is devoted to commercial establishments which cater specifically to the needs of motor vehicle oriented trade. The intent of this district is to provide appropriate space and sufficient depth from the street to satisfy the needs of modern commercial development where access is entirely dependent on motor vehicle trade, and to encourage the development of these locations with such uses and in such a manner as to minimize traffic hazards and interference with other uses.

Open storage uses are allowed provided that all open storage and display of merchandise, material and equipment shall be screened by adequate fencing or plantings; that all of the lot used for parking of vehicles, for the storage and display of merchandise, and all driveways shall be constructed and maintained as dust-free; and that all servicing of vehicles carried on as an incidental part of the sales operation shall be conducted within a completely enclosed building.

Section 16 - SC-1 - Planned Unit Commercial Development

A. GENERAL DESCRIPTION

The purpose of this district is to permit the development of Planned Unit Commercial Development, i.e., shopping and commercial centers of integrated design of various sizes to service all areas of the community. This district shall be of such size, shape and location as to enable development of well organized facilities with proper access streets, ingress and egress, off-street parking and loading space, and other requirements and amenities.

B. OTHER REGULATIONS

It is intended that the grouping of buildings and parking areas be designed to protect, insofar as possible, residential areas, and that screening from noise and light be provided where necessary; provided, however, that in no case shall the design of the shopping center provide less than the following:

> Where the Planned Unit Commercial Development abuts a residential district, no building shall be constructed less than one hundred (100) feet from such district line. Planned Unit Commercial Development shall provide additional right-of-way, not to exceed fifteen (15) feet in width, for turning lanes if it is determined the estimated traffic volumes require such facilities.

An application for rezoning for a Planned Unit Commercial Development shall include the following in addition to the administrative requirements set forth in Article XII:

1. The developer, when petitioning rezoning, shall submit to the Planning Commission a preliminary site plan of the proposed development which shall be in adequate detail to determine compliance with the provisions of this section; and which shall show the arrangement of buildings, types of shops and stores, design and circulation pattern of the off-street parking areas, landscaped yards, screening, service courts, utility and drainage facilities and easements; and the relationship of the development to adjacent areas.

2. The Planning Commission shall make its review of the petition for rezoning as provided in Article XII.

3. If favorable action is taken by the Board of Mayor and Aldermen on the petition for rezoning, the developer shall have six (6) months in which to submit construction plans to the Planning Commission for final approval. If the development is not under construction within six (6) months after the final construction plan approval, the Planning Commission shall review the status of the development.

4. If favorable action is taken, and if it finds the developer cannot proceed immediately with the development, in conformity with the requirements of this section, this fact and the reason thereof, shall be reported to the Board of Mayor and Aldermen. The Board may, at its discretion, rezone the parcel under consideration to its previous classification.

5. A Building Permit shall not be issued by the Building Official until the construction plans have been approved by the Planning Commission and the Design and Review Commission. Approval may be granted to the entire development for construction purposes, or approval may be granted by stages. Following rezoning and prior to the submission of final plans, a permit may be granted for site preparation only with the approval of the Planning Commission.

6. Any deviation from the construction plans as approved shall constitute a violation of the Building Permit. Substantial changes in the plans shall be resubmitted to the Planning Commission to insure compliance with the requirements, purpose, and intent of this section.

7. If the site is to be subdivided, it must meet all requirements of the Subdivision Regulations.

C. SCREENING AND LANDSCAPING

The location, size, and type of development will determine the type and amount of screening and landscaping. In addition to the following, the Planning Commission may require other amenities.

1. Where a Planned Unit Commercial Development abuts a residential district, there shall be a landscape buffer at least thirty (30) feet wide, and a solid fence six (6) feet high, both to be provided and maintained by the owner. Landscaping shall not be located in utility easements. Such landscaping shall be subject to review by the Bartlett Design and Review Commission.

2. A landscape area not less than ten (10) feet wide shall be required along all street frontage with this area parallel to and inside the property line.

3. Once an area has been designated as a greenbelt, landscaped area, or some other permanent open space, it shall not be encroached upon by any structure or building; nor shall this space be used as area in computing the required parking ratio.

Section 17 - I-O - Wholesale and warehouse district

A. GENERAL DESCRIPTION

This district is intended primarily to provide areas in which the principal use of land is for warehousing, storage, wholesaling and distribution. The nature of these uses are such that they will generally utilize high percentage of the lot area on which they are located.

Open storage uses are allowed provided that all open storage and display of merchandise, material and equipment shall be screened by adequate fencing or plantings; that all of the lot used for parking of vehicles, for the storage and display of merchandise, and all driveways shall be constructed and maintained as dust-free; and that all servicing of vehicles carried on as an incidental part of the sales operation shall be conducted within a completely enclosed building.

Section 18 - I-P - Planned Industrial Park

A. GENERAL DESCRIPTION

The purpose of this district is to provide for planned industrial development, consisting of several buildings or groups of buildings of harmonious design, in which the principal uses are manufacturing, assembling, fabrication, or warehousing. A planned district of this type, which is accessible to major transportation routes, is intended to group industrial activities on desirable parcels with carefully arranged traffic systems, parking and loading facilities, and landscaping. This careful design will minimize any possible adverse effects on surrounding districts.

B. SCREENING AND LANDSCAPING

The location, size, and type of development will determine the type and amount of screening and landscaping. The following are minimum requirements. The Planning Commission may require other amenities:

1. Where a Planned Industrial Park abuts a residential district there shall be a landscape buffer of at least thirty (30) feet, with a solid fence six (6) feet high, provided and maintained by the owner. Landscaping shall not be located in the utility easements.

2. A landscape area not less than thirty (30) feet wide shall be required along all street frontages. This area shall be parallel to and inside the property lines.

3. Once an area has been designated as a greenbelt, landscaped area, or some other permanent open space, it shall not be encroached upon by any structure or building; nor shall this space be used as area in computing the required parking ratio.

Section 19 - FW - Floodway District

A. GENERAL DESCRIPTION

It is the intent of this district to provide an area for the location of specified uses that will not be damaged if flooded or create flood-related hazards. The floodway district is considered extremely hazardous due to the velocity of floodwaters which can carry debris, potential projectiles and the potential for destructive erosion.

B. APPLICATIONS

Any land located in the designated floodway of the City of Bartlett (as shown on the Official Zoning Map) shall be classified in the FW, Floodway zoning district.

C. PROHIBITION ON DEVELOPMENT

No new construction, substantial improvements to existing structures or encroachments, including filling, shall be allowed in the floodway if such construction, improvement or encroachment would increase, in the opinion of the City Engineer, the flood level within the city during the occurrence of the base flood discharge.

Section 20 - POS - Public Open Space District

This district is intended to preserve and protect municipally owned, leased and maintained parkland including both active and passive recreation areas. Only those uses directly associated with public recreation, including, but not limited to, organized field sports, municipal festivals, public golf courses, hiking trails and the structures intended to support those uses, are allowed in this district.

Chart 1. Uses Permitted in Zoning Districts

(Amended by Ord. #02-04, 4/9/02; Ord. #02-10, 8/13/02; Ord. #02-16, 12/10/02, Ord. #06-12, 9/12/06, Ord. #07-14, 9/11/07, Ord. #10-02, 5/11/10, Ord. #10-04, 6/8/10, Ord. #10-05, 7/27/10, Ord. #12-01, March 2012)

Legend:
X - Uses Permitted by Right
P - Requires Site Plan approval by the Planning Commission
P* - Requires Outline Plan approval by the Planning Commission and the Board of Mayor and Aldermen
S - Uses recommended for approval with Special Use Permit approval by the Planning Commission and Board of Mayor and Aldermen

PERMITTED USES	**ZONING DISTRICTS**																		
	A-O	R-E	RS-18	RS-15	RS-12	RS-10	R-THE	R-D	R-M	O-R-1	O-R-2	0-C	C-L	C-G	C-H	SC-1	I-O	I-P	FW
DWELLINGS																			
Single Family Detached	X	X	X	X	X	X	P	X		P	P								
Single Family Attached							P	P											
Two Family								X											
Town House							P		P										
Multiple Family									P										
Guest unit (Specific criteria for approval in Article VI, Section 28.)	X	X	X	X	X	X													
Planned Unit Residential		S	S	S	S	S	S	S	S										
Planned Residential Development in Bartlett Station	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S
Bed and Breakfast	S	S	S	S	S	S	S	S	S										
INSTITUTIONS																			
Airport/Heliport	S														S		S	S	
Assisted-Care Living Facility	S	S	S	S	S	S	S	S	S					S	S	S			
Cemetery	S														S				
Child Care Home, Family (5-7 Children)		S	S	S	S	S	S	S	S					P	P		P	P	
Child Care Home, Group (8-12 Children)		S	S	S	S	S	S	S	S					P	P		P	P	
Children's Home	S	S	S	S	S	S	S	S	S										
Church	S	S	S	S	S	S		S						P	P	P	P	S	
Home for the Aged	S	S	S	S	S	S	S	S	S					S	S	S			
Hospital														P	P				

PERMITTED USES	ZONING DISTRICTS																		
	A-O	R-E	RS-18	RS-15	RS-12	RS-10	R-THE	R-D	R-M	O-R-1	O-R-2	0-C	C-L	C-G	C-H	SC-1	I-O	I-P	FW
Lodge, Club, Country Club	S	S	S	S	S	S								P	P				
Museum		S	S	S	S			S		P	P	P		P	P		P	P	
Nursing Home	S	S	S	S	S	S	S	S	S					P	P				
Parks/Recreation	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
Public Building	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
Riding Academy	S																		
School	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
COMMERCIAL																			
Amusements, Commercial Indoor														P	P	P			
Amusements, Commercial Outdoor															S				
Animal Grooming Service												P		P	P	S	P		
Automobile Gas Station													S	S	P	P			
Automobile Oil Change and Lubrication Shop															P				
Automobile Paint or Body Shop															S		S		
Automobile Rental															S				
Automobile Rental Satellite														S	S				
Automobile Repair, General [See also "Repair, Equipment and Large Vehicle"]														S	S		S		
Automobile Upholstery, Interior, and Glass Repair; Van Conversion Service														S	S		S		
Bail Bonding															S				
Bakery, Retail													P	P	P	P	P		
Bank See "Finance"																			
Barber or Beauty Shop												P	P	P	P	P	P		
Boat Rental or Sale															S				
Boat Storage or Repair															S		S		
Catering Establishment less than 3,800 sq. ft. in floor area														P	P	P	P		
Child Care Center (13+)												P	P	P	P	P	P	P	
Child Drop-In Center														S	S	S			

PERMITTED USES	ZONING DISTRICTS																		
	A-O	R-E	RS-18	RS-15	RS-12	RS-10	R-THE	R-D	R-M	O-R-1	O-R-2	0-C	C-L	C-G	C-H	SC-1	I-O	I-P	FW
Coin-Operated Laundry														S	P				
Communications Tower															S		S	S	
Contractor's Business															P		P	P	
Convenience Store													S	S	P	P			
Crematorium																	S		
Department or Discount Store														P	P	P			
Drive-In Theater															P				
Drug Store													P	P	P	P			
Dry Cleaning & Laundry													P	P	P	P			
Finance - Commercial Bank, Credit Union, or Savings Institution												P	P	P	P	P	P		
Finance - Consumer Lending Establishment															S				
Finance - Financial Lending Establishment, Miscellaneous										P	P	P	P	P	P	P			
Finance - Securities, Commodity Contracts, and Other Financial Investments and Related Activities										P	P	P	P	P	P	P			
Flower or Plant Store (indoor)												P	P	P	P	P			
Food Market													P	P	P	P			
Funeral Home														S	S				
Garage for Auto Repair: See "Automobile Repair, General"																			
Greenhouse or Nursery--Commercial	S													S	P				
Hotel or Motel														P	P				
Laboratory															P		P	P	
Lumber Yard															S		P		
Manufactured (Mobile) Home Dealer															S				
Motor Vehicle Sales, New															S				
Motor Vehicle Sales, Used															S				
Music or Dancing Academy														P	P	P			
Offices										P	P	P	P	P	P	P	P	P	

PERMITTED USES	ZONING DISTRICTS																		
	A-O	R-E	RS-18	RS-15	RS-12	RS-10	R-THE	R-D	R-M	O-R-1	O-R-2	0-C	C-L	C-G	C-H	SC-1	I-O	I-P	FW
Pawn Shop															S				
Pharmacy												P	P	P	P	P			
Photo-Finishing Pick-up Station													P	P	P	P			
Planned Commercial or Industrial Development														P*	P*	P*	P*	P*	
Plumbing Shop																	P		
Processing and Manufacture Incidental to Retail Establishments														S	P				
Radio or TV Studio															P		P		
Repair, Equipment and Large Vehicles																	S		
Repair, General														P	P				
Restaurant (Sit Down Dining)												S	P	P	P	P			
Restaurant (Drive through Service)													P	P	P	P			
Retail Secondhand Store														S	S				
Retail Shop													P	P	P	P			
Retail Sales Incidental to Office Uses										P	P								
Services, Business										P	P	P	P	P	P	P	P		
Services, Personal										P	P	P	P	P	P	P	P		
Sexually Oriented Business															S				
Sheet Metal Shop																	P		
Storage, Climate Controlled															P	S			
Tattoo or Body-Piercing Establishment															S				
Tavern, Cocktail Lounge, Night Club, Bar														S	S				
Truck or Trailer Rental															S				
Vehicle Wash														S	P		P		
Vehicle Wash, Industrial																	S		
Veterinary Clinic												P		P	P	S	P		
Warehouse																	P	P	
Warehouse, Mini Storage															S		P		
Warehouse, Display															P		P	P	
Wholesale & Distribution																	P	P	

PERMITTED USES	ZONING DISTRICTS																		
	A-O	R-E	RS-18	RS-15	RS-12	RS-10	R-THE	R-D	R-M	O-R-1	O-R-2	0-C	C-L	C-G	C-H	SC-1	I-O	I-P	FW
INDUSTRIAL																			
Manufacture, Storage or Distribution of:																			
Chemical, Cosmetics, Drugs, Paint, & Related Products																		P	
Electrical or Electronic Equipment, Appliances & Instruments																	P	P	
Fabricated Metal Products & Machinery																	P	P	
Food & Beverage Products Except Live Animal Processing																	P	P	
Jewelry, Silverware, Musical Instruments, Toys, Sporting Goods, Art Supplies																	P	P	
Petroleum, Products and Distribution																	P		
Printing & Publishing																	P	P	
Stone, Clay, Glass and Concrete Products																	P		
Textile & Apparel Products																	P	P	
Truck or Motor Freight Facility																	S		
Utility Substation	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
Utility Production or Treatment Station	P														P		P	P	
OTHER USES																			
Agricultural Production: Grain, Fruit, Vegetables, Field Crops and Nursery	X																		
Landfill Operations	S																S		
Livestock, Horse, Dairy, Poultry, Egg Production	X																		
Post Office Facility														P	P	P	P	P	
Commercial Satellite TV Dish													X	X	X	X	X	X	
Telephone Service Center														P	P	P	P	P	
Wireless Communication Facility	S	S	S	S	S	S	S	S	S			S		S	S		S	S	S

Attachment A. Site Plan Approval

In those instances where site plan approval is required in Chart 1, the site plan must be submitted to the Planning Commission for review and approval and to the Design and Review Commission for review and approval.

The site plan shall be drawn at a scale of not less than 1"=100', but preferably at a larger scale, and shall show at a minimum:

a. The proposed development's name and location, the name(s) and address(es) of the owner(s) and the name of the designer of the site plan.

b. Date, north arrow and scale.

c. The location of existing and platted property lines and any existing streets, buildings, easements, etc.

d. The locations and dimensions of proposed streets, easements and lot lines.

e. The proposed types of uses and their locations, height of buildings, arrangement, lot coverages and yards and open spaces.

f. A drainage plan.

g. Proposed off-street parking with landscaped islands and parking tiers shown.

h. Landscaping and screening plan.

i. Other information as may be required by the Planning Commission and/or the Design and Review Commission.

Approval may be granted to the entire development for construction purposes or approval may be granted by stages. Any unauthorized deviation from the final site plan as approved shall constitute a violation of the building permit.

OTHER REGULATIONS

Signs must be approved by the Design and Review Commission.

Chart 2. Bulk Regulations and Permitted Residential Densities
(Amended by Ord. 01-05, 4/24/01, 03-12, 07/08/03, 05-06, 9/13/05, 05-07, 9/13/05)

District and Use	Minimum Lot Requirements ##		Minimum Yard Requirements ##			Maximum Requirements ##		
	Area	Width (Feet)	Front (Feet)	Side (Feet)	Rear (Feet)	Height (Feet)	Units Per Acre	(%) Lot Coverage
A-O DISTRICT								
1. Single Family Detached Dwelling	2 Acres	200	50	20	35	35	0.5	20
2. Agriculture	5 Acres	250	50	35	35	35	na	20
3. Other	5 Acres	250	50	35	35	35	na	20
R-E RESIDENTIAL								
1. Single Family Detached Dwelling	1 Acre	150	50#	20	35	35	1	20
2. Other	5 Acres	250	50#	35	35	35		20
RS-18 RESIDENTIAL								
1. Single Family Detached Dwelling	18,000 sq. ft.	100	50#	12	35	35	2.0	20
2. Other	5 Acres	250	50#	35	35	35		20
RS-15 RESIDENTIAL								
1. Single Family Detached Dwelling	15,000 sq. ft.	100	40#	10	30	35	2.5	25
2. Other	5 Acres	250	50#	35	35	35		20
RS-12 RESIDENTIAL								
1. Single Family Detached Dwelling	12,000 sq. ft.	90	35#	8[1]	30	35	3.0	30
2. Other	5 Acres	250	50#	35	35	35		20
RS-10 RESIDENTIAL								
1. Single Family Detached Dwelling	10,000 sq. ft.	80	30#	5[2]	25	35	3.5	30
2. Other	5 Acres	250	50	35	35	35		20
R-TH TOWNHOUSE								
1. Single Family Detached Dwelling	7, 000 sq. ft.	65	30#	5[2]	30	2.5 Stories	8	25
2. Single Family Attached	4,000 sq. ft.	40	30#	5/0	30	2.5 Stories	8	25
3. Townhouse Units	na	0	30#	40	30	2.5 Stories	8	25
R-D RESIDENTIAL								
1. Single Family Detached Dwelling	10,000 sq. ft.	80	30#	5[2]	25	35	4	30
2. Two Family Dwelling	12,500 sq. ft.	80	30#	5[2]	25	35	7	30
3. Other	5 Acres	250	50#	35	35	35		25
R-M RESIDENTIAL								
1. Multi-Family Dwellings	5 Acres	250	50#	25	25	35	12	30

District and Use	Minimum Lot Requirements ##		Minimum Yard Requirements ##			Maximum Requirements ##		
	Area	Width (Feet)	Front (Feet)	Side (Feet)	Rear (Feet)	Height (Feet)	Units Per Acre	(%) Lot Coverage
R-C RESIDENTIAL CONDOMINIUM OVERLAY								
Multi-Story dwelling structures	na	na	**	Note 3	Note 3	*	na	***
O-R OFFICE			30	15	15	2 Stories		30
O-R-2 OFFICE			30	15	15	2 Stories		30
O-C OFFICE			50	10	20	4 Stories		30
C-L COMMERCIAL	None	65	45		20	2 Stories		50
C-G COMMERCIAL	None	65	40		20	5 Stories		70
C-H COMMERCIAL	10,000 Sq. Ft.	80	40**		20	5 Stories*		40
SC-1 COMMERCIAL	10,000 Sq. Ft.		15			5 Stories		70
I-O WHOLESALE AND WAREHOUSE	None	100	30	10	20	2 Stories or 35 Ft.		none
I-P PLANNED INDUSTRIAL PARK	30 Acres	100	50	20	20	40		50

[1]Minimum 8', Total 18'

[2]Minimum 5', Total 15'

On street right-of-ways having a width of sixty feet (60') or more, the required front yard shall be increased by five feet (5'), and on street right-of-ways having a width of eighty feet (80') or more, by ten feet (10'). This shall not apply to the front yard at the rear of lots on double frontage or through lots.

*Building height shall not exceed one-third of the horizontal distance to the nearest single-family residential zoning district boundary, regardless of whether said district abuts the property of the subject building. For this purpose, height shall be measured relative to the ground elevation at said single-family residential zoning district boundary.

**Minimum front yard depth is 15 feet from the face of the curb of an abutting street, where (a) the yard is filled by a sidewalk or plaza conforming to City streetscape requirements and (b) commercial or office uses on the ground floor of the building open onto said yard. Otherwise, minimum front yard depth is that required to accommodate the frontage tree and landscaping requirements of Article VI, Section 23.

Note 2 - See**

Note 3 Minimum yards shall be as provided in the underlying zoning district.

***- Lot coverage shall be determined by minimum yard, parking, open space, and landscaping requirements.

ARTICLE VI.

Supplementary District Regulations

Section 1 -Temporary Uses

(Amended by Ord. 01-17, 11/13/01; Ord. 02-03, 3/12/02; Ord. 11-02, 4/12/11; Ord. #11-03, 4/12/11)

A. In any district, subject to the conditions stated below, the Building Official may issue a permit for a temporary use. Application for a Temporary Use Permit shall be made to the Building Official and shall contain the following information:

1. Sufficient information necessary to accurately portray the property to be used, rented, or leased for a temporary use;

2. A description of the proposed use; and

3. Sufficient information to determine the yard requirements, setbacks, sanitary facilities, and availability of parking space to serve the proposed use.

B. The following uses are deemed to be temporary uses and shall be subject to the regulations which follow:

1. Construction Office or Yard. A Temporary Use Permit may be issued for a building or yard for construction office, material or equipment, provided such use is adjacent to the construction site and is adequately equipped with sanitary facilities and removed when construction is completed. A permit shall be valid for the duration of building construction, but every temporary use shall be removed when construction is completed or discontinued for more than thirty (30) days.

2. Real Estate Sales Office. A Temporary Use Permit may be issued in any new approved subdivision. Such permit shall be valid for not more than one (1) year but may be renewed for a maximum of two (2) one (1) year extensions. Such office shall be removed upon completion of the development of the subdivision or upon expiration of the permit, whichever occurs first.

3. Special Events. A permit may be issued for a special event in accordance with the requirements of Article VI, Section 27.

4. Yard Sale. No permit is required, but the Permitting Official shall keep in City files for twelve (12) months a record of the date and

address of any such sale of which the Permitting Official is aware. The following conditions shall be met:

a. A yard sale shall be allowed only on property occupied by the principal residence of one of the sellers.

b. The duration of a yard sale shall not exceed three (3) consecutive days. No more than two (2) yard sales shall be allowed for the same location in any twelve-month period.

c. No items may be sold other than used items from the households of the sellers.

d. Any items for sale that are displayed outside of the residence, garage, or carport shall be confined to the minimum feasible area of the yard and as near the residence or garage as possible.

e. No yard sale shall be conducted where vehicles stopped on the street will constitute a traffic hazard, as determined by the Police Department.

5. Inventory reduction sales (retail) in the I-O and I-P districts.

a. One inventory reduction sale shall be permitted in each calendar quarter, for a period not to exceed four (4) consecutive days, with hours not to exceed 8 A.M. to 6 P.M. Monday through Saturday and noon to 6 P.M. Sunday.

b. Products sold shall be only those manufactured in or regularly distributed through the existing facility.

c. The sale shall be confined to indoors.

d. Off-street parking shall be adequate for the floor area to be used for the sale.

6. Construction Dumpster(s) shall be permitted to serve an existing or new use in residential zoning districts, subject to the following standards.

a. A construction dumpster(s) shall require a temporary use permit at not cost issued to the contractor, which shall be valid for the duration of building construction. The dumpster is to be removed within 30 days of the issuance of the use and occupancy or the final inspection.

b. Be located as far as possible from lots containing existing development

c. Not be located within a floodplain or otherwise obstruct drainage flow

d. Not be placed within five feet of a fire hydrant

e. Be located outside of tree protection fencing and the drip line of existing trees, to the maximum extent practicable

f. Not be placed on the public right of way

g. Compliant with any other site related requirement as determined by the Building Official as a condition of issuing the temporary permit

h. All on site debris must be contained in the construction dumpster.

For the purpose of this ordinance contractor is defined as follows:

"Contractor" means any person or entity that undertakes to, attempts to or submits a price or bid or offers to construct, supervise, superintend, oversee, schedule, direct or in any manner assume charge of the construction, alteration, repair, improvement, movement, demolition, putting up, tearing down or furnishing labor to install material or equipment for any building, highway, road, railroad, sewer, grading, excavation, pipeline, public utility structure, project development, housing, housing development, improvement or any other construction. Contractor may be the homeowner or building owner, unlicensed or licensed through Memphis/Shelby County Codes or the State of Tennessee as required by the State of Tennessee and the Local Jurisdiction.

7. Portable Storage Unit.

a. A transportable unit designed and used for the temporary storage of household goods, personal items , construction materials and supplies, or other materials which are placed on a site for the use of occupants of a dwelling or building on a limited basis. Portable storage units include, but are not limited to, certain trade named units called "PODS," "mobile attics" and like portable on-demand storage containers.

b. Portable storage units shall be permitted to serve an existing residential use in residential zoning districts and shall require a temporary use permit issued at no cost and shall not be located:

1. On a lot without prior approval from the Department of Code Enforcement.

2. In the front lawn

3. In a manner that impedes ingress, egress or emergency access.

4. On public right of way.

5. Contrary to with any other site related requirement as determined by the Building Official as a condition of issuing the temporary permit.

6. On an individual parcel or site for more than 90 total days over any consecutive twelve-month period per property owner. Exceptions may only be granted by the building official based on documented extenuating circumstances. Storage of flammable and combustible liquids or any hazardous materials shall not be permitted in these containers.

Section 2 - Home Occupation

Home occupation means an occupation conducted in a dwelling unit, provided that:

A. No person other than members of the Family residing on the premises shall be engaged in such occupation.

B. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than ten (10) percent of the floor area of the dwelling unit shall be used in the conduct of the home occupation.

C. There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation.

D. No home occupation shall be conducted in any accessory building.

E. There shall be no sales in connection with such home occupation.

F. No traffic shall be generated by such home occupation in greater volumes than would normally be expected in residential neighborhoods, and any need for parking generated by the conduct of such home occupation shall be met in rear and side yards.

G. No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot, if the occupation is conducted in a single family residence, or outside the dwelling unit, if conducted in other than a single family residence. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises.

H. Any occupation that requires a license shall be deemed a home occupation.

Section 3 -Planned Unit Residential Development (amended by Ord. 06-12, 9/12/06; Ord. #10-03, 5/11/10)

The purpose of this section is to encourage large-scale development as a means of creating a living environment through unified development and to provide for the application of design ingenuity while protecting existing and future development. Maximum variations of design may be allowed, provided that the overall density of the development shall be no greater than is permitted in the district where the development is proposed.

An authorized agency of the Municipal, County, State or Federal Government, or the owner or owners, or their authorized agents, of any tract of land in an appropriate district may submit to the Planning Commission an application for the use and development of all the tract of land as "Planned Unit Residential Development" within an RS-18, RS-15, RS-12, RS-10, R-THE, R-D, R-M, or R-E district.

Planned Unit Residential Development in the RS-18, RS-15, RS-12, RS-10 and R-THE districts shall consist of detached single family homes and their accessory uses. Planned Unit Residential Development in the R-D district shall consist of detached single family homes and/or duplex units and their accessory uses.

It is suggested that applicants request a preapplication conference with the Planning Commission before formal application is made to discuss the general intent and character of the development and become familiar with the Planning Commission's requirements.

Within the residential districts, a Planned Unit Residential Development may be permitted as a special use permit requiring approval of the Board of Mayor and Aldermen based on recommendations from the Planning Commission, provided the area of development is comprised of not less than five (5) acres.

Within the residential districts, multiple family development consisting of more than one (1) building on a lot regardless of size shall be considered as a Planned Unit Residential Development. No Planned Unit Residential Development shall

be approved by the Planning Commission for development in a residential district or recommended to the Board of Mayor and Aldermen for development in a residential district until the following requirements and standards have been met:

A. REQUIREMENTS

At least twenty-one (21) days prior to the Planning Commission meeting at which it is to be considered, the developer or his agent shall submit to the Planning Commission fifteen (15) copies of a plot plan of the proposed Planned Unit Residential Development drawn to a scale of not less than one inch equals one hundred feet (1" = 100'). The plot plan, which shall meet the minimum standards of design as set forth later in this section, shall give the following information:

a. The proposed Planned Unit Residential Development's name and location, the name(s) and address(es) of the owner or owners, and the name of the designer of the plot plan.

b. Date, north point, and scale.

c. The location of existing and platted property lines, existing streets, buildings, water courses, railroads, sewers, bridges, culverts, drain pipes, water mains, and any public utility easements or lines, the present zoning classification on the land to be developed and on the adjoining land.

d. The proposed street names, if other than drives, and the locations and dimensions of proposed streets, drives, alleys, easements, parks and other open spaces, reservations, lot lines, and building setback lines.

e. Contours at vertical intervals of not more than two (2) feet except when specifically not required by the Planning Commission.

f. Drainage maps showing drainage of development site and adjacent area.

g. All dimensions to the nearest tenth (10th) of a foot and angles to the nearest minute.

h. Location sketch map showing site in relation to area.

i. Total acreage to the nearest tenth (10th) of an acre, building locations and dimensions, number of dwelling units, total floor area of dwelling units, landscape plan showing walks, open areas, fences and number of parking spaces, access drive plan, location of accessory uses, and floor space allocation plan.

j. Other information as may be required by the Planning Commission.

2. The proposed development must be designed to produce an environment of stable and desirable character not out of harmony with the surrounding development, and must provide standards of open space and areas for parking adequate for the occupancy proposed.

3. The Planning Commission shall review the proposed development and shall recognize principles of civic design, land use planning and landscape architecture. The maximum height requirements of the district in which the development is located shall apply. The minimum yard requirements of the district in which the development is located shall apply, unless modified by the Planning Commission. The Planning Commission may impose conditions regarding layout, circulation, setbacks and performance of the proposed development. However, in no case shall single family detached lots be created that are less than sixty-five feet (65') in width or less than seven thousand (7,000) square feet in area. A maximum lot coverage of fifty percent (50%) may be permitted; lot coverage is considered that portion of a lot under roof.

4. The Planning Commission shall make recommendations on each application for a Planned Unit Residential Development, and shall transmit a copy of its recommendations to the Board of Mayor and Aldermen for its action. Public hearings shall be held in accordance with the general policy of both the Planning Commission and Board of Mayor and Aldermen.

5. If construction of the submitted plot plan has not begun within six (6) months from date of approval of the Board of Mayor and Aldermen, all prior approvals become null and void.

B. STANDARDS

1. Streets and drives shall provide at least twenty-six (26) feet of pavement including curbs and gutters.

2. Adequate storm water drainage shall be provided.

3. Provision of sanitary sewers and water supply facilities including fire hydrants shall be made to the satisfaction and requirements of the City of Bartlett.

4. All of the above improvements are to be installed and maintained by the developer unless other arrangements approved by the City of Bartlett are made.

5. The Planning Commission may require other special improvements as they are deemed reasonable and essential, and may require that appropriate deed restrictions be filed enforceable by the City of Bartlett for a period of twenty (20) years.

6. The total area may be approved for single family dwellings and/or multiple family dwellings and/or the usual accessory of supporting facilities such as private or parking garages and storage space, recreation facilities, and for community activities, including churches and schools.

7. Off-street parking facilities shall be provided in accordance with Article VI, Section 11.

8. Multi-family structures shall be no closer than fifteen (15) feet.

Section 3A - PRD-1 - Planned Residential Development in Bartlett Station

(Ord. 99-16, 1/11/00; Ord. 00-19, 9/26/00)

A. PURPOSE

Planned Residential Development in Bartlett Station shall consist of detached single-family homes, their accessory uses, and common open space meeting the requirements of this section.

These provisions require approval of Planned Residential Development in Bartlett Station as a special use permit. It is the intent of this section to facilitate infill or redevelopment of appropriate portions of the Bartlett Station area with single-family detached housing of high-quality design that meets a variety of needs.

These provisions require common open space so designed as to effectively offset the impression of crowding caused by smaller lots.

These provisions shall supercede any more restrictive provisions of the zoning districts in which this use is permitted.

B. APPLICABILITY (amended by Ord. 06-18, 10/10/06)

The area, to be identified as Bartlett Station, and which is described below, within which this special use may be applied is described below, within which this special use may be applied is described as follows based on Shelby County tax maps for Districts 56 and 57.

1. Beginning at a point on the north right-of-way of Stage Road and the northwardly extension of a property line lying approximately 210 feet,

more or less, west of the westerly right-of-way of Shelby Street, said point being described in Ordinance 99-16, thence

2. Southerly along the said property line extension a distance of 84 feet, more or less, to the south right-of-way of Stage Road, thence

3. West along the south right-of-way of Stage Road to a point on a property line approximately 170 feet, more or less, west of the westerly right-of-way of Alfaree Street, thence

4. North along a projection of said property line a distance of 42 feet, more or less, to a point on the Centerline of Stage Road, thence

5. West along the centerline of Stage Road to a point which is a southerly projection of the east right-of-way of Old Brownsville Road, thence

6. North along the east right-of-way of Old Brownsville Road to a point on a property line approximately 405 feet, more or less, north of the north right-of-way of Stage Road, thence

7. East along a property line a distance of 379 feet, more or less, to a property corner, thence

8. North along a property line a distance 40 feet, more or less, to a property corner, thence

9. East along a property line a distance of 272 feet, more or less, to a property corner, thence

10. South along a property line to a point located 200 feet, more or less, north of the north right-of-way of Stage Road, thence

11. Easterly following a line located 200 feet north, more or less, and parallel to the north right-of-way of Stage Road, a distance of 750 feet, more or less, to a property line, thence

12. South along a property line a distance of 200 feet to the north right-of-way of Stage Road, thence

13. East along the north right-of-way of Stage Road a distance of 220 feet, more or less, to a point which is the northerly extension of a property line lying 210 feet, more or less, west of the westerly right-of-way of Shelby Street, said point being the point of beginning.

C. REQUIREMENTS

1. Submittals to the Planning Commission and Board of Mayor and Aldermen. The proposed Planned Residential Development in Bartlett

Station shall be subject to approval by the Board of Mayor and Aldermen of the following:

a. An application for a special use permit for a Planned Residential Development under the terms of this section.

b. An application and attachments for a Master Plan conforming to requirements of the Subdivision Ordinance.

c. Site plans, in accordance with Article V, Attachment A, for typical lots, including an interior lot, a corner lot, and a non-rectangular cul-de-sac lot (if any); together with site plans for any lots that are unusual in shape or location within the development, as determined and requested by the Planning Commission or the Board of Mayor and Aldermen.

d. All four elevations and floor plans for each building design proposed, including proposed materials.

e. Site plans for any lots or common area to be used for other than placement of dwelling units or common open space, e.g., for guest parking or for recreational facilities.

f. Plans detailing proposed use and treatment of the common open space, such as clearing, planting, or construction of trails.

g. Proposed street and alley cross-sections.

2. Planning Commission recommendation. The Planning Commission shall make recommendations on each application for a Planned Residential Development in Bartlett Station and shall transmit a copy of its recommendations to the Board of Mayor and Aldermen for its action. Public hearings shall be held in accordance with the general policy of both the Planning Commission and Board of Mayor and Aldermen.

3. Submittals to the Design Review Commission. The proposed Planned Residential Development in Bartlett Station shall be subject to approval by the Design Review Commission, under the criteria of Ordinance 76-2 and any criteria herein, of the following:

a. An application for review of the proposed Planned Residential Development in Bartlett Station by the Design Review Commission.

b. Submittals 1d through 1f above.

c. For information only, submittal 1b above.

4. Design goals. The proposed development must be designed to produce an environment of stable and desirable character in harmony with the surrounding development and must provide standards of open space and areas for parking adequate for the occupancy proposed.

   The Planning Commission shall review the proposed development and shall recognize principles of civic design, land use planning and landscape architecture.

   Alleys, although not generally permitted in residential districts under the Subdivision Ordinance, may be permitted in this district. The Planning Commission may impose conditions regarding layout, circulation, and performance of the proposed development.

D. STANDARDS

1. Density. The overall density of the development shall be no greater than seven (7) dwelling units per gross acre, with at least twenty percent (20%) of the land area in common open space.

2. Infrastructure

   a. Streets. Street right-of-way and pavement widths shall be as provided by the Subdivision Ordinance. Variation from these standards may be granted upon determination by the Planning Commission and Board of Mayor and Aldermen that smaller widths will provide acceptable performance for the functions proposed within the development. For example, narrower streets may be considered where no on-street parking will be allowed and there are adequate provisions for emergency access.

      Alleys, where provided,

      - shall be private
      - shall have adequate maintenance by a homeowners association provided in covenants, and
      - shall connect to a public street at both ends.

   b. Storm drainage. Where on-site storm water detention (i.e., normally dry) is provided, generally the area of the detention basin should not be counted toward the common open space required herein; but see subsection E.5.a(5) herein.

c. Sidewalks. Alternative pedestrian routes through greenways and common open space may be substituted for the required sidewalks, subject to approval of the Planning Commission and Board of Mayor and Aldermen.

d. Other improvements. The Planning Commission may require other special improvements as they are deemed reasonable and essential and may require that appropriate deed restrictions be filed.

3. Lots. In no case shall single-family detached lots be created that are less that 34 feet in width or less than 3,500 square feet in area. No lot on the turnaround of a cul-de-sac shall have less than 34 feet of width along a building line touching but not crossing the setback line.

4. Street frontage. Where automobile access to a lot is from an alley to the rear, the lot may front on usable open space instead of a public street; provided that such tract of usable open space abuts a public street.

5. Setbacks. Minimum building setbacks shall be as follows, except that the Planning Commission may recommend and the Board of Mayor and Aldermen require that a yard abutting a boundary of the development extend from said boundary a distance not less than the minimum conventional setback for the abutting district:

- Front. Fifteen (15) feet on the front where right-of-way width is forty (40) feet or ten (10) feet where right-of-way width is fifty (50) feet; except as otherwise provided in subsection D.8, "Perimeter buffer."

- Side. Five (5) feet on each side.

- Rear. Five (5) feet on the rear.

Fences shall be set back at least five feet from an alley.

There is no restriction on lot coverage by buildings other than the setback lines.

(Amended by Ordinance 00-19, September 26, 2000)

6. Visitor Parking. Off-street parking facilities shall be provided in accordance with Article VI, Section 12. In addition, the complex shall

have one guest parking space for each two lots, with the spaces distributed in small, well-landscaped lots for minimal visual impact of the paved area and located for convenient pedestrian access from all dwelling units.

These parking spaces are for visitor parking only and shall not be used by the residents for parking their extra vehicles, boats, RVS, etc.

Such a facility shall be within 300 feet of every lot by pedestrian path.

Overnight on-street parking shall be prohibited.

7. Garages. Each dwelling shall have a two-car enclosed garage. Front-loaded garages are discouraged.

   Where a rear-loaded garage is not set back at least twenty (20) feet from the alley to provide for additional parking, a parking pad also shall be provided alongside each rear-loaded garage.

   Where access to a garage is from an alley and the garage is set back more than five (5) feet from the alley, screening of the driveway pavement from view from the ends of the alley by shrubs is encouraged.

8. Perimeter buffer

   a. Provide a Bartlett Standard Fence Section with trees and shrubs on the perimeter where the development abuts a public street, in accordance with the standards of Article VI, Section 19, part F of the Zoning Ordinance, Plate A, B, or C; and provide a landscape screen at least twenty-five (25) feet in depth on the development side of the fence.

   b. Where the development abuts residential or commercial property, provide a straight fence (no offsets) along the property line, of the materials shown in Plates A, B, or C; and provide a landscape screen at least twenty-five (25) feet in depth on the development side of the fence.

   c. In the case of paragraph "a" above, if the Planning Commission determines that it would be better for the surrounding neighborhood to eliminate all or a portion of the perimeter fence and landscape screen and face the new houses on the existing public streets, it may recommend same to the Board of Mayor and Aldermen, with the following provisions:

      (1) The Planning Commission may recommend and the Board of Mayor and Aldermen require that the front yard setback

for houses facing on the existing public street be the minimum requirement for the zoning district, rather than the reduced front setback allowed for a Planned Residential Development in Bartlett Station (in subsection D.5, Setbacks).

(2) Where an increased front yard set-back is required under the above provision, the minimum lot area for such houses shall be increased from that provided in subsection D.3, "Lots." The minimum lot area shall be determined as follows:

(a) Determine the amount of increase in front setback. This is equal to the minimum requirement for the zoning district minus the requirement in subsection D.5, "Setbacks."

(b) Multiply this increase in front setback by the proposed width of the lot. The result is the additional lot area required.

(c) Add the area calculated in part (b) to the minimum lot area required by subsection D.3, "Lots."

(3) The increase in minimum lot area required in part (2) above may be counted toward the common open space requirement for the development.

d. In the case of paragraph "b" above, if the Planning Commission determines that it would be better for the surrounding neighborhood to eliminate all or a portion of the perimeter fence and landscape screen, it may recommend same to the Board of Mayor and Aldermen. (The boundary setback provisions of subsection D.5 shall continue to apply.)

(Amended by Ordinance 00-19, September 26, 2000)

9. Buildings. There shall be diversity in the style of homes constructed, and identical rooflines and facades adjacent to each other are prohibited. Further,

a. the following percent of the exterior, excluding openings, shall be brick:

(1) One-story buildings, seventy (70) percent.

(2) One-and-a-half- and two-story buildings, sixty (60) percent.

b. exposed metal fireplace chimneys are prohibited,

c. each one-and-a-half or two-story home shall have at least two full baths and one half-bath,

d. each house shall include features providing a transition between the public front yard and the private interior, such as a porch, which features shall be consistent with the architecture of the house and contribute to variety of appearance of the buildings.

e. at least twenty percent (20%) but not more than fifty percent (50%) of the dwelling units shall be one-story and dispersed throughout the development, and

f. all dwelling units shall have a minimum heated living space which is equal to or greater than the average size of the existing dwellings in the adjoining or nearby neighborhood. All single-family homes located within one thousand (1,000) feet of the land proposed for development or a minimum of fifty (50) homes, whichever results in the greatest number of homes, shall be used in the calculation of the house sizes of the nearby neighborhood.

10. Open space. Common open space shall be provided in accordance with subsection E.

11. Trees. A small- or medium-density tree at least two (2) density units in size shall be planted and maintained in the front yard of each lot.

12. Other conditions. The Planning Commission, Design Review Commission, and Board of Mayor and Aldermen may impose such additional requirements as are necessary and reasonable to accomplish the purposes of this section.

E. COMMON OPEN SPACE

1. Purpose. Open space as described herein is intended to preserve the desirable scenic, environmental, and cultural qualities of rural and natural landscapes in developing areas. The following provisions are for the creation of such open space.

2. Maintenance. Open space shall be the property of and shall be maintained by a homeowners association.

3. Lot layout. Lot layout shall comply with the following:

a. Frontage on major streets prohibited. Open space shall be used to separate lots from arterial and collector streets, so that no lot abuts an arterial or collector street.

b. Open space frontage required. To relieve the crowded appearance of rows of dwellings on narrow lots, open space shall abut street frontage equal to at least five percent (5%) of the street frontage internal to the subdivision.

c. Open space at the periphery required. Lots at the periphery of the subdivision shall be separated from adjoining property by open space.

4. Access to open space

a. Proximity. All lots shall directly abut open space along at least twenty (20) feet of property line; except that a lot need not abut open space if

(1) the lot faces usable open space directly across an abutting residential street (typically not more than thirty (30) feet wide, back of curb to back of curb), as in the case of a "village green" arrangement (a block of open space encircled and separated from surrounding dwelling units by streets) or

(2) the lot is no farther than 300 feet, along a common area pedestrian path or a sidewalk, from a parcel of usable open space.

There shall be no restrictions on direct access to the open space from each lot abutting said open space.

b. Paths. A system of paths having characteristics described under subsection 5, "Requirements for the open space," may be constructed within the open space to facilitate access. Any paths shall be constructed so as to minimize soil erosion or damage to trees or other natural features. Where sidewalks would otherwise be required along the streets, no sidewalks shall be required for a subdivision that has an equivalent open space path system suitable for pedestrian use in all weather.

5. Requirements for the open space. Open space shall meet the following requirements:

a. Applicable land. Lands having the following characteristics shall not be counted toward meeting minimum open space requirements:

(1) Occupied by public utility easements.

(2) Occupied by "hard" utility structures such as paved ditches.

(3) Occupied by public right-of-way.

(4) Occupied by non-residential buildings or uses, including active recreation uses such as swimming pools, tennis courts, and golf courses.

(5) Occupied by on-site storm water detention (i.e., normally dry), unless the design is found to be compatible with the other requirements of this subpart E, "Common open space."

(6) Fails to preserve the desirable aesthetic, environmental, and cultural qualities of rural or natural landscapes because a tract has insignificant levels of such qualities (for example, because the tract is too small or has recently undergone removal of trees) or such qualities would be significantly diminished by development of the subdivision.

(7) Fails to compensate for the crowding inherent in small lots by providing open space aggregated into areas of significant size rather than scattered in strips of minimal width.

b. Usable open space. Usable open space is any portion of the open space that has large enough minimum dimensions to accommodate features and functions of open space beyond the minimal function of a pedestrian pathway, e.g., buffers from adjacent development or between development clusters, protection of natural features such as streams or wooded areas, wildlife habitat, passive recreation, scenic views.

c. Connection of tracts. All tracts of open space (except medians in collector or arterial streets) shall be connected by clearly identified street crossings, whether or not there is a path system. All crossings shall accommodate handicapped persons.

For a local street, a crossing shall consist of open space access points directly across the street from each other, located to ensure adequate vehicle sight distance along the street as determined by the City Engineer.

d. Names of areas. To identify parts of the open space for purposes of design, designation of neighborhoods, enforcement of covenants and other restrictions, and other needs, each separately identifiable portion of usable open space shall be named in the

manner that streets are named, with identifiers indicative of open space such as "Common," "Park," "Green," "Woods," "Farm," or others.

e. Desired features. Open space shall include irreplaceable natural features of the site such as streams, significant stands of trees, or individual trees of significant size.

f. Undisturbed area. Open space terrain and vegetation shall be left undisturbed, except for paths; except that

(1) enhancements designed by a registered landscape architect and determined to be consistent with these provisions may be approved by the Design Review Commission;

(2) conditions hazardous to persons, such as dead trees or unstable slopes, may be corrected;

(3) additional trees or other vegetation may be planted; and

(4) destructive or harmful plants such as kudzu or poison ivy may be removed.

g. Landscape Plan. A landscape plan subject to approval of the Design Review Commission shall be submitted and shall show open space so arranged on the site as to retain the maximum number of existing trees consistent with the other requirements of this subsection E, "Common open space."

The open space shall have at least forty (40) density units per acre, including at least 20 trees of minimum two-inch caliper per acre, and new trees shall be planted as necessary to meet this requirement.

h. Natural limitations. Natural areas that are unsafe for or not easily accessible to pedestrians--including wetlands, steep slopes (35% or more for a distance of 100 feet or more), lakes, ponds, and streams--may be included as open space, but such areas shall not constitute more than half of the total open space.

i. Easements restricted. Open space may be entered or crossed by easements for electric power transmission lines, gas or other pipelines, water lines, sewer lines, or storm drainage structures, where such easements will involve access by persons or vehicles for periodic maintenance or repair only. No other easements for purposes of access by persons or vehicles shall be permitted to

enter or cross the open space, except as specifically provided in these regulations.

j. Vehicles restricted. No vehicles powered by internal-combustion engines shall be operated within the open space except for maintenance purposes.

k. Path dimensions. Paths shall have a width of no more than eight (8) feet and shall meet minimum requirements for access by handicapped persons.

l. Environmentally sensitive areas. The placing of paths, culverts, bridges, dams, or similar structures in environmentally sensitive areas of open space such as flood plains, stream buffer areas, or wetlands is subject to review and approval (1) by the City Engineer to ensure protection of the natural function of such areas and (2) by the Design Review Commission as to aesthetic impact of such structures on nearby residential uses and adverse impact on trees and on use and enjoyment of the open space.

m. Lakes and ponds. Lakes and ponds may be created or retained within the open space, subject to review and approval by the City Engineer to ensure that provision is made to prevent unsanitary, malodorous, unsightly, or unsafe conditions.

n. Reservation of open space for specific users. Use of open space for community gardens or similar uses which reserve parts of the open space to only part of the population of the subdivision shall be subject to review and approval under the provisions of this section to ensure that adequate areas of open space are accessible to all residents of the subdivision.

o. Significant structures. Structures of historic, architectural, or cultural significance existing prior to development of the subdivision may be retained within the open space, subject to review and approval under the provisions of this section to ensure that the structure and the proposed use are compatible with these regulations and nearby residential uses. Easements to enter or cross open space for the purpose of vehicular access to such uses may be permitted, subject to the same review and approval.

p. Storm water management structures. The placing of storm water management structures in open space is subject to review and approval by the Design Review Commission as to aesthetic impact of such structures on nearby residential uses and adverse impact on trees and on use and enjoyment of the open space.

q. Views. Alteration of views by (1) removing trees or placing buildings or other structures on highly visible hill- tops and ridges or (2) blocking unique views by placing structures in inappropriate locations is subject to review and approval by the Design Review Commission to ensure that adverse aesthetic and economic impacts on the rest of the subdivision and on the surrounding community are minimized. Particularly important views should be available from areas accessible to all residents of the subdivision.

r. Other requirements. The open space shall be subject to such additional requirements as the Planning Commission and Board of Mayor and Aldermen determine are necessary, given the particular characteristics of the tract of land and its relationship to surrounding uses.

6. Legal provisions for the open space. Covenants, easements (including conservation easements), or other provisions shall be required that are legally sufficient

a. to permanently protect the open space from development other than as provided in these regulations;

b. to ensure any necessary maintenance of the open space;

c. to ensure the availability of the open space for common use by all residents of the subdivision; and

d. to ensure that no damage to or use of the open space to the exclusion or detriment of other residents of the subdivision is permitted.

Section 3.B - Planned Residential Development 55+ Senior Housing (added by Ord. 08-12, 1/13/09)

A. PURPOSE

Planned Residential Development (55+ Senior Housing) shall consist of detached or attached single-family homes or townhouses, their accessory uses, and common open space meeting the requirements of this section. At least 80% of the occupied units house at least one person who is 55 years old or older and the development adheres to a policy that demonstrates intent to house people who are aged 55 or older.

These provisions require approval of Planned Residential Development (55+ Senior Housing) as a special use permit. It is the intent of this section to facilitate development or redevelopment of appropriate sites with housing of high-quality design that meets the needs of older residents.

These provisions require common open space and amenities so arranged as to create a well designed community.

These provisions shall supercede any more restrictive provisions of the zoning districts in which this use is permitted.

B. REQUIREMENTS

1. The proposed Planned Residential Development (55+ Senior Housing) shall be subject to approval by the Board of Mayor and Aldermen. Submittals to the Planning Commission and Board of Mayor and Aldermen shall provide the following:

    a. An application for a special use permit for a Planned Residential Development under the terms of this section.

    b. An application and attachments for a Master Plan conforming to requirements of the Subdivision Ordinance.

    c. Site plans, in accordance with Article V, Attachment A, for typical lots, including an interior lot, a corner lot, and a non-rectangular cul-de-sac lot (if any); together with site plans for any lots that are unusual in shape or location within the development, as determined and requested by the Planning Commission or the Board of Mayor and Aldermen.

    d. All four elevations and floor plans for each building design proposed, including proposed materials.

    e. Site plans for any lots or common area to be used for other than placement of dwelling units or common open space, e.g. for guest parking or for recreational facilities.

    f. Plans detailing proposed use and treatment of the common open space, such as clearing, planting, or construction of trails.

    g. Proposed street and alley cross-sections.

    h. A final plat shall be recorded within five years of the date of approval of a Special Use Permit (Planned Development) by the Board of Mayor and Aldermen. The Board of Mayor and Aldermen, in consideration of a request may grant time extensions with notice to abutting property owners and appropriate neighborhood or property owners association. If a final plat is not recorded within the allotted time, the

underlying zoning applies to any development of the property.

2. Planning Commission recommendation. The Planning Commission shall make recommendations on each application for a Planned Residential Development (55+ Senior Housing) and shall transmit a copy of its recommendations to the Board of Mayor and Aldermen for its action. Public hearings shall be held in accordance with the general policy of both the Planning Commission and Board of Mayor and Aldermen.

3. Submittals to the Design Review Commission. The proposed Planned Residential Development (55+ Senior Housing) shall be subject to approval by the Design Review Commission, under the criteria of Ordinance 76-2 and any criteria herein, of the following:

   a. An application for review of the proposed Planned Residential Development (55+ Senior Housing) by the Design Review Commission.

   b. Submittals 1d, 1e, and 1f above.

   c. For information only, submittal 1b above.

4. Design goals. The proposed development must be designed to produce an environment of stable and desirable character in harmony with surrounding development and must provide standards of open space and areas for parking adequate for the occupancy proposed.

   The Planning Commission shall review the proposed development and shall recognize principles of civic design, land use planning and landscape architecture.

   Alleys, although not generally permitted in residential districts under the Subdivision Ordinance, may be permitted as part of the site plan design. The Planning Commission may impose conditions regarding layout, circulation, and performance of the proposed development.

C. STANDARDS

1. Density. The overall density of single family detached development shall be no greater than six (6) dwelling units per gross acre. Density is subject to available sewer capacity.

Single family attached and townhouse developments shall have a density no greater than eight (8) dwelling units per gross acre, with at least twenty percent (20%) of the land area in common open space.

2. Infrastructure

   a. Streets. Street right-of-way and pavement widths shall be as provided by the Subdivision Ordinance. Variation from these standards may be granted upon determination by the Planning Commission and Board of Mayor and Aldermen that smaller widths will provide acceptable performance for the functions proposed within the development. For example, narrower streets may be considered where no on-street parking will be allowed and there are adequate provisions for emergency access. Streets and any alleys may be private, and if private shall have adequate maintenance by a homeowners association provided in covenants.

   b. Storm drainage. Where on-site storm water detention (i.e. normally dry) is provided, generally the area of the detention basin should not be counted toward the common open space required herein; but it may be counted if a permanent and well designed water feature is provided as an amenity.

   c. Sidewalks. Alternative pedestrian routes through greenways and common open space may be substituted for the required sidewalks, subject to approval of the Planning Commission and Board of Mayor and Aldermen.

   d. Other improvements. The Planning Commission may require other special improvements as they are deemed reasonable and essential and may require that appropriate deed restrictions be filed.

3. Lots. In no case shall single-family detached lots be created that are less than 50 feet in width or less than 6,000 square feet in area. No lot on the turnaround of a cul-de-sac shall have less than 50 feet of width along a building line touching but not crossing the setback line.

4. Setbacks. Minimum building setbacks shall be as follows, except that the Planning Commission may recommend and the Board of Mayor and Aldermen require that a yard abutting a boundary of

the development extend from said boundary a distance not less than the minimum conventional setback for the abutting district:

- Front. Twenty (20) feet on the front. Fifteen (15) feet may be permitted where no vehicular access is provided to the street and parking and garage access is to the rear using private drives (alleys).
- Side. Five (5) feet on each side.
- Rear. Twenty (20) feet on the rear.

Fences shall be set back at least five feet from an alley.

There is no restriction on lot coverage by buildings other than the setback lines.

5. Visitor Parking. Off-street parking facilities shall be provided in accordance with Article VI, Section 12.

   Overnight on-street parking shall be prohibited.

6. Garages. Each dwelling shall have a two-car enclosed garage.

   Where a rear-loaded garage is not set back at least twenty (20) feet from the alley to provide for additional parking, a parking pad also shall be provided alongside each rear-loaded garage.

   Where access to a garage is from an alley and the garage is set back more than five (5) feet from the alley, screening of the driveway pavement from view from the ends of the alley by landscaping is encouraged.

7. Perimeter buffer

   a. Provide a fence section approved by the Design Review Commission, with trees and shrubs where the development abuts a public street.

   b. Along the perimeter of the development abutting other property, provide a fence section and landscape screen approved by the Design Review Commission.

8. Single Family Detached Developments. There shall be diversity in the style of homes constructed, and identical rooflines and facades adjacent to each other are discouraged.

   Further,

a. The following percent of the exterior walls, excluding openings, shall be brick:

(1) One-story buildings, seventy (70) percent.
(2) One- and-a-half- and two-story buildings, sixty (60) percent.

b. Exposed metal fireplace chimneys are prohibited,

c. Each house shall include features providing a transition between the front yard and the private interior, such as a porch, which features shall be consistent with the architecture of the house and contribute to variety of appearance of the buildings.

d. At least fifty percent (50%) of the dwelling units in a single family detached development shall be one-story and dispersed throughout the development, and all units shall have at least one bedroom and one full bath on the ground floor.

e. All dwelling units shall have a minimum heated living space of 1,600 square feet.

9. Open space. Common open space shall be provided as an amenity in the development.

10. Trees. A small- or medium-density tree at least two (2) density units in size shall be planted and maintained in the front yard of each lot in a single family detached development.

11. Other conditions. The Planning Commission, Design Review Commission, and Board of Mayor and Aldermen may impose such additional requirements as are necessary and reasonable to accomplish the purposes of this section.

Section 4 - Planned Commercial or Industrial Development Regulations

A. PURPOSE

The primary thrust of development in the Bartlett area has taken place under requirements of uniform regulations within each zoning district that may on occasion prevent or discourage innovative site design and development that will respond to new market demands. The use of improved techniques for land development is often difficult under traditional zoning regulations designed to control single buildings on individual lots. Proper private development of larger areas of substantially vacant land require a flexible approach to be available both to the City and to the landowner. Deviations from the rigid uniformity

characteristic of such earlier zoning regulations and the use of new and innovative techniques are henceforth to be encouraged as a matter of policy.

Additionally, many times an individual use or uses allowed under certain zoning districts may be compatible with surrounding properties, while other uses allowed in the same district may be incompatible with surrounding properties. Traditional zoning is district oriented rather than use oriented, and zoning requests for specific uses must be rejected when the full range of uses allowed under that district are considered. Regulations that would deviate from the normal rules by deleting incompatible uses or by limiting uses allowed to an individual use or uses that would be compatible with surrounding development should be encouraged.

The City may, upon proper application, grant a Special Permit for a Planned Commercial or Industrial Development for a site of at least three (3) acres to facilitate the use of flexible techniques of land development and site design. This Special Permit may provide relief from zone requirements designed for conventional developments, and may establish standards and procedures, including restricting uses to only those compatible with surrounding development. For the issuance of a Special Permit the Planned Commercial or Industrial Development shall meet one or more of the following objectives:

1. Environmental design in the development of land that is of a higher quality than is possible under the regulations otherwise applicable to the property.

2. Variation in the relationship of structures, open space, setback, and height of structures in developments intended as cohesive, unified projects.

3. Preservation of natural features of a development site.

4. Rational and economic development in relation to public services.

5. Efficient and effective traffic circulation, both within and adjacent to the development site.

6. Revitalization of established commercial centers of integrated design in order to encourage the rehabilitation of such centers in order to meet current market preferences.

7. Provision in attractive and appropriate locations for business and manufacturing uses in well-designed buildings and provision of opportunities for employment closer to residence with a reduction in travel time from home to work.

B. RELATION BETWEEN PLANNED COMMERCIAL OR INDUSTRIAL DEVELOPMENT AND ZONING DISTRICTS

1. Planned Commercial or Industrial Development Permitted in Zoning Districts

   Planned Commercial or Industrial Developments shall be permitted in the C-G, C-H, SC-1, I-O, and I-P Districts.

2. Modification of District Regulations

   Planned Commercial or Industrial Developments may be constructed in the above listed zoning district subject to the standards and procedures set forth below:

   a. Except as modified by and approved in the Ordinance approving an outline plan, a Planned Commercial or Industrial Development shall be governed by the regulations of the district or districts in which the said Planned Commercial or Industrial Development is located.

   b. The Ordinance approving the outline plan for the Planned Commercial or Industrial Development may provide for such exceptions from the district regulations governing use, area, setback, width and other bulk regulations, parking, and such subdivision regulations as may be necessary or desirable to achieve the objectives of the proposed Planned Commercial or Industrial Development, provided such exceptions are consistent with the standards and criteria contained in this section and have been specifically requested in the application for a Planned Commercial or Industrial Development; and further provided that no modification of the district requirements or subdivision regulations may be allowed when such proposed modification would result in:

      (1) Inadequate or unsafe access to the Planned Commercial or Industrial Development;

      (2) Traffic volume exceeding the anticipated capacity of the proposed major street network in the vicinity.

      (3) An undue burden on fire and police protection, and other public facilities which serve or are proposed to serve the Planned Commercial or Industrial Development;

      (4) A development which will be incompatible with the purpose of this ordinance.

      Such exceptions shall supersede the regulations of the zoning district in which the Planned Commercial or Industrial Development is located. Provided however, in no case shall the

setbacks along the boundary of Planned Commercial or Industrial Development be less than the minimum setbacks allowed in the underlying zoning.

C. GENERAL STANDARDS AND CRITERIA

The Board of Mayor and Aldermen may grant a permit which modifies the applicable district zoning regulations and subdivision regulations upon written findings and recommendations by the Planning Commission which shall be forwarded pursuant to the provisions contained in this section.

1. The proposed development will not unduly injure or damage the use, value, and enjoyment of surrounding property nor unduly hinder or prevent the development of surrounding property in accordance with the current development policies and Bartlett Master Plan.

2. An approved water supply, community waste water treatment and disposal, and storm water drainage facilities that are adequate to serve the proposed development have been or shall be provided.

3. The location and arrangement of the structures, parking areas, walks, lighting, and other service facilities shall be compatible with the surrounding land uses, and any part of the proposed development not used for structures, parking and loading areas or access ways shall be landscaped or otherwise improved except where natural features are such as to justify preservation.

4. Any modification of the zoning or other regulations that would otherwise be applicable to the site are warranted by the design of the outline plan and the amenities incorporated therein, and are not inconsistent with the public interest.

5. Owners' associations or some other responsible party shall be required to maintain any and all common open space and/or common elements, unless conveyed to a public body, which agrees to maintain it.

D. SPECIFIC STANDARDS AND CRITERIA FOR PLANNED COMMERCIAL OR INDUSTRIAL DEVELOPMENTS

A permit for a Planned Commercial or Industrial Development may be issued by the Board of Mayor and Aldermen for buildings or premises to be used for the retail sale of merchandise and services, parking areas, office buildings, hotels and motels, and similar facilities ordinarily accepted as commercial center uses and those industrial uses which can reasonably be expected to function in a compatible manner with the other permitted uses in the area. In addition to the applicable standards and criteria set forth in sub-section "C" hereof, Planned

Commercial or Industrial Developments shall comply with the following standards:

1. Residential Use

   Except for hotels and motels no buildings shall be designed, constructed, structurally altered or used for dwelling purposes, except to provide, within permitted buildings, facilities for a custodian, caretaker, or watchman employed on the premises.

   Residential uses may be approved in conjunction with retail and office units within the boundaries of the Bartlett Station Central Business Improvement District.

2. Screening

   When structures or uses in a Planned Commercial or Industrial Development abut a residential district or permitted residential buildings in the same Development, the required screening shall be provided.

3. Display of Merchandise

   All business, manufacturing and processing shall be conducted, and all merchandise and materials shall be displayed and stored, within a completely enclosed building or within an open area which is completely screened from the view of adjacent properties and public rights-of-way provided, however, that when an automobile service station or gasoline sales are permitted in a Planned Commercial Development, gasoline may be sold from pumps outside of a structure.

4. Accessibility

   The site shall be accessible from the proposed street network in the vicinity, which will be adequate to carry the anticipated traffic of the proposed development. The streets and driveways on the site of the proposed development shall be adequate to serve the enterprises located in the proposed development and may be designed to discourage outside through traffic from traversing the development.

5. Landscaping

   Landscaping shall be required to provide screening of objectionable views of uses and the reduction of noise. Buildings shall be located within the development in such a way as to minimize any adverse impact on adjoining buildings.

E. PROCEDURES FOR PLANNED COMMERCIAL OR INDUSTRIAL DEVELOPMENT APPROVAL

1. Procedures

a. Pre-Application Procedure

At least two weeks prior to filing any application for a Planned Commercial or Industrial Development, the prospective applicant shall request a pre-application conference with the Bartlett Planning Office. Upon receipt of such request, the Planning Office shall promptly schedule such a conference.

b. Application and Post Application Procedure

The procedure for initiation and processing of an application for a Planned Commercial or Industrial Development is set forth in Section 14, "G" through "O" in this article.

2. Outline Plan

An outline plan shall be submitted to the Planning Commission with the application for a Planned Commercial or Industrial Development within six (6) months of the pre-application conference. A final plan, including all the requirements of an outline plan, may be submitted as a single application when the Development will be constructed in one phase. The outline plan shall contain all items required in this Ordinance and shall also include those items which the Planning Commission shall specify in rules published from time to time, as well as the following:

1. A map showing available utilities, and easements, roadways, rail lines and public right-of-way crossing and adjacent to the subject property.

2. A graphic rendering of the existing conditions and/or aerial photographs showing the existing conditions and depicting all significant natural, topographical and physical features of the subject property; general location and extent of tree cover; location and extent of water courses, marshes and flood plains on or within 100 feet of the subject property; existing drainage patterns; and soil conditions.

3. A drawing defining the general location and maximum amount of area to be developed for buildings and parking; standards for pedestrian and vehicular circulation and the points of ingress and egress, including access streets where required, and the provision of spaces for loading; the standards for the location, adjustments to be made in relation to abutting land uses and zoning districts; and the extent of landscaping, planting and other treatment for adjustment to surrounding property.

4. A circulation diagram indicating the proposed principal movement of vehicles, goods, and pedestrians within the development to and from existing thoroughfares.

5. A development schedule indicating the stages in which the project will be built and when construction of the project can be expected to begin.

6. A written statement generally describing the relationship of the Planned Commercial or Industrial Development to the Bartlett Master Plan and how the proposed Planned Commercial or Industrial Development is to be designed, arranged and operated in order to permit the Development and use of neighboring property in accordance with the applicable regulations of this section. The statement shall include a description of the applicant's planning objectives, the approaches to be followed in achieving those objectives and the rationale governing the applicant's choices of objectives and approaches.

7. A statement setting forth in detail the manner in which the proposed Planned Commercial or Industrial Development deviates from the zoning and subdivision regulations, which would otherwise be applicable to the subject property.

8. A tabulation setting forth:

   a. Maximum total square feet of building floor area proposed for commercial uses and for industrial uses, by general type of use;

   b. Maximum total land, area, expressed in acres and as a percent of the total Development area, proposed to be devoted to commercial uses; minimum public and private open space; streets; and off-street parking and loading areas.

F. OUTLINE PLAN APPROVAL PROCESS AND EFFECT OF APPROVAL

1. At least twenty-one (21) days prior to the Planning Commission meeting at which it is to be considered, the owner of the property or his agent shall submit to the Planning Commission the Outline Plan, a completed application form, and all other information required under this Section. The Planning Commission shall hold a public hearing and written notice shall be mailed in accordance with Section 19 of this Article. The Planning Commission shall review the application at the public hearing and shall recommend to the Board of Mayor and Aldermen to approve;

disapprove; or approve the Planned Commercial or Industrial Development subject to conditions. The Planning Commission may also defer a decision or take the matter under advisement until the next regular meeting.

2. Any owner or his agent may appeal to the Board of Mayor and Aldermen any recommendation or condition the Planning Commission imposes in its recommendations by filing written notice of appeal at least seven (7) days prior to review by the Board of Mayor and Aldermen. However, the applicant shall submit an outline plan incorporating any and all conditions imposed by the Planning Commission, or if the applicant files an appeal, an outline plan incorporating any and all conditions not appealed, to the Planning office within ninety (90) days after the date of the public hearing on the requested Planned Commercial or Industrial Development or the application shall be deemed withdrawn.

3. The Bartlett Planning Department shall forward the recommendation of the Planning Commission and any notices of appeal to the Board of Mayor and Aldermen within ten (10) days of the date the applicant submits an outline plan incorporating the required conditions.

4. The Board of Mayor and Aldermen shall hold a public hearing on the application for the Planned Commercial or Industrial Development and the outline plan after receipt of recommendations from the Planning Department and any notice of appeal. The Board of Mayor and Aldermen shall establish a date for a public hearing and shall provide written notice and publication in accordance with Section 19 of this Article. The Board of Mayor and Aldermen shall render a decision on any appeal and shall approve; disapprove; or approve the proposed Planned Commercial or Industrial Development and outline plan subject to conditions, and if approved, shall authorize the Planned Commercial or Industrial Development, which approval shall set forth the conditions imposed.

5. The approved outline plan shall bind the applicant, owner, and mortgagee, if any, and the City of Bartlett body with respect to the contents of such plan.

6. The Outline Plan shall be used in lieu of a Master Subdivision Plan to comply with the provisions of the Subdivision Regulations pertaining to Master Plans.

7. The Bartlett Planning Commission may amend or waive a Development schedule upon submission of written justification by the applicant.

8. Approval of the Planned Commercial or Industrial Development shall lapse unless a Construction Plan is submitted within eighteen (18) months from the date of the approval of the development by the Board of

Mayor and Aldermen, or unless an extension is approved by the Board of Mayor and Aldermen. Approval of the Planned Commercial or Industrial Development shall lapse unless a development contract is approved and executed within thirty (30) months of the approval by the Board. Failure of the applicant to act within the specified time or denial of a time extension shall require reapplication for a Planned Commercial or Industrial Development or the property shall revert to the original zoning prior to approval of the development.

G. CONSTRUCTION PLAN

The Construction Plans for either the entire Development or a phase of the Development shall be reviewed by the Planning Commission in accordance with the Subdivision Regulations.

H. FINAL PLAN APPROVAL PROCESS

1. An application for approval of a final plan of the entire Planned Commercial or Industrial Development if it is to be completed in one phase, or of a portion of the Planned Commercial or Industrial Development if it consists of more than one phase, shall be submitted by the applicant at least twenty-one (21) days prior to the Planning Commission meeting and in sufficient time so that the applicant may develop the Planned Commercial or Industrial Development in accordance with the phasing schedule, if any, of the approved outline plan.

2. The application for final plan approval shall be filed with the Planning Commission and shall include, but not be limited to, the following:

    a. A plan suitable for recording with the Shelby County Register's Office.

    b. Proof referred to on the plan and satisfactory to the City attorney as to the provision and maintenance of common open space.

    c. All certificates, seals and signatures required for the dedication of land and recordation of documents.

    d. Tabulations of each separate use area, including land area, bulk regulations, and number of dwelling units per gross acre and the gross floor area for Commercial or Industrial uses.

    e. Location and type of landscaping.

    f. Location and dimensions of utility and drainage facilities.

3. The Bartlett Planning Commission shall review the plan and determine whether the final plan substantially conforms or substantially deviates from an approved outline plan in accordance with the following:

   a. A final plan shall be found to conform substantially to an approved outline plan if:

      1. it provides for less density than the approved outline plan; or

      2. it provides greater open space by the elimination of or reduction in the size of residential, commercial or industrial buildings.

   b. A final plan with other minor changes from the approved outline plan may be found to be in substantial conformity and approved for further processing and final action provided, however, that any increase in density or intensity of use, any decrease in open and recreational space, any deviation from the approved conditions, and/or any modification of the development staging shall be deemed to be a substantial deviation and require such final plan to be disapproved by the Planning Commission.

3. A decision shall be rendered on a final plan by the Planning Commission. If a final plan is disapproved by the Planning Commission the applicant may file a final plan which substantially conforms to the approved outline plan, or the applicant may file for an amendment to the approved outline plan.

4. After a final plan is approved by the Planning Commission, the Planning Department shall record such plan in the Shelby County Register's Office after receipt of any necessary bonds, fees, and contracts to provide improvements required in the City of Bartlett Subdivision Regulations and the required signatures for recordation have been secured.

I. SITE PLAN REVIEW

All site plan reviews required under Article V, Chart 1, of the Zoning Ordinance shall be completed prior to application for any building permits under any Planned Commercial or Industrial Development.

J. ZONING ADMINISTRATION - PERMITS

The Building Official may issue building permits for the area of the Planned Commercial or Industrial Development covered by the approved final plan for work in conformity with the approved final plan and with all other applicable ordinances and regulations. However, the Building Official shall not issue an

occupancy permit for any building or structure shown on the development plan of any stage of the Planned Commercial or Industrial Development unless the open space and public facilities allocated to that stage of the development schedule have been conveyed to the designated public agency or Homeowners' association or a responsible party. The Building Official shall issue a certificate of occupancy for any completed building or structure located in an area covered by the approved final plan if the completed building or structure conforms to the requirements of the approved final plan and all other applicable regulations and ordinances.

K. REAPPLICATION IF DENIED

If an application for a Planned Commercial or Industrial Development is denied by the legislative body, a reapplication pertaining to the same property and requesting the same Planned Commercial or Industrial Development may not be filed within eighteen (18) months of the date final action was taken on the previous application unless such reapplication is initiated by the Planning Commission or authorized by the Board of Mayor and Aldermen. Additionally, when an application is rejected, no application for rezoning can be made on the same property for at least twelve (12) months after the date of rejection, unless such application is authorized by the Board of Mayor and Aldermen.

L. PROCEDURE FOR AMENDMENT

A Planned Commercial or Industrial Development and the approved outline plan may be amended in accordance with the procedure which governed its approval as set forth in this Section.

M. POST-COMPLETION CERTIFICATE

Upon completion of a Planned Commercial or Industrial Development in accordance with the approved outline plan, the Building Official shall issue a certificate certifying its completion.

Section 5 - Day Nurseries and Kindergartens

Subject to the conditions stated below, the Planning Commission may permit private day nurseries, and kindergartens, provided:

A. Total lot area shall not be less than fifteen thousand (15,000) square feet.

B. A fenced play area of not less than four thousand (4,000) square feet shall be provided for the first twenty (20) or less children with two hundred (200) square feet for each additional child.

C. No portion of the fenced play area shall be closer than twenty (20) feet to any residential lot line, nor closer than fifty (50) feet to any public street.

D. Screening, either vegetative or masonry, shall be provided between fenced play areas and residential lot lines in such locations as the Bartlett Design and Review Commission directs.

E. All outdoor play activities shall be conducted within the fenced play area.

F. In addition to the requirements above, the facilities, operation and maintenance shall meet the requirements of the Tennessee Department of Human Services.

Section 6 - Accessory Buildings

(Amended by Ord. 02-17, 11/12/02, and Ord. 06-05, 4/25/06)

A. Number of buildings. A maximum of two (2) accessory buildings may be constructed. No accessory building may be constructed except on a lot with a principal building.

B. Setbacks. No accessory building shall be erected

- within the setback from a side or rear property line stated in **Table VI-6** or
- in any required front yard or between a principal building and a street, except that this restriction shall not apply to the rear of a residential double-frontage lot, i.e., to that portion of the lot abutting street frontage that is opposite the frontage on which the principal building normally is assigned a street address.

No accessory building may be placed on a utility easement.

No separate accessory building shall be erected within five (5) feet of the principal structure.

C. Number of Stories. No accessory building shall exceed the number of stories in **Tables VI-6**.

D. Height Restrictions.

1. No accessory building shall have a height in excess of that in **Table VI-6**, as measured at its highest point above grade, in any district.

2. No point on an accessory building shall have a height in excess of eight (8) feet at the minimum setback distance from a property line stated in **Table VI-6**. For each one (1) foot that any point on the accessory building is located farther horizontally from the setback line, the height at that point may be increased one (1) foot.

E. Lot coverage. The total maximum lot coverage of all accessory buildings shall not exceed twenty (20%) percent of the maximum lot coverage permitted within that zoning district, provided, however that all residential lots shall be allowed to have at least six hundred (600) square feet of accessory building lot coverage.

F. Roof pitch. The roof pitch of accessory buildings shall not be greater than the roof pitch of the principal structure.

G. Housing livestock. When an accessory building houses livestock, it shall require a minimum of two (2) acres and shall be located no closer to the property line than thirty (30') feet at any point. The additional height restriction of part D.2 shall apply.

H. No accessory building shall be provided with separate utility metering from the main residence where a one- or two family dwelling is provided as the principal use or occupancy.

Utility metering must be provided through the main residence.

Exception

1. Agricultural building where the need for the separate meter is clear and justified, as determined by the Director of Code Enforcement or his designee.

Table VI-6. Accessory Building Setbacks and Height

Zoning District	Min. Setback from Side and Rear Property Line (ft.)[1]	Max No. of Stories	Max Height (ft.)[2]
RS-10, -12, -15, -18	5	1	20
R-E, A-O	10	1 ½	25
Office, commercial, industrial[4]	5[3]	1	20

Notes:
1. See part G for an exception.
2. See part D for exceptions and qualifiers.
3. A reduced setback shall not apply in a yard adjacent to a residential zoning district, that is, the setback for a principal building shall apply.
4. Accessory buildings in these districts are subject to approval in the site plan and any applicable special use permit.

Section 7 - Automobile Service Stations

A. Gasoline pump islands, compressed air connections and similar equipment shall be set back a minimum of fifteen (15) feet from any right-of-way line.

B. Canopies for the gasoline pump islands may be permitted, provided; no canopy shall be located closer than fifteen (15) feet to any street right-of-way line; a minimum of ten (10) foot clearance shall be provided between the ground elevation and the canopy.

C. The length of each curb opening shall not exceed fifty (50) feet.

D. No driveway or curb cut for a driveway shall be located within ten (10) feet of an adjoining property line, as extended to the curb or pavement, or within twenty (20) feet of an exterior (corner) lot line as extended.

E. Any two (2) driveways providing access to a single street shall be separated by an island with a minimum dimension of twenty (20) feet at both the right-of-way line and the curb or edge of the pavement.

F. A raised curb of at least six (6) inches in height shall be erected along all of the street property lines, except for driveway openings.

G. The entire service area shall be paved with a permanent surface of concrete or asphalt. Any unpaved areas of the site shall be landscaped and separated from the paved areas by a curb or another barrier.

H. Off-street parking of one (1) parking space for each two (2) employees (with a minimum of two (2) employee spaces) plus one (1) space for each service bay shall be provided. Exterior lighting shall be arranged so that it is deflected away from adjacent residential properties.

Section 8 - Garages for Sales, Storage and Services; Sales Lots for New or Used Motor Vehicles: Parking Lots; Service Stations and Similar Structures and Uses

The following limitations shall apply to structures and uses involving the servicing, storage, repair, or sales of motor vehicles:

A. No public street, parking area, sidewalk or way shall be used for the storage or parking of motor vehicles in connection with the activities of such establishments except for normal parking by individual private owners or operators of such vehicles.

B. No operation in connection with such establishments shall be carried on in a way which impedes free flow of vehicular or pedestrian traffic in normal courses on public ways.

C. All motor vehicles being handled, stored or repaired by such establishment shall be maintained in such condition that they may be moved under their own power at any time except such vehicles as may be under repair in garages or other buildings as provided in item D below.

D. No repair of motor vehicles or parts thereof shall be made except within garages, service stations, body shops or other buildings used for such purposes.

Section 9 - Parking, Storage, or Use of Major Recreational Equipment

For purposes of these regulations, major recreational equipment is defined as including boats and boat trailers, travel trailers, pick-up camper or coaches (designed to be mounted on automotive vehicles), motorized dwellings, tent trailers, and the like, and cases or boxes used for transporting recreational equipment, whether occupied by such equipment or not.

No major recreational equipment shall be parked or stored on any lot in a residential district except in a carport or enclosed building or behind the building line. However, such equipment may be parked anywhere on residential premises for a period not to exceed twenty-four (24) hours during loading or unloading. No such equipment shall be used for living, sleeping, or housekeeping purposes when parked or stored on a residential lot, or in any location not approved for such use.

Section 10 - Parking and Storage of Certain Vehicles

Amended by Ord. #15-05, 11/24/15

Automotive vehicles of any kind or type without current license plates shall not be parked or stored on any residentially zoned property other than in completely

enclosed buildings. Trailers not stored in an enclosed building must be stored behind the front elevation of the house.

Section 11 - Off-Street Parking Lots in Residential Districts

Where a commercial or industrial district adjoins a residential district without an intervening street, but with or without an intervening alley, off-street parking lots in connection with nearby commercial or industrial uses, may be developed in the residential districts, provided:

A. Such parking lots may be permitted only between the commercial or industrial district and the nearest street in the residential district.

B. Such lots may be used only for patrons or employees of the adjacent commercial or industrial uses. Commercial parking lots are prohibited.

C. Screening shall be provided along lot lines adjoining residential property. The height, type and amount of screening shall be determined by the Design and Review Commission.

D. No source of illumination for such lots shall be directly visible from any window in an adjacent residence.

E. There shall be no movement of vehicles on such lots between the hours of 12:00 midnight and 6:00 A.M. and the Planning Commission may impose stricter limitations.

F. Egress, ingress, design, and other factors affecting development of such lots must be approved by the Planning Commission.

G. A permit for constructing and/or using such lots will be issued following approval of the Planning Commission. Enforcement shall be governed by Article XIII of this Ordinance.

Section 12 -Minimum Off-Street Parking Requirements

Hereafter no building shall be erected or altered and no land used unless there is provided adequate off-street parking space or spaces for the needs of tenants, personnel and patrons together with means of ingress and egress.

A. GENERAL PROVISIONS

1. Off-Street parking for other than residential uses shall be either on the same lot or within three hundred (300) feet of the building it is intended to serve measured from the nearest point of the building to the nearest point of the off-street parking lot.

2. Residential off-street parking spaces shall consist of a parking strip, driveway, garage, or combination thereof and shall be located on the premises they are intended to serve. In all zoning districts, no vehicle that may be parked in a front yard shall be frequently parked or stored on any part of the front yard other than a paved driveway or any other hard surface area that is normally considered the driveway area of the lot. To pave any area of a front yard, other than the driveway, for additional parking will require a building permit from the City of Bartlett Building Department and approval of the proposed paving by the City of Bartlett Planning Department.

3. Any area once designated as required off-street parking shall not be changed to any other use unless and until equal facilities are provided elsewhere.

4. In the instance of dual function of off-street parking where operating hours do not overlap, the Board of Zoning Appeals may grant an exception.

5. Two (2) or more buildings or uses may collectively provide the required off-street parking in which case the required number of parking spaces shall not be less than the sum of the requirements for the several individual uses computed separately.

6. For uses not specifically mentioned in this section the requirements for off-street parking for a similar use specifically mentioned in this section shall apply.

7. Landscape area equal to ten (10) percent of the gross parking area shall be provided and shall include not less than one (1) tree for each twenty (20) parking spaces or fraction thereof. Such landscaping shall be approved by the Design and Review Commission.

B. OFF-STREET PARKING AND LOADING SPACE REQUIREMENTS

Amended by Ord. 02-12, 10/8/02, and Ord. #15-06, 11/24/15

There shall be provided, at the time of the erections of any building or structure, off-street parking spaces, and loading spaces where required, paved with asphalt or other material, and with adequate and safe ingress and egress by an automobile in accordance with the minimum standards in the schedule below, and designed in accordance with figure [VI-12a], Parking Design Requirements. When a building or structure is enlarged or increased in capacity by adding dwelling rooms, guest rooms, floor area or seats, minimum off-street parking shall be provided for such additional rooms, floor area or seats. The Planning Commission, at site plan approval, may establish a minimum number of

required parking spaces different from those listed in Figure VI-12a Parking Design Requirements upon presentation of information by the applicant that a different number is sufficient and appropriate for that site.

Accessible parking spaces shall be at least eight (8) feet in width and of a depth in accordance with figure [VI- 12a], Parking Design Requirements, and shall be provided in accordance with the following:

(a) Number of accessible spaces. If parking spaces are provided for self-parking by employees or visitors, or both, then accessible spaces shall be provided in each such parking area in conformance with Table [VI-12b].

Spaces required by the table need not be provided in the particular lot. They may be provided in a different location if equivalent or greater accessibility, in terms of distance from an accessible entrance, cost and convenience is ensured.

(b) Access aisles. Except as provided for "van accessible" spaces, access aisles adjacent to accessible spaces shall be at least five (5) feet in width. Two accessible spaces may share a single access aisle.

One in every eight accessible spaces, but not less than one, shall be designated "van accessible" and shall be served by an access aisle at least eight (8) feet in width.

All such spaces may be grouped on one level of a parking structure.

Figure [VI-12a]. Parking Design Requirements

Table VI-12a. Off-Street Parking Space Requirements	
USE	**PARKING SPACES (Per 1,000 square feet of gross floor area except as noted)**
Banks	Four (4) spaces per 1,000 sq. ft.
Barber Shop or Beauty Shop	Two (2) spaces per barber or beautician based on the design capacity of the structure.
Bowling Alleys	Four (4) spaces per alley.
Churches and Other Places of Worship	One (1) space per each four (4) seats in the main auditorium.
Commercial Recreation Use/Sports Club/Health Spa (not including bowling alleys)	Less than 80,000 sq. ft., 2.6 per 1,000 sq. ft., plus 44 spaces; 80,000 sq. ft. or more, 1.9 per 1,000 sq. ft., plus 100 spaces
Dormitories, Fraternity and Sorority Houses	One (1) space per each three (3) residents
Dwellings, Single-Family (including attached) and Two-Family	Two (2) spaces per dwelling units.
Dwellings, Multi-Family, Low-/Mid-Rise	Fewer than 165 dwelling units, 1.0 space per dwelling unit; 165 or more dwelling units, 1.32 spaces per dwelling unit, less 53 spaces
Hospitals	Fewer than 600 beds, 1.6 spaces per bed, plus 19 spaces; 600 beds or more, 1.5 spaces per bed, plus 89 spaces
Hotels, Motels, Rooming and Boarding Houses and Tourist Courts	One (1) space per guest unit and one (1) space per two hundred (200) square feet of space devoted to public meeting rooms and restaurants.
Manufacturing and Commercial Establishments not Catering to the Retail Trade	1.02 spaces per 1,000 sq. ft., plus 51 spaces
Nursing Homes	13 spaces per 100 beds, plus 9 spaces

USE	PARKING SPACES (Per 1,000 square feet of gross floor area except as noted)
Offices: General	Less than 80,000 sq. ft., 2.55 spaces per 1,000 sq. ft., plus 3 spaces; 80,000 sq. ft. or more, 2.3 spaces per 1,000 sq. ft., plus 23 spaces
Offices/Clinics: Medical, dental, veterinary	Less than 40,000 sq. ft., 3.0 spaces per 1,000 sq. ft., plus 8 spaces; 40,000-120,000 sq. ft., 2.3 spaces per 1,000 sq. ft., plus 36 spaces; 120,000-220,000 sq. ft., 2.0 spaces per 1,000 sq. ft., plus 72 spaces; 220,000 sq. ft. or more, 1.7 spaces per 1,000 sq. ft., plus 138 spaces
Residential condominium	Fewer than 13 dwelling units, 2.0 spaces per unit; 13 to 40 units, 1.1 per unit plus 12 spaces; 41 or more units, 1.0 per unit plus 16 spaces. (Ord. 05-07, 9/13/05)
Restaurants and Similar Establishments Serving Food and Beverages	Quality restaurant (table service, one hour or more turnover), less than 3,800 sq. ft., 15.35 spaces per 1,000 sq. ft., less 23 spaces; 3,800 sq. ft. or more, 25.27 spaces per 1,000 sq. ft., less 61 spaces Family restaurant (table service, less than one hour turnover), 9.2 spaces per 1,000 sq. ft. Fast food restaurant (counter service), 13.6 spaces per 1,000 sq. ft.; or 36 spaces per 100 seats, plus 7 spaces; whichever is greater
Retail Store, Supermarkets, Department Stores or Personal Service Establishment Catering to Retail Trade	One (1) space for each two hundred (200) square feet of non-storage first floor area, plus one (1) space for each three hundred (300) square feet of non-storage area above ground level.
Retail Stores: Discount Store	3.6 spaces per 1,000 sq. ft.
Retail Stores: Hardware/paint/Home Improvement Store	Less than 70,000 sq. ft., 2.3 spaces per 1,000 sq. ft., less 8 spaces; 70,000 sq. ft. or more, 3.2 spaces per 1,000 sq. ft., less 71 spaces
Retirement communities (senior citizen multi-family residential) that include special services for retirees such as dining facilities and medical services	Fewer than 120 dwelling units, 32 spaces per 100 units, less 10 spaces; 120 or more dwelling units, 55 spaces per 100 units, less 38 spaces
Schools: Elementary and Junior High	One (1) space for each classroom plus one (1) space for each two (2) employees or staff other than faculty.

USE	PARKING SPACES (Per 1,000 square feet of gross floor area except as noted)
Schools: High Schools	Ten (10) spaces per class room or one space per five (5) seats in auditorium or gym, whichever is larger.
Shopping Centers (or retail uses sharing common parking)	Unit of measure is gross leasable area: 25,000 to 100,000 sq. ft. - 4.0 spaces per 1,000 sq. ft., plus 3 spaces per 100 seats in a movie theater. 100,000 to 200,000 sq. ft. - 4.0 spaces per 1,000 sq. ft., plus 3 spaces per 100 seats above the initial 450 in a movie theater, plus 6.0 spaces per 1,000 sq. ft. of food service area. 200,000 to 400,000 sq. ft. - 4.0 spaces per 1,000 sq. ft., plus 3 spaces per 100 seats above the initial 750 in a movie theater. 400,000 to 600,000 sq. ft. - 4.0 to 5.0 spaces per 1,000 sq. ft., increasing linearly, plus 3 spaces per 100 seats above the initial 750 in a movie theater. More than 600,000 sq. ft. - 5.0 spaces per 1,000 sq. ft., plus 3 spaces per 100 seats above the initial 750 in a movie theater.
Stadiums and Sports Arenas	One (1) space for each four (4) seats.
Theaters, Auditoriums and Places of Assembly with Fixed Seating Arrangements	One (1) space per three (3) seats.
Wholesale Establishments and Light Industrial facilities that emphasize activities other than manufacturing. The designation between light industrial and manufacturing shall be determined by the Planning Commission.	Less than 160,000 sq. ft., 1.25 spaces per 1,000 sq. ft., plus 4 spaces; 160,000 sq. ft. or more, 1.15 spaces per 1,000 sq. ft., plus 20 spaces

The following parking design requirements shall apply to all required parking. These requirements shall be minimum requirements and all parking areas shall meet or exceed these requirements.

A	B	C	D	E	F	G
0°	9.0'	9.0'	12.0'	25.0'	30.0'	30.0'
20°	9.0'	16.0'	12.0'	26.3'	44.0'	35.5'
30°	9.0'	18.0'	12.0'	18.0'	48.0'	40.0'
45°	9.0'	20.5'	13.0'	12.7'	54.0'	48.0'
60°	9.0'	21.5'	18.0'	10.4'	61.0'	56.5'
70°	9.0'	21.5'	19.0'	9.6'	62.0'	58.5'
80°	9.0'	20.5'	22.0'	9.1'	63.0'	61.5'
90°	9.0'	20.0'	22.0'	9.0'	62.0'	62.0'

A Parking Angle

B Stall Width

C Stall To Curb

D Aisle Width

E Curb Length Per Car

F Curb To Curb Width Of Double Row With Aisle

G Center To Center Width Of Double Row With Aisle

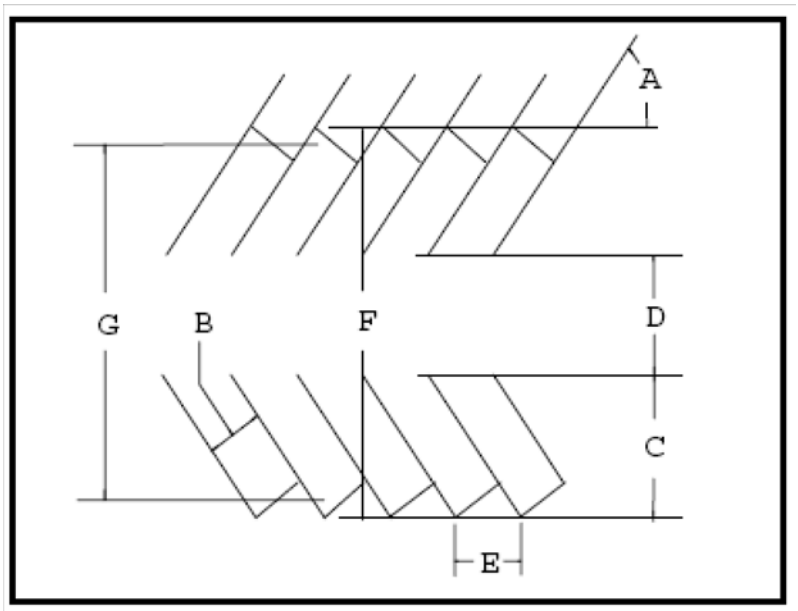


Table [VI-12b]. Accessible Parking Spaces Required	
Total Parking in Lot	**Required Minimum Number of Accessible Spaces**
1 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1000	2 percent of total
1001 and over	20, plus 1 for each 100 over 1000

Section 13 - Structures to Have Access

Every building hereafter erected or moved shall be on a lot adjacent to a public street, or with access to an approved private street, and all structures shall be so located on lots as to provide safe and convenient access for servicing, fire protection, and required off-street parking.

Section 14 - Erection of More Than One Principal Structure

In any district other than single family and two family residential, more than one structure housing a permitted or permissible principal use may be erected on a single lot, provided that yard and other requirements of this Ordinance shall be met for each structure as though it were on an individual lot.

Section 15 -Visibility at Intersections in Residential Districts

On a corner lot in any residential district, nothing shall be erected, placed, planted, or allowed to grow in such a manner as materially to impede vision between a height of two and one half (2-1/2) and ten (10) feet above the centerline grades of the intersecting streets in the area bounded by the street lines of such corner lots and a line joining points along said street lines fifty (50) feet from the point of intersection.

Section 16 - Exceptions to Height Regulations

The height limitations in the Schedule of District Regulations do not apply to spires, belfries, cupolas, antennas, wireless communication facilities, water tanks, ventilators, chimneys or other appurtenances usually required to be placed above roof level and not intended for human occupancy; however, in residential districts, no ground-mounted antenna may exceed 45 feet in height, and no wireless communication structure shall exceed 200 feet in height.

Section 17 -Required Landscaping

Landscaping and landscape buffers required in this Ordinance shall be subject to approval and additional requirements by the Bartlett Design and Review Commission.

All planting screens shall meet the minimum requirements of the planting screens as shown on Planting Screens Number 1 through 7 included in Appendix A to Article VI. Where site conditions and other considerations indicate that a higher level of screening or a wider screen should be provided, either the Planning Commission or the Design and Review Commission may require screening greater than the minimum requirements.

Internal parking lot landscape area equal to ten (10%) percent of the gross parking area shall be provided on all developments that require parking areas. Required screens shall not be a part of the landscape area. The design of such landscape areas shall be reviewed and approved by the Design and Review Commission.

The screens and landscape areas required by the City of Bartlett Planning Commission and Design and Review Commission shall be provided and maintained permanently by the property owner or their designee. If the landscape areas are not properly maintained, at any time the City of Bartlett will notify the owner in writing allowing ten (10) days to perform the required maintenance for minor projects such as weeding and general maintenance. For major maintenance and replanting projects, the owner shall submit a time schedule for these improvements within ten (10) days. This schedule shall be approved by the City. If after said ten (10) day period, the required maintenance is not performed or if the maintenance and replanting is not completed on schedule, the City of Bartlett will perform the maintenance or have the maintenance performed by a private contractor and the costs of maintenance will be added to the owner's City of Bartlett tax bill.

No final approval of any development permits shall be issued until all landscape screens and areas have been constructed consistent with the Planning Commission and Design and Review Commission approvals. Should the property owner fail to maintain these landscape screens and landscape areas in accordance with approvals of the Planning Commission and the Design and Review Commission, it will be deemed a violation of this Ordinance.

Section 18 -Satellite Dish

A. DEFINITION - A Satellite Dish receiving antenna is a structure for the reception of satellite delivered communications service whether received only or transmitted and received.

B. LOCATION -Permitted residential satellite dish antennas that are more than three (3) feet in diameter shall be located on the lot behind the rear line of the principal building or in the rear yard, provided that a five (5) foot setback is maintained from all property lines and that all installations are to be limited to a maximum height of twelve (12) feet above grade. All residential installations over three (3) feet in diameter shall be ground mounted. A commercial satellite dish installation may be roof mounted, provided that adequate sight-proof screening is installed. Commercial satellite dish installations require site plan approval by the Design and Review Commission.

Residential Satellite Dishes with a diameter of three (3) feet or less may be roof mounted provided the dish is located behind and lower than the ridge of the roof and is not visible from the street in front of the house. On corner lots, the dish shall be located out of sight from both frontages if possible and on the portion of the roof that is most removed from the streets.

B. SCREENING OF GROUND MOUNTED SATELLITE DISHES - On double frontage lots, a landscape screen, subject to the approval of the Building Official, is required.

C. PERMIT REQUIRED - A building permit shall not be required for a residential satellite dish three (3) feet or less in diameter.

D. NUMBER ALLOWED - Unless otherwise specifically authorized by the Board of Zoning Appeals, one (1) detached freestanding satellite dish receiving antenna shall be permitted per lot, parcel, tract or project.

Section 19 -Fences

A. Fences of not more than forty-eight (48") inches in height may be allowed in a front yard. Periodic posts, decorative columns, and lighting fixture

or decorative details may exceed the forty-eight (48") inches height limitation.

B. Materials for fences to be constructed in the front yard may be split rail and wrought iron including those that have brick or stone columns. All others are subject to the approval of the Design and Review Commission. Specifically prohibited are the following materials:

Exposed plain cinder block or concrete block or other metal mesh fencing, and barbed wire or other single wire fencing. The permitted fencing on corner lots may be limited by the requirements of Article VI, Section 14, visibility at intersections in residential districts, except on corner lots where open type decorative fences are installed and do not substantially impede the visibility.

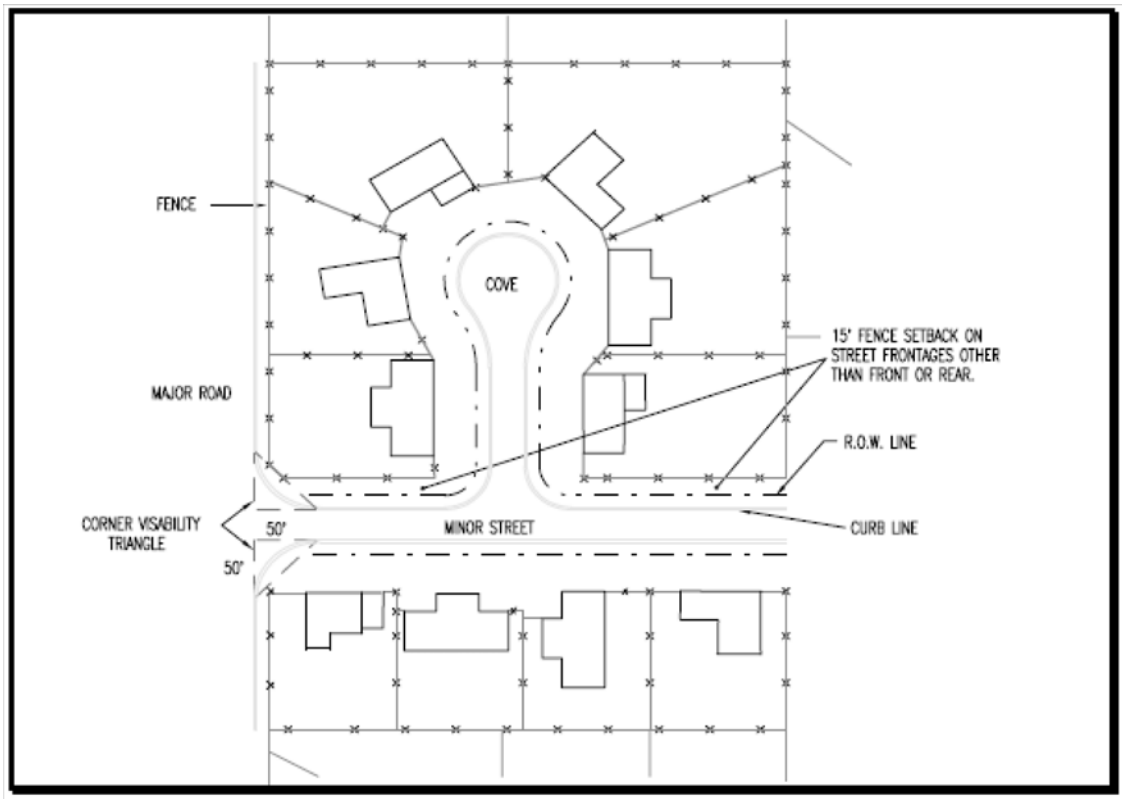
C. Fences in side and rear yards must consist of customary fence construction and may not exceed a height of eight (8') feet. In side and rear yards, fences may be constructed on the lot line except as limited by the Planning Commission approval of fence location given with the Subdivision approval.

D. On corner lots, fences exceeding the forty-eight (48") inch height but not exceeding the eight (8') foot height may be constructed in the yard abutting the street on the frontage other than where the principle entrance to the residence is located, provided that a fifteen (15') foot setback is maintained from the street R.O.W. and the fence does not project beyond the front of the house. (See Figure VI-2 for permissible locations for fences). On corner lots or reverse frontage lots, all wooden fences shall have the finished side toward the street. A permit shall be required for replacing these fences and they shall be reconstructed with the finished side toward the street.

E. Any person installing an eight (8') foot fence that joins a six (6') foot fence would be required to slope the fence a distance of eight (8') feet to where it joins the six (6') foot fence.

F. A Bartlett Standard Fence Section is required along the rear of all "through" or double frontage lots. There are two options for this type of lots, which are delineated on Plates 19A, 19B, 19C and 19D.

Figure [VI-19].Residential Fence Setbacks



(Ord. 05-08, 10/25/05

1. Fence Plate 19A

Fence Plate 19A provides for a six-foot-high (6') brick or stone fence with six-foot-high (6') brick or stone columns of horizontal dimensions and at locations described herein.

a. Offsets

The center line of the columns and fence shall be two feet (2') from the back of the sidewalk and at intervals shall be offset an additional five feet (5'), so that an offset begins at least once on every lot, extends for at least two (2) column intervals, and ends on the same or the next lot.

b. Landscaping

Landscaping required is shown on Plate 19A. Where the fence is near the sidewalk, the space between the sidewalk

and the fence shall be planted with groundcovers. Where the fence is offset, a 2" - 2 ½" caliper small or medium density tree shall be planted in the offset area midway between each successive pair of columns.

c. Maintenance

A permanent homeowners association shall be responsible for maintenance of the fence and the landscaped area between the fence and the street. If there is no homeowners association, the lot owner shall be responsible, and gates shall be provided in the side of each offset area to give access to the offset areas for maintenance by the property owner.

d. Easement

An easement shall be platted from the street right-of-way to include the required landscaped area and the fence and columns, to restrict use within the easement to that required by this Section 19, and to require that the landscaping and fence be maintained so as to continue to satisfy this Section 19. Where a homeowners association will be responsible, the easement shall instead be platted as common open space.

Where a utility or other easement that does not allow planting of trees underlies the required fence and landscaped area, the required fence and fence offset shall be located farther from the right-of-way to avoid the easement.

2. Fence Plate 19B

Fence Plate 19B provides for a six-foot-high (6') brick or stone fence with six-foot-high (6') brick or stone columns of horizontal dimensions and at locations described herein.

a. Offsets

The center line of the columns and fence shall be twenty-five feet (25') from the face of the street curb or fifteen feet (15') from the street right-of-way, whichever is the greater distance.

b. Sidewalk

Plate 19B provides for the sidewalk to be curved, with the street-side edge meandering from five feet (5') to fifteen feet (15') behind the curb.

c. Landscaping

Landscaping required is shown on Plate 19B. Medium density trees, 2" - 2 ½" caliper, shall be planted on 20' centers, distance from the street varying to accommodate the meandering sidewalk. Any medium-density evergreen shrubs from the City's approved list shall be planted along the fence, with spacing to accommodate the mature spread of the shrub chosen.

d. Maintenance

A permanent homeowners association shall be responsible for maintenance of the fence and the landscaped area between the fence and the street. If there is no homeowners association, the lot owner shall be responsible, and a three-to-four-foot (3' - 4') wide ornamental metal gate, with brick columns on each side, shall be provided for each lot for access to the landscape easement.

e. Easement

Common open space or, if there is no permanent homeowners association, a landscape easement shall be platted from the street right-of-way to include the required landscaped area and the fence and columns, to restrict use within the common open space or easement to that required by this Section 19, and to require that the landscaping and fence be maintained so as to continue to satisfy this Section 19.

Where a utility or other easement that does not allow planting of trees underlies the required fence or landscaped area, the required fence shall be located and the landscaped area extended farther from the right-of-way so as to avoid the easement.

3. Fence Plate 19C

Fence Plate 19C provides for a six-foot-high (6') wood fence with six-foot-high (6') brick or stone columns of horizontal dimensions and at locations described herein. The wood fence shall be of "shadowbox" construction and have four (4) horizontal stringers. Gaps between the boards on each side shall be no more than two-thirds (⅔) the width of the boards. (See the detail drawing for Plate 19C).

This plate may be used only where the screen is on common open space in a Planned Development with a homeowners association to ensure maintenance.

a. Offsets

No offsets are required. The center line of the columns and fence shall be thirty feet (30') from the face of the street curb or twenty feet (20') from the street right-of-way, whichever is the greater distance.

b. Landscaping

Landscaping required is shown on Plate 19C. Large-density shade trees, 2 ½" caliper, shall be planted on 50' centers. Five (5) medium-density evergreen trees, at 6' on centers in the staggered arrangement shown, 6' to 8' high when planted, shall be planted between the shade trees. Large-density evergreen shrubs shall be planted along the fence at 6' on centers.

c. Maintenance

A permanent homeowners association shall be responsible for maintenance of the fence and the landscaped area between the fence and the street.

d. Landscape easement

Common open space shall be platted from the street right-of-way to include the required landscaped area and the fence and columns, to restrict use within the common open space to that required by this Section 19 and to require that the landscaping and fence be maintained so as to continue to satisfy this Section 19.

Where a utility or other easement that does not allow planting of trees underlies the required fence or landscaped area, the required fence shall be located and the landscaped area extended farther from the right-of-way so as to avoid the easement.

4. Fence Plate 19D

Fence Plate 19D provides for a four-foot-high (4') brick or stone fence with four-foot-high (4') brick or stone columns of horizontal dimensions and at locations described herein.

a. Offsets

The center line of the columns and fence shall be two feet (2') from the back of the sidewalk.

b. Landscaping

Landscaping required is shown on Plate 19D (A "shade tree" is a large-density deciduous tree with a dense and typically wide-spreading canopy; although a medium- or small-density species may be used in the case of conflict with overhead wires.) The space between the sidewalk and the fence shall be planted with groundcovers.

c. Maintenance

A permanent homeowners association shall be responsible for maintenance of the fence and the landscaped area between the fence and the sidewalk. If there is no homeowners association, the lot owner shall be responsible.

d. Easement

An easement shall be platted from the street right-of-way to include the required landscaped area and the fence and columns, to restrict use within the easement to that required by this Section 19, and to require that the landscaping and fence be maintained so as to continue to satisfy this Section 19.

Where a utility or other easement that does not allow planting of trees underlies the required fence and landscaped area, the required fence and fence offset shall be located, farther from the right-of-way to avoid the easement.

5. Alternatives to brick or stone

a. Panels of concrete that are molded and colored to mimic the appearance of brick or stone may be considered in lieu of brick or stone in Fence Plates 19A and 19B. A specific product may be submitted to the Planning Commission for approval as to

- the degree to which the installed product matches the appearance true brick or stone walls and
- the degree to which the material and installation methods will result in durability of the structure and resistance to weathering and wind loads comparable to true brick or stone walls.

6. Brick or stone columns

Brick or stone columns, measuring 24" x 24" in horizontal dimensions, shall be placed on the side lot lines, set back from the street right-of-way line as indicated herein. Additional columns shall be evenly spaced at intervals of no more than twenty feet (20') along the fence line, as follows:

Lot width/20 = Cl (rounded UP) is the minimum number of intervals between columns to have no more than 20' spacing

Where reducing the calculated number of column intervals by one (1) will result in an average column spacing greater than twenty feet but closer to exactly twenty feet, such a change shall be made. This will ensure that column spacing is as constant as possible along the street frontage of the subdivision, regardless of individual lot widths.

7. Brick or stone

Brick or stone fences and columns shall be left in the natural finish of the material, not painted. The required color and quality of the brick or stone to ensure an aesthetically acceptable, uniform finish shall be subject to approval by the City.

8. Drainage

Provision for yard drainage under brick fences, where required, shall be coordinated with the Engineering Department.

9. Drawings

Dimensioned drawings of the fence shall be submitted as part of the subdivision Construction Plans and shall include

- construction details including footings and reinforcement for the columns and fence, designed by a licensed structural engineer, and

- the location of the proposed fence and the locations of columns and gates (if any) relative to property lines.

The latter also shall be indicated on the Final Plan.

10. Other materials.

Other fence materials such as

- PVC products or fiber-cement products that mimic wood but are more durable and require less maintenance and

- ornamental iron used in combination with other materials

may be used upon review and approval by the Planning Commission and the Board of Mayor and Aldermen.

Plate 19A Fence for Double-Frontage Lot

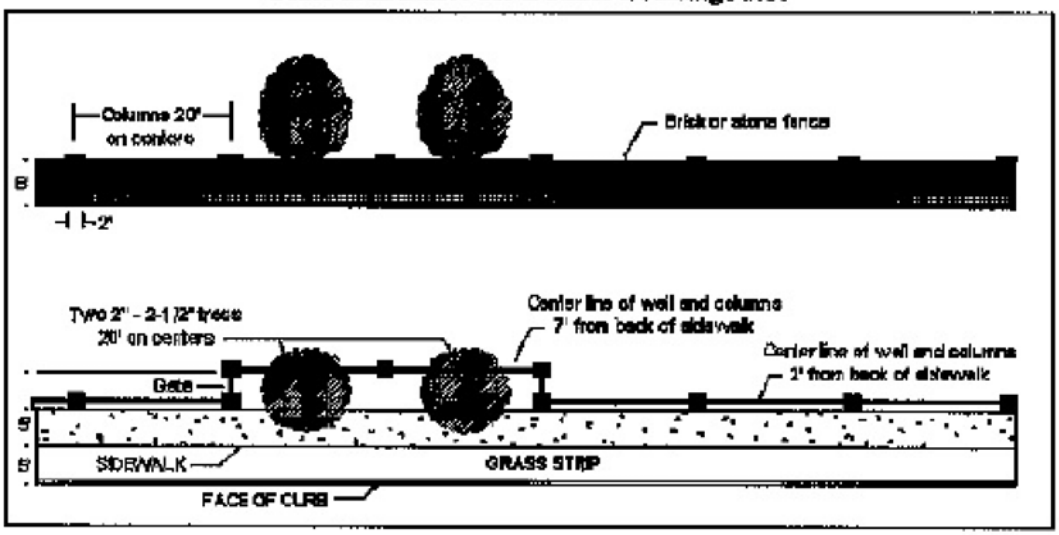
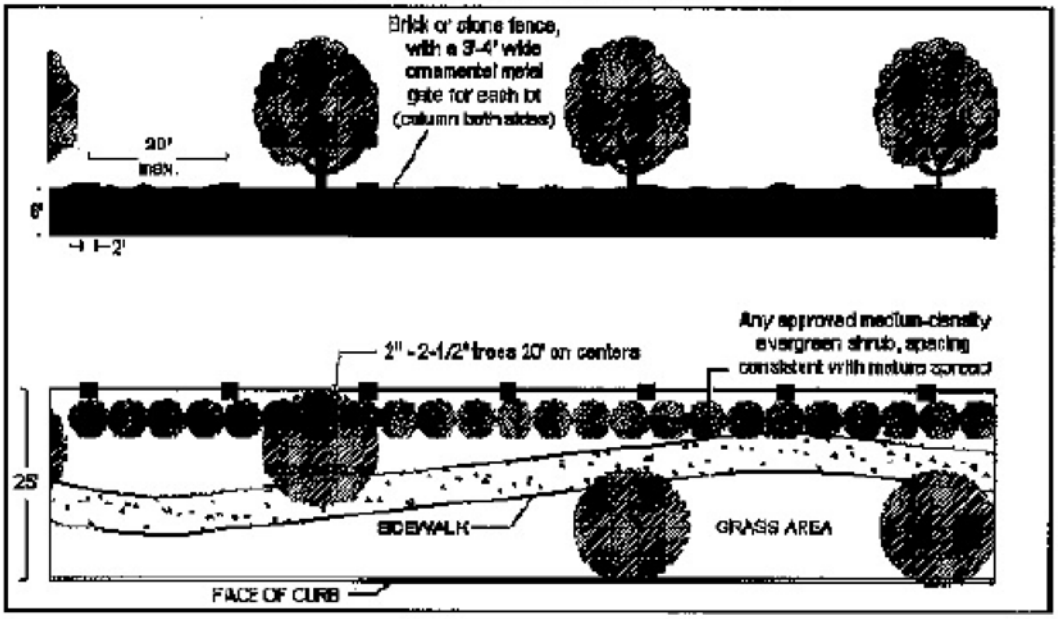


Plate 19B Fence for Double-Frontage Lot



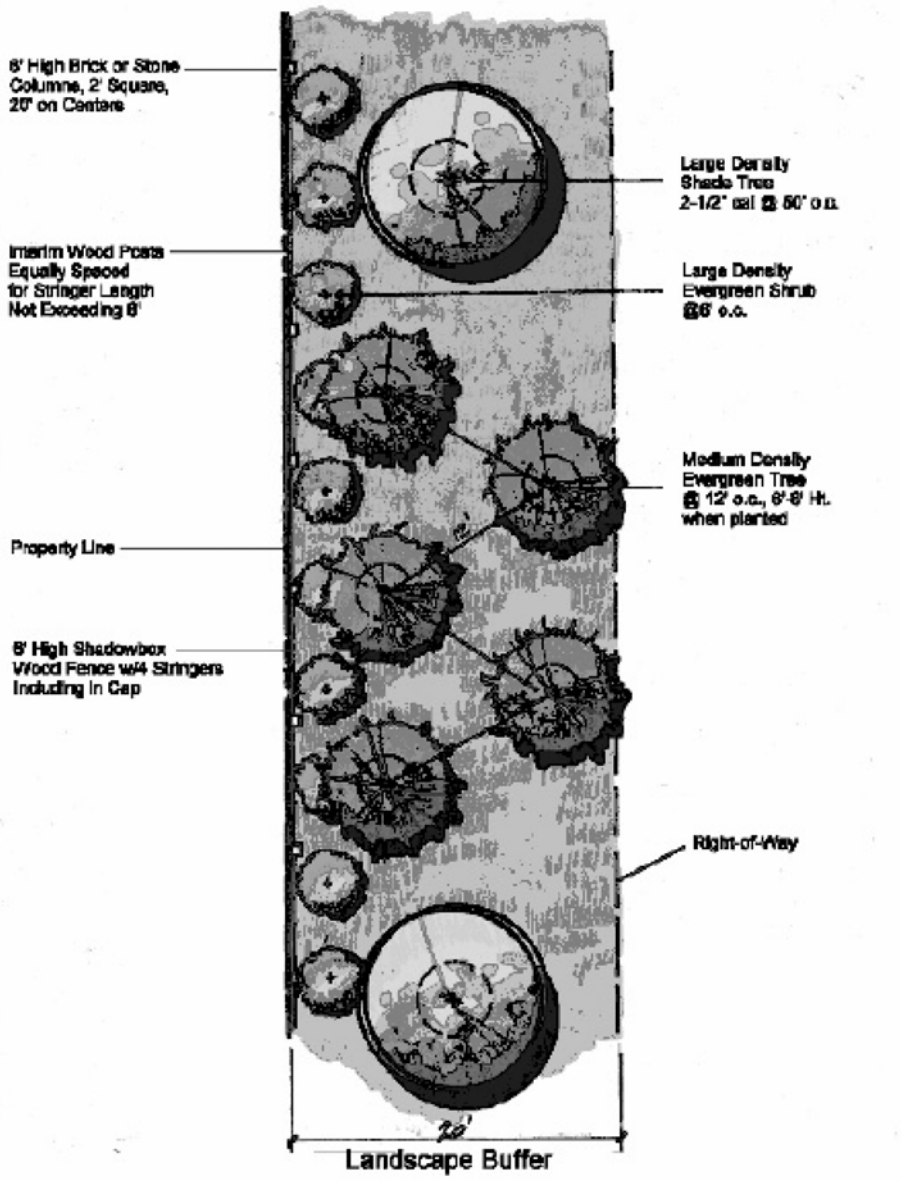
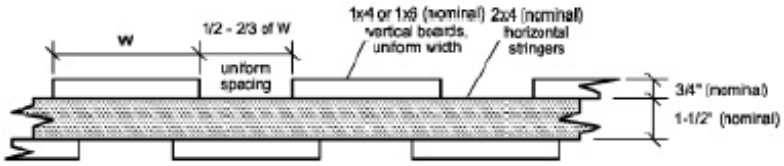
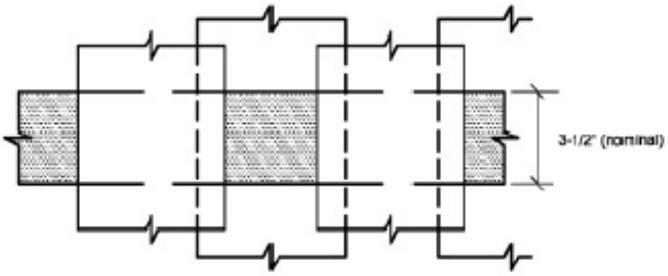


Plate 19C Fence for Double-Frontage Lot with Maintenance by Homeowners Association

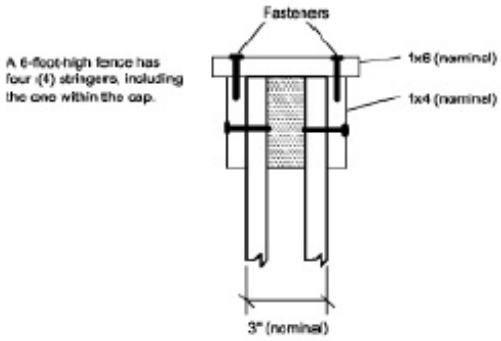
Shadowbox Fence Detail
for Plate 19C



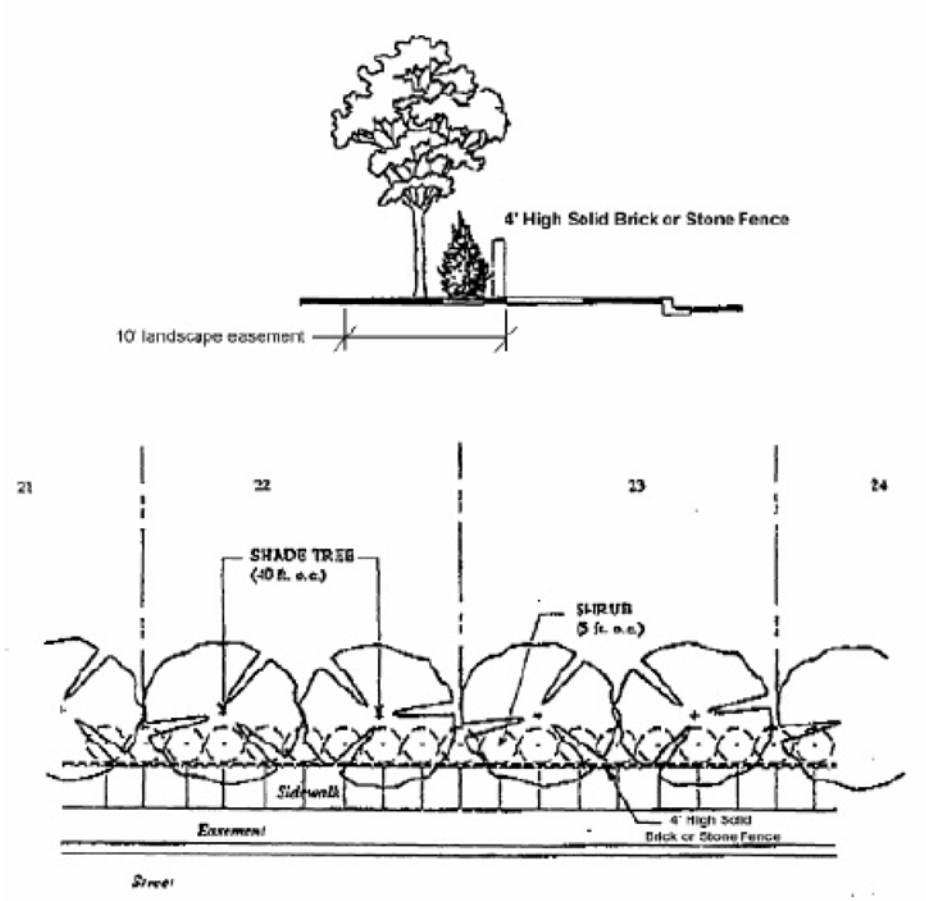
TOP VIEW, WITHOUT CAP



SIDE VIEW AT STRINGER



CROSS SECTION WITH CAP



NOTE: *Shade Trees* may be deleted where *Existing Trees* have been saved.

Plate 19D Fence for Double-Frontage Lot

Section 20 -Special Use Permits

A. PROCEDURES FOR SPECIAL USE PERMIT

1. AUTHORITY

The Board of Mayor and Aldermen shall have the authority to grant special use permits for specific uses set forth on Chart 1 of Article V of this Ordinance in accordance with the provisions of this Section.

2. PURPOSE

Special use permits are required for specified uses which must satisfy standards in addition to those generally applicable in a zoning district to eliminate or minimize the potentially harmful characteristics or impact of such special uses on the character of the zoning district in which they will be located.

3. INITIATION

The owner or other person who has contractual interest in the property which is the site of the proposed special use, the legislative body or the Planning Commission may initiate a request for a special use permit.

4. PROCEDURE

(a) The owner or other person having a contractual interest in the property which is the site of the proposed special use shall file an application for a special use permit with the Planning Commission which application shall be accompanied by a non refundable fee established from time to time by the legislative body and shall contain the following information:

(1) Name, address, and telephone number of the applicant.

(2) Nature and extent of the applicant's ownership interest in the property which is the site of the proposed special use.

(3) A plot plan with dimensions indicated and a legal description of the site of the proposed special use.

(4) Address of the site of the proposed use.

(5) Unless modified less restrictively by the Planning Commission, a vicinity map showing the property which is the site of the proposed special use and all parcels of property within a 1000 foot radius or a minimum of 50 property owners, whichever results in the greater number

of notices, and any other owner that the Planning Department deems proper. Such vicinity maps shall show any and all streets, roads, or alleys and shall indicate the owner's name and dimensions of each parcel of property shown.

(6) A list of the names and addresses of the owners of property shown on the vicinity map.

(7) Zoning classification of the property which is the site of the proposed special use.

(8) The proposed special use to be located on such property.

(9) A site plan in accordance with the site plan requirements of Article V.

(b) The applicant shall submit an application for a special use permit along with all other required information, including the names and addresses of all owners within 1000 feet of the proposed special use site at least twenty-one (21) days prior to the Planning Commission meeting. Written notice of a public hearing shall be mailed to the owners within 1000 foot radius or a minimum of fifty (50) property owners, whichever results in the greater number of notices, and any other owner that the Planning Department deems proper, of the site of the proposed use. The Planning Commission shall hold a public hearing to review applications and shall recommend to the Board of Mayor and Aldermen to approve, disapprove, or approve the special use subject to conditions. The Planning Commission may also defer a decision or take the matter under advisement until the next regular meeting.

(c) Any applicant or owner of property may appeal to the Board of Mayor and Aldermen from any recommendation of the Planning Commission or from any conditions the Planning Commission imposes in its recommendations, by filing a written notice of appeal to the Planning Commission within thirty (30) days after the hearing on the requested special use permit.

(d) An applicant shall submit a site plan incorporating any and all conditions imposed by the Planning Commission, or if the applicant files a notice of appeal, a site plan incorporating any and all conditions not appealed. This site plan shall be submitted within sixty (60) days of the Planning Commission hearing on the requested use permit, or the application shall be deemed withdrawn.

(e) The Planning Commission shall forward the recommendation of the Planning Commission, any notice of appeal, and the site plan to the Board of Mayor and Aldermen upon submission of required information to the Commission.

(f) The Board of Mayor and Aldermen shall hold a public hearing on the application for the proposed special use permit after receipt of recommendations and other information from the Planning Commission. Written notice of such hearing shall be published in one daily newspaper of general circulation stating the date, time and place of the hearing, and shall be mailed to owners within 1000 foot radius or a minimum of fifty (50) property owners, whichever results in the greater number of notices, and any other owner that the Planning Department deems proper, of the site of the proposed special use. The Board of Mayor and Aldermen shall render a decision of such appeal and shall approve, disapprove, or approve the proposed special use permit subject to conditions.

5. EFFECT OF ISSUANCE OF SPECIAL USE PERMIT

The issuance of a special permit shall not allow the redevelopment of the site for the special use, but shall merely authorize the filing of applications for required permits and approvals, including, but not limited to, building permits and certificates of occupancy.

6. ASSURANCE OF COMPLIANCE WITH CONDITIONS

The Director of Code Enforcement shall not issue a certificate of occupancy for a special use if any of the conditions, imposed by the legislative body in approving the special use permit, have not been met.

7. AMENDMENTS TO SPECIAL PERMITS

A special use permit may be amended pursuant to the same procedure and in accordance with the same standards that governed its grant.

8. REAPPLICATION IF DENIED

If an application for a special use permit is denied by the Board of Mayor and Aldermen, a reapplication pertaining to the same property and requesting the same use may not be filed within eighteen (18) months of the date final action was taken on the previous application, unless such reapplication is initiated by the Planning Commission or the Board of Mayor and Aldermen.

B. STANDARD FOR SPECIAL USE PERMIT

1. AUTHORITY

The Board of Mayor and Aldermen is authorized to grant special use permits for the uses specified on Chart 1 in Article V in accordance with the procedure for the issuance of such permits set forth above.

2. CONDITIONS ON SPECIAL USES

The Planning Commission may recommend and the Board of Mayor and Aldermen may impose such conditions upon the issuance of a special use permit as may be necessary to prevent or minimize any adverse effects of such special use upon and to insure the compatibility of the special use with other property in the vicinity of such special use. Such conditions shall be set forth in the resolution authorizing such special use permit and in the special permit. A violation of such conditions shall be a violation of this Section. The Board of Mayor and Aldermen is authorized to revoke special use permits when the conditions imposed upon the special use permits have not been met or have been violated.

3. STANDARDS OF GENERAL APPLICABILITY

An applicant for a special permit shall present evidence at the hearing on such special permit, which evidence must establish that satisfactory provision and arrangement has been made concerning the following items, where applicable:

(a) Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe.

(b) Off-street parking and loading areas where required, with particular attention to the items in (a) above and the economic, noise, glare, or odor effects of the special permit on adjoining properties and properties in the district.

(c) Refuse and service areas, with particular reference to the items in (a) and (b) above.

(d) Utilities, with reference to locations, availability and compatibility.

(e) Screening and buffering with reference to type, dimensions and character.

(f) Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect, and compatibility and harmony with properties in the district.

(g) Required yards and other open space.

(h) General compatibility with adjacent properties and other property in the district.

(i) Other items considered relevant to the proposed special uses.

C. CRITERIA FOR SPECIFIC USES

(Added by Ord. 02-04, 4/9/02, as amended by Ord. #03-18, 9/9/03, Ord. 04-07, 06/08/04, and Ord. #07-14, Sept. 2007)

1. Nursing home

a. *Intent*. It is the intent of these criteria to ensure compatibility between a nursing home and the single-family residential zoning district.

b. *Arterial street*. The site shall abut an arterial street, to ensure adequate employee, visitor, and delivery access without drawing traffic through local streets (in contrast to collector or arterial streets).

c. *Adjoining single-family*. The site shall be so located that other property with single-family residential zoning does not

(1) back up to it, except across a street, or

(2) have side yards adjoining it, except across a street, or

(3) face it across a street.

However, a buffer meeting criteria herein may serve to provide the separation required by items (1), (2), and (3) between the nursing home site and other property zoned for single-family residential use.

d. *Service areas*. No service areas served by trucks, occupied by trash containers, or otherwise having an appearance incompatible with single-family residences shall be on the side of the building toward single-family residential zoning unless a buffer meeting criteria herein provides separation.

e. *Architecture*. Buildings shall be residential in appearance, in terms of materials, proportions, and architectural details, so as to effectively conceal the institutional nature of the use.

f. *Buffer*. A buffer, where required in association with a nursing home, shall meet the following criteria:

(1) Visual barrier. A buffer consisting of plants or a berm as described herein shall provide a visual barrier in all seasons of the year--plants to a height of at least eight feet and a berm to a height of at least six feet above elevation at the property line.

(2) Plants. Plants may be required as part or all of a buffer. Any plants used as a buffer shall be in two or more rows, each row of plants off-set from plants in the adjoining rows so as to maximize the visual density of the planted area. Plants shall be of such size and typical growth rate as to provide the required visual barrier within two years.

(3) *Berm*. A landscaped earth berm may be required as part or all of a buffer. The berm shall have side slopes no steeper than 1:3 (rise:run) or such lesser slope as will ensure that the landscaping chosen can be readily maintained. A retaining wall may be utilized on the nursing home side of a berm to reduce horizontal extent.

(4) *Fence*. A six-foot fence designed for aesthetic appeal and minimal maintenance may be required for additional privacy or security, but a fence alone shall not be sufficient for a buffer.

(5) *Land use*. A land use that is permitted in the zoning district, other than a nursing home or a single-family residence, may serve as part or all of a buffer.

(6) *Landscaped area*. An area landscaped and free of parking between the building and an adjoining street may serve as part or all of a buffer, provided that street face of the building conforms to the architectural characteristics prescribed herein.

2. Automobile rental, satellite (Ord. 03-18, Sept. 2003, amended by Ord. 06-19, 1/23/07)

a. The use is permitted in single-tenant or multi-tenant commercial buildings.

b. No more than four (4) rental cars for pick-up or drop-off in the short term may be parked between the building and a street or in spaces required for off-street parking for the building.

No additional parking spaces shall be required to accommodate these four rental cars beyond the number normally required for the entire building or shopping center.

c. No more than fifteen (15) rental cars may be parked elsewhere on the site, and these may be parked in the area normally designed for service to the building or loading.

Parking for these rental cars may be further limited so as not to interfere with the function or safety of service or loading areas. No off-site parking for these rental cars shall be permitted within the City except as part of an automobile rental use (not satellite) permitted elsewhere or in an I-O district location approved as part of this special use permit.

d. No servicing or indoor storage or rental cars shall be allowed on the site.

3. Psychic and fortune telling businesses (Ord. 04-07, June 2004)

These services are inappropriate in locations where they do not contribute to commercial synergy, whereby complementary businesses within an area

- help draw traffic that is likely to patronize other businesses or
- have an appearance or character that is not detrimental to surrounding businesses.

These services therefore generally would not be appropriate in commercial strip centers or shopping centers. Where they are acceptable, they shall be subject to Design Review Commission review and approval to ensure a dignified and restrained appearance consistent with that of surrounding businesses.

4. Bed and Breakfast accommodations may be approved, provided that: (Ord. #07-15, Sept. 2007)

a. Sufficient off-street parking is provided in addition to that required for residential purposes, at the rate of one space per double occupied room. Guest parking areas will be screened as approved by the Design Review Commission.

b. Such use is intended to be approved with reasonable flexibility in the application of this ordinance, but such use shall not be granted if the essential character of a lot or structure within a residential district, in terms of activity, traffic generation or appearance will be adversely changed by the occurrence of such use or activities.

c. No retail or other sales shall be permitted unless they are clearly incidental and directly related to the conduct of the Bed and Breakfast Establishment.

d. Signs shall be as specified by the Design Review Commission. Signs may be either wall mounted or ground mounted, with a maximum area of four (4) square feet. A ground mounted sign must be located within six (6) feet of the front of the building.

e. The only meal to be provided to paying guests shall be breakfast, and it shall only be served to guests taking lodging in the facility.

f. Bedrooms used by guests shall be part of the primary residential structure and shall not have been specifically constructed for rental purposes.

g. No exterior alterations of the structure shall be made other than those approved by the Design Review Commission, in character with the surrounding neighborhood, and those required by law to ensure the safety of the structure.

h. Guests may stay for a period not to exceed fourteen (14) days.

Section 21 - F-P - Floodplain Overlay Zone

ARTICLE 1 - STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND OBJECTIVES

A. Statutory Authorization

The Legislature of the State of Tennessee has in Sections 13-7-201 through 13-7-211, Tennessee Code Annotated delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the City of Bartlett Board of Mayor and Aldermen, do ordain as follows:

B. Findings of Fact

1. The Bartlett Mayor and its Legislative Body wishes to maintain eligibility in the National Flood Insurance Program and in order to do so must meet the requirements of 60.3 of the Federal Insurance Administration Regulations found at 44 CFR Ch. 1 (10-1-04 Edition).

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

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

C. Statement of Purpose

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

1. Restrict or prohibit uses which are vulnerable to water or erosion hazards, or which cause in damaging increases in erosion, flood heights, or velocities;

2. Require that uses vulnerable to floods, including community facilities, be protected against flood damage;

3. Control the alteration of natural floodplains, stream channels, and natural protective barriers which accommodate flood waters;

4. Control filling, grading, dredging and other development which may increase erosion or flood damage; and

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

D. Objectives (amended by Ord. 07-14, 9/11/07)

The objectives of this Ordinance are:

1. To protect human life and health;

2. To minimize expenditure of public funds for costly flood control projects;

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

4. To minimize prolonged business interruptions;

5. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, street and bridges located in floodable areas;

6. To help maintain a stable tax base by providing for the sound use and development of flood prone areas;

7. To ensure that potential buyers are notified that property is in a floodable area; and

8. To maintain eligibility for participation in the National Flood Insurance Program.

ARTICLE 2 - DEFINITIONS (amended by Ord. 07-14, 9/11/07)

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

Accessory Structure:

Represents a subordinate structure to the principal structure and, for the purpose of this section, shall conform to the following:

1. Accessory structures shall not be used for human habitation.

2. Accessory structures shall be designed to have low flood damage potential.

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

4. Accessory structures shall be firmly anchored to prevent flotation which may result in damage to other structures.

5. Service facilities such as electrical and heating equipment shall be elevated or flood proofed.

Act:

The statutes authorizing the National Flood Insurance Program that are incorporated in 42 U.S.C. 4001-4128.

Addition: (to an existing building)

Any walled and roofed expansion to the perimeter of a building in which the addition is connected by a common load bearing wall other than a fire wall. Any

walled and roofed addition which is connected by a fire wall or is separated by independent perimeter load-bearing walls is new construction.

Appeal: (amended by Ord. 07-14, 9/11/07)

A request for a review of the local enforcement officers' interpretation of any provision of this Ordinance or a request for a variance to the Board of Zoning Appeals.

Area of Shallow Flooding:

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

Area of Special Flood-Related Erosion Hazard:

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

Area of Special Flood Hazard:

The land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. The area may be designated as Zone A on the FHBM. After detailed rate making has been completed in preparation for publication of the FIRM, Zone A usually is refined into Zones A, AO, AH, A1-30, AE or A99.

Base Flood:

The flood having a one percent chance of being equaled or exceeded in any given year.

Basement:

That portion of a building having its floor subgrade (below ground level) on all sides.

Breakaway Wall:

A wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

Building:

For purposes of this section, means any structure built for support, shelter, or enclosure for any occupancy or storage. (See "structure").

Development:

Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

Elevated Building: (amended by Ord. 07-14, 9/11/07)

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

Emergency Flood Insurance Program or Emergency Program:

The program as implemented on an emergency basis in accordance with section 1336 of the Act. It is intended as a program to provide a first layer amount of insurance on all insurable structures before the effective date of the initial FIRM.

Erosion:

The process of the gradual wearing away of land masses. This peril is not per se covered under the Program.

Exception:

A waiver from the provisions of this Ordinance which relieves the applicant from the requirements of a rule, regulation, order or other determination made or issued pursuant to this Ordinance.

Existing Construction: (amended by Ord. 07-14, 9/11/07)

Any structure for which the "start of construction" commenced before the effective date of the first floodplain management code or ordinance adopted by

the community as a basis for that community's participation in the National Flood Insurance Program (NFIP).

Existing Manufactured Home Park Or Subdivision: (amended by Ord. 07-14, 9/11/07)

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

Existing Structures: See Existing Construction.

Expansion to an Existing Manufactured Home Park or Subdivision:

The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

Flood or Flooding:

A general and temporary condition of partial or complete inundation of normally dry land areas from:

1. the overflow of inland or tidal waters;

2. the unusual and rapid accumulation or runoff of surface waters from any source.

Flood Elevation Determination:

A determination by the Administrator of the water surface elevations of the base flood, that is, the flood level that has a one percent or greater chance of occurrence in any given year.

Flood Elevation Study:

An examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards.

Flood Hazard Boundary Map (FHBM): (amended by Ord. 07-14, 9/11/07)

An official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of areas of special flood hazard have been designated as Zone A.

Flood Insurance Rate Map (FIRM):

An official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

Flood Insurance Study: (amended by Ord. 07-14, 9/11/07)

The official report provided by the Federal Emergency Management Agency, evaluating flood hazards and containing flood profiles and water surface elevation of the base flood.

Floodplain or Flood-Prone Area:

Any land area susceptible to being inundated by water from any source (see definition of "flooding").

Floodplain Management:

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

Flood Protection System:

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

Floodproofing:

Any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

Flood-Related Erosion:

The collapse or subsidence of land along the shore of a lake or other body of water as a result of undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding.

Flood-Related Erosion Area or Flood-Related Erosion Prone Area:

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

Flood-Related Erosion Area Management:

The operation of an overall program of corrective and preventive measures for reducing flood-related erosion damage, including but not limited to emergency preparedness plans, flood-related erosion control works and flood plain management regulations.

Floodway: (amended by Ord. 07-14, 9/11/07)

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

Floor:

The top surface of an enclosed area in a building (including basement), i.e., top of slab in concrete slab construction or top of wood flooring in wood frame construction. The term does not include the floor of a garage used solely for parking vehicles.

Freeboard:

A factor of safety usually expressed in feet above a flood level for purposes of floodplain management. "Freeboard" tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings and the hydrological effect of urbanization of the watershed.

Functionally Dependent Use:

A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or

passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

Highest Adjacent Grade:

The highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a structure.

Historic Structure:

Any structure that is:

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

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

3. Individually listed on the Tennessee Inventory of Historic Places and determined as eligible by states with historic preservation programs which have been approved by the Secretary of the Interior; or

4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

    a. By an approved state program as determined by the Secretary of the Interior; or

    b. Directly by the Secretary of the Interior in states without approved programs.

Levee:

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

Levee System:

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

Lowest Floor:

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

Manufactured Home: (amended by Ord. 07-14, 9/11/07)

A structure, transportable in one or more sections, which is built on a permanent chassis and designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a recreational vehicle, unless such transportable structures are placed on a site for 180 consecutive days or longer.

Manufactured Home Park or Subdivision:

A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Map:

The Flood Hazard Boundary Map (FHBM) or the Flood Insurance Rate Map (FIRM) for a community issued by the Agency.

Mean Sea Level:

The average height of the sea for all stages of the tide. It is used as a reference for establishing various elevations within the floodplain. For purposes of this Ordinance, the term is synonymous with National Geodetic Vertical Datum (NGVD) or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

National Geodetic Vertical Datum (NGVD):

As corrected in 1929 is a vertical control used as a reference for establishing varying elevations within the floodplain.

New Construction: (amended by Ord. 07-14, 9/11/07)

Any structure for which the "start of construction" commenced on or after the effective date of this ordinance or the effective date of the first floodplain management ordinance and includes any subsequent improvements to such structure.

New Manufactured Home Park or Subdivision: (amended by Ord. 07-14, 9/11/07)

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

North American Vertical Datum (NAVD): (added by Ord. 07-14, 9/11/07)

As corrected in 1988 is a vertical control used as a reference for establishing varying elevations within the floodplain.

100-Year Flood: See Base Flood.

Person:

Includes any individual or group of individuals, corporation, partnership, association, or any other entity, including State and local governments and agencies.

Recreational Vehicle:

A vehicle which is:

1. built on a single chassis;
2. 400 square feet or less when measured at the largest horizontal projections;
3. designed to be self-propelled or permanently towable by a light duty truck; and
4. designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Regulatory Floodway:

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

Riverine:

Relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

Special Hazard Area:

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

Start of Construction:

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

State Coordinating Agency (amended by Ord. 07-14, 9/11/07)

The Tennessee Department of Economic and Community Development's, Local Planning Assistance Office as designated by the Governor of the State of Tennessee at the request of the Administrator to assist in the implementation of the National Flood Insurance Program for the state.

Structure: (amended by Ord. 07-14, 9/11/07)

For purposes of this section, means a walled and roofed building that is principally above ground, a manufactured home, a gas or liquid storage tank, or other man-made facilities or infrastructures.

Substantial Damage:

Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial Improvement: (amended by Ord. 07-14, 9/11/07)

Any repairs, reconstructions, rehabilitations, additions, alterations or other improvements to a structure, taking place during a 5-year period, in which the cumulative cost equals or exceeds fifty percent of the market value of the structure before the "start of construction" of the improvement. The market value of the structure should be (1) the appraised value of the structure prior to the start of the initial repair or improvement; or (2) in the case of damage, the value of the structure prior to the damage," regardless of the actual repair work performed.

For the purpose of this definition, "Substantial Improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the building. The term does not, however, include either: (1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been pre-identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions and not solely triggered by an improvement or repair project; or (2) Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."

Substantially Improved Existing Manufactured Home Parks or Subdivisions:

This is where the repair, reconstruction, rehabilitation or improvement of the streets, utilities and pads equals or exceeds 50 percent of the value of the streets, utilities and pads before the repair, reconstruction or improvement commenced.

Variance:

Is a grant of relief from the requirements of this Ordinance which permits construction in a manner otherwise prohibited by this Ordinance where specific enforcement would result in unnecessary hardship.

Violation:

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

Water Surface Elevation: (amended by Ord. 07-14, 9/11/07)

The height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, (or other datum, where specified) of floods of various magnitudes and frequencies in the flood plains of coastal or riverine areas.

ARTICLE 3 -GENERAL PROVISIONS

A. Application

This Chapter shall apply to all areas within the incorporated area of City of Bartlett, Tennessee.

B. Basis for Establishing the Areas of Special Flood Hazard (amended by Ord. 07-14, 9/11/07, and Ord. #12-14, Dec. 2012)

The Areas of Special Flood Hazard identified on the Shelby County, Tennessee and Incorporated Areas, Federal Emergency Management Agency, Flood Insurance Study (FIS) and Flood Insurance Rate Map (FIRM), Community Panel Number 47157C0170F, 47157C0285F, (existing) effective September 28, 2007; and 47157C0190G, 47157C0195G, 47157C0301G, 47157C0302G, 47157C0303G, 47157C0304G, 47157C0310G, 47157C0330G (revised) effective February 6, 2013 along with all supporting technical data, are adopted by reference and declared to be a part of this Ordinance. These areas shall be incorporated into the City of Bartlett, Tennessee Official Zoning Map.

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

C. Requirement For Development Permit

A development permit shall be required in conformity with this Chapter prior to the commencement of any development activity.

D. Compliance

No structure or use shall hereafter be located, extended, converted or structurally altered without full compliance with the terms of this Ordinance and other applicable regulations.

E. Abrogation and Greater Restrictions (amended by Ord. 07-14, 9/11/07)

This Ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Ordinance conflicts or overlaps with another, whichever imposes the more stringent restrictions shall prevail.

F. Interpretation

In the interpretation and application of this Ordinance, all provisions shall be: (1) considered as minimum requirements; (2) liberally construed in favor of the governing body, and; (3) deemed neither to limit nor repeal any other powers granted under state statutes.

G. Warning and Disclaimer of Liability

The degree of flood protection required by this Ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This Ordinance does not imply that land outside the flood hazard areas or uses permitted within such areas will be free from flooding or flood damages. This Ordinance shall not create liability on the part of the City of Bartlett, Tennessee or by any officer or employee thereof for any flood damages that result from reliance on this Ordinance or any administrative decision lawfully made hereunder.

H. Penalties for Violation (Amended by Ord. 02-16, 12/10/02 and Ord. 07-14, 9/11/07)

Violation of the provisions of this Ordinance or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance, shall constitute a misdemeanor punishable as other misdemeanors as provided by law. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the City of Bartlett from taking such other lawful actions to prevent or remedy any violation.

ARTICLE 4 -ADMINISTRATION

A. Designation of City Engineer

The City Engineer is hereby appointed to administer and implement the provisions of this Ordinance.

B. Permit Procedures (amended by Ord. 07-14, 9/11/07)

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

1. Application stage

a. Elevation in relation to mean sea level of the proposed lowest floor including basement, of all buildings where BFE's are available, or to the highest adjacent grade when applicable under this Ordinance.

b. Elevation in relation to mean sea level to which any non-residential building will be flood-proofed, where BFE's are available, or to the highest adjacent grade when applicable under this Ordinance.

c. Design certificate from a registered professional engineer or architect that the proposed non-residential flood-proofed building will meet the flood-proofing criteria in Article 4. B. where base flood elevation data is available.

2. Construction Stage

Within unnumbered A zones, where flood elevation data are not available, the City Engineer or City Building Official shall have the design engineer record the elevation of the lowest floor on the development permit. The elevation of the lowest floor shall be determined as the measurement of the lowest floor of the building relative to the highest adjacent grade.

For all new construction and substantial improvements, the permit holder shall provide to the City Engineer an as-built certification of the regulatory floor elevation or floodproofing level upon the completion of the lowest floor or floodproofing. Within unnumbered A zones, where flood elevation data is not available, the elevation of the lowest floor shall be determined as the measurement of the lowest floor of the building relative to the highest adjacent grade.

Any lowest floor certification made relative to mean sea level shall be prepared by or under the direct supervision of, a registered land surveyor and certified by same. When floodproofing is utilized for a non-residential building said certification shall be prepared by or under the direct supervision of, a professional engineer or architect and certified by same.

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

C. Duties and Responsibilities of the City Engineer and City Building Official (amended by Ord. 07-14, 9/11/07)

Duties of the Administrator shall include, but not be limited to:

1. Review of all development applications to assure that the requirements of this Ordinance have been satisfied, and that proposed building sites will be reasonably safe from flooding. The developers engineer will submit all necessary hydraulic analyses to the City Engineer. A HEC run will be required.

2. Advice to applicant that additional federal or state permits may be required, and if specific federal or state permit requirements are known, require that copies of such permits be provided and maintained on file with the development permit. This shall include Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U. S. C. 1334.

3. Notification to adjacent communities and the Tennessee Department of Economic and Community Development Local Planning Office, prior to any alteration or relocation of a watercourse, and submission of evidence of such notification to the Federal Emergency Management Agency.

4. For any altered or relocated watercourse, submit engineering data/analysis within six (6) months to the Federal Emergency Management Agency to ensure accuracy of community flood maps through the Letter of Map Revision process. Assure that the flood carrying capacity within an altered or relocated portion of any watercourse is maintained.

5. When base flood elevation data or floodway data have not been provided by the Federal Emergency Management Agency, then the City Engineer shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a Federal, State, or other source, including data developed as a result of these regulations, as criteria for requiring that new construction, substantial improvements, or other development in Zone A on the Community FHBM or FIRM meet the requirements of this Chapter.

   (Optional additional requirement)

   Within unnumbered A zones, where base flood elevations have not been established and where alternative data is not available, the City Engineer shall require the lowest floor of a residential building to be elevated or floodproofed to a level of at least 12 (twelve) inches (or as approved at the discretion of the Board), above the highest adjacent grade (lowest floor and highest adjacent grade being defined in Article 2 of this Ordinance).

6. All records pertaining to the provisions of this Ordinance shall be maintained in the office of the City Engineer and/or Building Official and shall be open for public inspection. Permits issued under the provisions of this Ordinance shall be maintained in a separate file or marked for expedited retrieval within combined files in construction code enforcement office.

7. All records pertaining to the provisions of this Ordinance shall be maintained in the office of the Administrator and shall be open for public inspection. Permits issued under the provisions of this Ordinance shall be maintained in a separate file or marked for expedited retrieval within combined files in construction code enforcement.

Duties of the Building Official shall include, but not be limited to:

1. Record the actual elevation (in relation to mean sea level or highest adjacent grade, whichever is applicable) of the lowest floor (including basement) of all new or substantially improved buildings, in accordance with Article 4, Section B-2. Survey data to be provided to construction code enforcement prior to issuance of final use and occupancy.

2. Record the actual elevation (in relation to mean sea level or highest adjacent grade, whichever is applicable) to which the new or substantially improved buildings have been flood-proofed, in accordance with Article 4, Section B-2. This information will be kept by construction code enforcement.

3. When flood-proofing is utilized, the City Building Official shall obtain certification from a registered professional engineer or architect, in accordance with Article 4, Section B-2.

ARTICLE 5 -PROVISIONS FOR FLOOD HAZARD REDUCTION

A. General Standards

In all flood prone areas the following provisions are required:

1. New construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure;

2. Manufactured homes shall be elevated and anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable state requirements for resisting wind forces;

3. New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage;

4. New construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;

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

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

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

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

9. Any alteration, repair, reconstruction or improvements to a building which is in compliance with the provisions of this Ordinance, shall meet the requirements of "new construction" as contained in this Chapter; and

10. Any alteration, repair, reconstruction or improvements to a building which is not in compliance with the provision of this Ordinance, shall be undertaken only if said non-conformity is not extended.

B. Specific Standards (amended by Ord. 07-14, 9/11/07)

These provisions shall apply to all areas of special flood hazard as provided herein:

In all areas of special flood hazard where base flood elevation data have been provided, including A zones, A1-30 zones, AE zones, AO zones, AH zones and A99 zones, and has provided a regulatory floodway, as set forth in Article 3, Section B, the following provisions are required:

1. Residential Construction. Where base flood elevation data is available, new construction or substantial improvement of any residential building (or manufactured home) shall have the lowest floor, including basement, elevated no lower than (30) inches above the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls and to ensure unimpeded movement of floodwater shall be provided in accordance with the standards of Article 5.B.

Within unnumbered A zones, where base flood elevations have not been established and where alternative data is not available, the Administrator shall require the design Engineer to set the lowest floor of a building to be elevated or floodproofed to a level of at least three (3) feet above the highest adjacent grade (lowest floor and highest adjacent grade being defined in Article 2 of this Ordinance). All applicable data including elevations or flood proofing certifications shall be recorded as set forth in Article 4.B.

2. Non-Residential Construction. New construction or substantial improvement of any commercial, industrial, or non-residential building, when BFE data is available, shall have the lowest floor, including basement, elevated or floodproofed no lower than 18 inches above the level of the base flood elevation.

   Within unnumbered A zones, where base flood elevations have not been established and where alternative data is not available, the Administrator shall require the Design Engineer to set the lowest floor of a building to be elevated or floodproofed to a level of at least three (3) feet above the highest adjacent grade (lowest floor and highest adjacent grade being defined in Article 2 of this Ordinance). All applicable data including elevations or flood proofing certifications shall be recorded as set forth in Article 4.B.

3. Elevated Building. All new construction or substantial improvements to existing buildings that include ANY fully enclosed areas formed by foundation and other exterior walls below the base flood elevation, or required height above the highest adjacent grade, shall be designated to preclude finished living space and designed to allow for the entry and exit of flood waters to automatically equalize hydrostatic flood forces on exterior walls.

4. Standards for Manufactured Homes and Recreational Vehicles

   a. All manufactured homes placed, or substantially improved, on individual lots or parcels, in expansions of existing manufactured home parks or subdivisions, or in substantially improved manufactured home parks or subdivisions, must meet all the requirements of new construction, including elevations and anchoring.

   b. Absent base flood elevations the manufactured home chassis is elevated and supported by reinforced piers (or other foundation elements) at least three (3) feet in height above the highest adjacent grade.

c. Any manufactured home, which has incurred "substantial damage" as the result of a flood or that has substantially improved, must meet the standards of Article 5.B 4 of this Ordinance.

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

e. All recreational vehicles placed on identified flood hazard sites must either:

1) Be on the site for fewer than 180 consecutive days;

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

3) The recreational vehicles must meet all the requirements for new construction, including the anchoring and elevation requirements of this section above if on the site for longer than 180 consecutive days.

C. Standards for Areas of Special Flood Hazard with Established Base Flood Elevations and with Floodways Designated (amended by Ord. 07-14, 9/11/07)

Located within the areas of special flood hazard established in Article 3, Section B, where there are areas designated as floodways. A floodway may be an extremely hazardous area due to the velocity of floodwaters, debris or erosion potential. In addition, the area must remain free of encroachment in order to allow for the discharge of the base flood without increased flood heights and velocities. Therefore, the following provisions shall apply:

1. New construction or substantial improvements of buildings shall comply with all applicable flood hazard reduction provisions of Article 5.

D. Standards for Areas of Special Flood Hazard Zones AE with Established Base Flood Elevations but without Floodways Designated (amended by Ord. 07-14, 9/11/07)

Located within the areas of special flood hazard established in Article 3, B, where streams exist with base flood data provided but where no floodways have been designated Zone AE the following provisions apply:

E. Standards for Streams without Established Base Flood Elevations or Floodways (A Zones) (added by Ord. 07-14, 9/11/07)

Located within the Areas of Special Flood Hazard established in Article 3, where streams exist, but no base flood data has been provided (A Zones), OR where a Floodway has not been delineated, the following provisions shall apply:

1. When base flood elevation data or floodway data have not been provided in accordance with Article 3, then the Administrator shall obtain, review and reasonably utilize any scientific or historic base flood elevation and floodway data available from a Federal, State or other source, in order to administer the provisions of Article 5. ONLY if data is not available from these sources, then the following provisions (2 & 3) shall apply:

2. No encroachments, including structures or fill material, shall be located within an area equal to the width of the stream or twenty feet or the requirements outlined in the City of Bartlett stormwater ordinance for buffers, whichever is greater, measured from the top of the stream bank, unless certification by registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any point within the community. The engineering certification should be supported by technical data that conforms to standard hydraulic engineering principles.

3. In special flood hazard areas without base flood elevation data, new construction or substantial improvements of existing shall have the lowest floor of the lowest enclosed area (including basement) elevated no less than three (3) feet above the highest adjacent grade at the building site. Openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with the standards of Article 5, B, and Elevated Buildings.

F. Standards for Areas of Shallow Flooding (AO and AH Zones) (added by Ord. 07-14, 9/11/07)

1. All new construction and substantial improvements of residential buildings shall have the lowest floor, including basement, elevated to at least 2.5 feet above the flood depth number specified on the Flood Insurance Rate Map (FIRM). If no flood depth number is specified, the

lowest floor, including basement, shall be elevated, at least three (3) feet above the highest adjacent grade.

Openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with standards of Article 5.B. and Elevated Buildings or if no depth number is specified, the applicant will provide the city with an engineers study establishing the finish floor elevation 30 inches above the 100 year storm elevation.

2. All new construction and substantial improvements of nonresidential buildings may be flood-proofed in lieu of elevation. The structure together with attendant utility and sanitary facilities must be flood proofed and designed watertight to be completely flood-proofed to at least (1.5) feet above the specified FIRM flood level, with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. If no depth number is specified, the applicant will provide the city with a study establishing the finish floor elevation 18 inches above the 100-year storm elevation for the lowest floor, including basement, or it shall be flood proofed to at least three (3) feet above the highest adjacent grade whichever is greater. A registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this ordinance and shall provide such certification to the Administrator set forth above and as required in Article 4.B.

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

4. The Administrator shall require the applicants Engineer to certify the elevation of the highest adjacent grade, where applicable, and the record shall become a permanent part of the permit file.

G. Standards for Areas of Special Flood Hazard With Established Base Flood Elevation and With Floodways Designated (amended by Ord. 07-14, 9/11/07)

Located within the areas of special flood hazard established in Article 3, Section B, where streams exist with base flood data and floodways provided, the following provisions apply:

1. No encroachments, including fill material, new construction, substantial improvements or other developments shall be located within designated floodways, unless certification by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed encroachments or new development, when combined with all other

existing and anticipated development, will not increase the water surface elevation of the base flood during the occurrence of the base flood discharge at any point within the community. The engineering certification should be supported by technical data that conforms to standard hydraulic engineering principles.

2. If Article 5, Section F, 1 above is satisfied, new construction or substantial improvements of buildings shall be elevated or flood-proofed to elevations established in accordance with Article 5, Section B.

H. Standards for Unmapped Streams (amended by Ord. 07-14, 9/11/07)

1. In areas adjacent to such unmapped streams, no encroachments including fill material or structures shall be located within an area of at least equal to twice the width of the stream, measured from the top of each stream bank, or the buffer setback as outlined in the Stormwater Ordinance whichever is deemed greater. The city Engineer may review certification by a registered professional engineer which demonstrates that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any point within the City of Bartlett. The City Engineer may require a no rise if deemed necessary.

I. Standards for Subdivision Proposals (Renumbered by Ord. 07-14, 9/11/07)

Subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, shall be reviewed to determine whether such proposals will be reasonably safe from flooding. If a subdivision proposal or other proposed new development is in a flood-prone area, any such proposals shall be reviewed to ensure that:

1. All subdivision proposals shall be consistent with the need to minimize flood damage.

2. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.

3. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards.

4. Base flood elevation data shall be provided for subdivision proposals and other proposed development (including manufactured home parks and subdivisions) which is greater than fifty lots and/or five acres.

5. The lowest point of all subdivision streets shall be no less than 12 inches above base flood elevations.

6. Subdivision designs will include a routing of the 100 year storm through the development. Minimum finish floor elevations will be set by the developers engineer on critical lots to ensure 30 inches above the 100 year storm is maintained.

ARTICLE 6 -VARIANCE PROCEDURES

The provisions of this section shall apply exclusively to areas of special flood hazard.

A. Board of Zoning Appeals

1. The City of Bartlett Board of Zoning Appeals shall hear and decide appeals and requests for variances from the requirements of this Chapter.

2. Variances may be issued for the repair or rehabilitation of historic structures (see definition) upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum to preserve the historic character and design of the structure.

3. In passing upon such applications, the Board of Zoning Appeals shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this Ordinance, and:

    a. The danger that materials may be swept onto other property to the injury of others;

    b. The danger to life and property due to flooding or erosion;

    c. The susceptibility of the proposed facility and its contents to flood damage;

    d. The importance of the services provided by the proposed facility to the community;

    e. The necessity of the facility to a waterfront location, in the case of a functionally dependent facility;

    f. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;

g. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

h. The safety of access to the property in times of flood for ordinary and emergency vehicles;

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

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

4. Upon consideration of the factors listed above, and the purposes of this Ordinance, the Board of Zoning Appeals may attach such conditions to the granting of variances as it deems necessary to effectuate the purposes of this Ordinance.

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

B. Conditions for Variances

1. Variances shall be issued upon a determination that the variance is the minimum relief necessary, considering the flood hazard; and in the instance of a historical building, a determination that the variance is the minimum relief necessary so as not to destroy the historic character and design of the building.

2. Variances shall only be issued upon (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship; and (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or Ordinances.

3. Any applicant to whom a variance is granted shall be given written notice that the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance, and that such construction below the base flood level increases risks to life and property.

4. The City Engineer shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency upon request.

Section 22 -Wireless Communication Supporting Structures

1. Within residential zoning districts, support structures and associated appurtenances shall be restricted to municipally owned and/or leased properties, public/private utility owned properties, or Institutional Uses, as detailed in Article V, Chart 1 of the Bartlett Zoning Ordinance.

   No support structure may be located within 300 feet of any residential property line, unless stealth design is incorporated into the site, and approval is granted by the Design Review Commission.

2. The location, size and design of such facilities shall be such that minimal negative impact results from the facility. Any application for a new wireless communication support structure shall not be approved, nor building permit issued, unless the applicant obtains a letter from a licensed engineer certifying that the wireless communication facility equipment planned for the proposed support structure cannot be accommodated on an existing or approved support structure, or other structure due to one or more of the following reasons:

   a. The planned equipment would exceed the structural capacity of existing and approved support structures, and those structures cannot be reinforced to accommodate planned or equivalent equipment at a reasonable cost.

   b. The planned equipment would result in technical or physical interference with, or from other existing or planned equipment and the interference cannot be prevented at a reasonable cost;

   c. There are no appropriate existing or pending support structures to accommodate the planned equipment;

   d. The existing or proposed support structures would not accommodate the applicant's geographic service requirements.

3. Any proposed support structure (excepting those utilizing stealth design) shall be structurally designed so as to accommodate a minimum of three (3) sets of fully sectored antenna arrays. A letter from a licensed engineer certifying compliance with this condition shall accompany the conditional use application. In addition, any application for a new support structure must include an affidavit stating that space on the proposed support structure will be made available to future users when technically possible.

The applicant shall not charge any unreasonable application fee or rental rate, and may not require any unreasonable construction or maintenance conditions that inhibit the ability of other users to co-locate on the support structure.

4. Support structures shall be the minimum height needed to comply with these regulations; however, in no instance shall support structures extend beyond 200 feet in height.

5. Associated appurtenances, including cabinets, cabling and equipment shall be permitted, but shall not include offices, long-term vehicle storage, other outdoor storage or broadcast studios, or any use not needed to send or receive transmissions.

6. The minimum setback requirements for support structures including associated appurtenances shall correspond to the zoning district in which they are located, except that a minimum buffer of 300 feet shall be maintained between any support structure (excepting sites incorporating stealth design) and any residential property line.

7. All wireless transmission facilities including building, cabinets support towers and facilities shall be designed and constructed of materials so as to be architecturally compatible with the architectural character of the surrounding area, and shall be approved by the Design Review Commission.

8. Existing on-site vegetation shall be preserved to the maximum extent practicable, and shall be supplemented as required by the Design and Review Commission.

9. Security fencing and/or equipment screening shall be required for any ground mounted equipment associated with a support structure, and approved by the Design and Review Commission.

10. Towers shall not be lighted unless required by the Federal Aviation Administration or other Federal or State authority.

11. Within residential zoning districts, attached antenna arrays may be permitted on previously approved or proposed institutional structures, municipally owned structures; public/private utility owned towers, and existing support structures.

12. Wireless communication facilities (i.e. attached antenna arrays and related equipment) may be permitted on previously approved buildings and support structures, subject to administrative site plan review. Such facilities shall not exceed the height required to accomplish their intended function; however, in no instance shall they extend more than

20 feet above the height of the supporting structure upon which they are proposed to be attached. Additionally, such facilities shall utilize stealth design and be finished in a color compatible with the colors of the supporting structure and designed so as to be as visually unobtrusive as possible.

13. For the purposes of this Ordinance, attached antenna arrays shall be permitted accessory uses in all zoning districts, subject to administrative site plan approval.

Section 23 -Tree and Landscaping Ordinance

(Ord. 05-08, 10/25/08)

PART I. General Provisions

A. Purpose

The purpose of this Section 23 is

- to regulate and control planting of trees and woody vegetation in the City of Bartlett;
- to vigorously encourage the protection of existing trees and root systems;
- to regulate the preservation, replacement and indiscriminate removal of trees; and
- to establish procedures and practices and minimum design standards for fulfilling these purposes.

B. Applicability

This Section 23 shall be applicable to all grading, earth moving, changing of elevation, new construction, additions, or remodeling for all land development and construction, including residential, office, commercial, and industrial; with the following exception: Construction of additions, accessory buildings (including swimming pools), or private drives on a lot with an existing single-family home. That is, this Section 23 is applicable to construction of new single-family homes.

Where the following have been approved by the Planning Commission or the Code Enforcement Department no later than October 25, 2005 and are still in effect following that date, such plans may be continued in the manner approved:

- Subdivision Master Plans (that have not lapsed per Subdivision Ordinance Article II, Section 3.E), Construction Plans, or Final Plans.
- Plot plans for construction of single-family houses.
- Site plans for non-single-family-residential development.

C. Definitions

1. Caliper Inches (CI) - Quantity in inches of the diameter of supplemental and replacement trees measured at the height of twelve inches (12") above the ground. (Caliper Inches shall be used in measuring newly planted material).

2. Certified Arborist - A professional who is certified as possessing the technical competence through experience and related training to provide for or supervise the maintenance of trees and other woody plants in the residential, commercial, and public landscape; which certification is by an organization recognized by the City as qualified to do so.

3. Champion Tree - A tree, among the 263 species that are native or common to Tennessee, that earns the most points for its species under a statewide program, based on its circumference, height, and crown spread.

4. Conifer Tree - Any tree with needle leaves and a woody cone fruit.

5. Cultivar - A cultivated variety designated by single quotes (e.g., 'October Glory'). (A variety or subspecies, in contrast, is found in nature and is a subdivision of a species.)

6. Deciduous - Those trees that shed their leaves in the fall or winter.

7. Density Units (DU) - The actual measured inches of tree trunk diameter (DBH or CI).

8. Diameter at Breast Height (DBH) - The diameter in inches of a tree measured at four and one-half (4 ½) feet above the existing grade. (DBH shall be used to measure existing trees to remain.)

9. Drip Line - A vertical line extending from the outermost portion of the tree canopy to the ground.

10. Endangered Species - Those trees that are under the protection of State and/or Federal law.

11. Evergreen - Those trees, including broad-leaf and conifer evergreens, that maintain their leaves year-round.

12. Green/Open Space - That space on a lot that is landscaped.

13. Historic Tree - A tree or grove of trees so designated by the Tennessee Urban Forestry Council.

14. Landmark Tree - A tree or grove of trees so designated by the Tennessee Urban Forestry Council.

15. Ornamental tree - A tree distinguished by one or more unique characteristics, such as flowers, foliage, bark or the form of the tree.

16. Overstory - Those trees that compose the top layer or canopy of vegetation.

17. Pruning - Selective removal of certain limbs based on the structure and growth pattern of the tree. See also "topping."

18. Replacement Planting - The planting of trees on a site that before development had more than the minimum standard of trees per acre, but would be less than the minimum after development.

19. Street Tree - A tree that tolerates stresses common near roads such as soil compaction, confined root zones, drought, air pollution, high salt levels, and high heat levels.

20. Supplemental Planting - The planting of trees on a site that prior to development had less than the minimum standard of trees per acre.

21. Topping - Excessive and arbitrary removal of all parts of the tree above and beyond a certain height with no regard for the structure or growth pattern of the tree. See also "pruning."

22. Tree - Any living, self-supporting woody or fibrous plant which is a conifer, evergreen, deciduous or ornamental, as defined herein.

23. Tree, Private - A tree located on private property, including property owned in common by more than one private (non-governmental) owner.

24. Tree, Public - A tree located on public property, such as a park.

25. Tree, Street - A tree placed in a row of trees lining a street, which row may be on public property or in a landscape easement on private property.

26. Tree Protection Zone - The area around a tree corresponding to the drip line and a minimum of ten (10) feet in all directions from the trunk, wherein no disturbance to or compaction of the soil is permitted.

27. Understory - Those trees that grow beneath the overstory.

D. Administration

The City tree ordinance shall be administered by the Code Enforcement Department

The Forester shall have the same enforcement power as a Code Enforcement officer with regard to this Section 23.

Specific areas of responsibility are assigned as follows:

1. Engineering Department

    a. Provide, by the Forester, determinations as to whether proposed measures regarding existing and new trees are in compliance with the requirements of this Section 23.

    b. Review development plans in accordance with the provisions of this Section 23 as a part of the review process of site development plans.

    c. Coordinate donations of trees or money to purchase trees.

    d. Provide inspection of development sites to ensure compliance with grading and tree protection requirements.

    e. Upon release of residential lots to Code Enforcement for issuance of building permits, transfer to Code Enforcement the locations of trees to be saved on lots.

2. Code Enforcement Department

    Provide overall enforcement of this Section 23 through the Director of Code Enforcement, upon determinations by the Forester as to compliance.

3. Planning Development

    Review development plans in accordance with the provisions of this Section 23 as a part of the review process of site development plans.

4. Planning Commission and Design Review Commission

    Review development plans for conformance with this ordinance.

5. City Beautiful Commission

    a. Recognize groups and individuals completing tree projects.

b. Perform other tree related duties and opportunities as requested by the Mayor.

PART II. Tree Protection

A. Protection of Existing Tree Cover

Commercial and residential developments within the City shall reflect the City's commitment to trees. This includes the preservation of existing trees where practical and the judicious planting of new tree materials.

1. Any construction work covered by this Section 23 that will remove or damage existing trees shall be subject to the requirements of parts

   - III.D.2, Development Other than Single-Family Residential;
   - III.F, Residential Subdivision Development; and
   - III.G, Grading Plan Review.

2. Adequate protection shall be given to trees scheduled to be preserved on a construction site as follows:

   a. Grading or filling and drainage design shall be adjusted to avoid disturbance to drainage or roots and to avoid soil compaction in the Tree Protection Zone.

   b. All trees on public property or on private construction sites that are scheduled for preservation shall be guarded by a four-foot high (4') (minimum) fence at a distance from the trunk corresponding to the Tree Protection Zone. The area within the fence shall be identified as a Tree Protection Zone, and no building material, dirt, other debris or any equipment or vehicles shall be allowed inside the barrier. This protection shall remain in place through the entire development process, from before initial clearing of the site through completion and final use and occupancy approval of the house or other building construction.

B. Tree Maintenance

The City shall have authority to require maintenance needed to keep both public trees and private trees reasonably healthy and to minimize the risk of injury to people or property. Care of public trees may be accomplished by City personnel, by contract with commercial tree care companies, or by adjacent property owners, as required by the City. Tree maintenance may include pruning, fertilization, watering, insect and disease control, tree surgery or other related activities.

1. Responsibility for Maintenance

It shall be the responsibility of each owner of property within the City to maintain in good condition trees and other landscaping (a) on the public right-of-way abutting the owner's property and (b) close enough to said right-of-way to affect public safety. The Code Enforcement Department, when it determines that such trees or other landscaping require maintenance, may order the same to be done.

Where an owner of property will be responsible, through a homeowners or property owners association, for the maintenance of commonly-owned property, then

- required maintenance of trees and other landscaping on the public right-of-way adjacent to such property shall become the responsibility of such association upon approval of the development by the City; and
- such requirement shall be included in conditions of approval of the development.

2. Notice of Required Maintenance

The Forester or the Director of Code Enforcement or his designee (hereinafter the "Code Enforcement officer") shall serve notice in writing upon the owner or owners of the property abutting or containing the trees or other landscaping to conduct such maintenance as requested within the time period provided herein from the date of notification. Such maintenance shall conform to all standards currently adopted and enforced through the zoning ordinance, subdivision regulations, and other codes of the City.

No permit shall be required to conduct maintenance required herein on trees or other landscaping. However, the Code Enforcement Department shall be notified prior to conducting such maintenance on the public right-of-way, and an inspection prior to and following such maintenance will be made by that Department to ensure compliance with City standards.

3. Tree Topping Prohibited

The practice of tree topping is prohibited on all public trees, street trees, and trees in non-single-family residential development and is strongly discouraged as a tree care practice for trees on single-family residential lots.

Crape myrtles shall be maintained as trees in non-single family-residential development if they were presented as trees in the landscape plan. Crape myrtles on single-family residential lots are not affected by this part B.3.

Proper pruning with branch removal at branch or trunk junctures is the best practice for limb removal.

4. Pruning

Tree pruning shall be performed in a manner that protects the public

a. Street, public and private trees growing along streets and sidewalks must be pruned free of limbs to a height of eight (8) feet for sidewalks and twelve (12) feet for streets, with no lateral growth permitted onto the sidewalk or street below this height.

b. Tree branches shall not obstruct the view of any street lamp, street sign or stop sign. Likewise, tree or shrub vegetation shall not obstruct any street intersection and shall be pruned such that a driver has a clear line of vision of traffic coming from either direction.

c. Private trees shall be kept pruned of any dead, diseased or dangerous limbs or branches which could fall into the right-of-way or onto public property and thereby constitute a menace to public safety.

C. Tree Removal

1. Trees that pose a safety or health risk to the public or to other trees shall be removed by the responsible party in a timely manner.

2. The City shall have the right to cause the property owner to remove any dead, diseased or structurally damaged trees on public or private property when such trees constitute a potential hazard to life and property within the right-of-way or on public property.

3. As a normal procedure, all stumps of public and street trees shall be removed below the surface of the ground by grinding or other methods.

D. Trees of Historic or Special Significance

Champion, Landmark, and Historic Trees can constitute a unique asset to the community. A tree so designated will be given special protection, maintenance and recognition as the situation warrants.

E. Enforcement

1. Reporting

Whenever a complaint is filed charging that any property is in violation of this Section 23 and/or whenever it appears to the Code Enforcement officer that any property is in violation of this Section 23, the Code Enforcement officer shall issue and cause to be served upon the owner of and parties in interest in such property a written notice of the existing violations, as provided in parts II.B.2 and II.C.2. The owner of and parties having an interest in said property shall have ten (10) calendar days from the receipt of such notice to (a) perform the maintenance to be in compliance with this Section 23 or (b) request more time to perform the maintenance or (c) exercise the right to appeal to the Property Maintenance Code Board of Appeals.

Complaints, orders and notices issued by the Code Enforcement officer shall be served personally or by registered mail. If the person to be served cannot be found, in the exercise of reasonable diligence, the Forester or the Code Enforcement officer shall make an affidavit to that effect. Then the serving of such complaint or order upon such persons may be made by publishing the same in a newspaper of general circulation in the City of Bartlett. A copy of such complaint, notice or order shall be posted in a conspicuous place on the premises affected by the complaint, notice or order.

2. Right of Appeal

If, upon receiving such notice, the person or persons notified disagree with the decision of the Code Enforcement officer, then they shall have the right of appeal to the Property Maintenance Code Board of Appeals within ten (10) calendar days. An application for appeal shall be based on a claim that the true intent of this Section 23 has been incorrectly interpreted, the provisions of this Section 23 do not fully apply, or the requirements of this Section 23 are adequately satisfied by other means, or that the strict application of any requirement of this Section 23 would cause an undue hardship. The Property Maintenance Code Board of Appeals may affirm, reverse or modify the decision of the Code Enforcement officer.

3. Failure to comply

If the owner fails to comply with an order to conduct the required maintenance, the Forester or the Code Enforcement officer may cause such maintenance to be conducted or may contract for the same.

4. Cost Assessed to Property Owner

The owner of the property where the Code Enforcement officer had the maintenance performed shall be liable for all costs incurred by the Forester of the Code Enforcement officer on behalf of the city relating to such action. The city attorney shall take steps to collect such actual costs plus an administrative fee equal to the greater of five (5) percent of the costs or one hundred dollars ($100), and to protect the city's interests in collecting such costs.

5. Notice to Finance Department

The Forester or the Code Enforcement Department shall provide to the Finance Department a record of required maintenance as inspections occur. Such notice shall be filed with the tax records for the property, so that any person purchasing such property, upon inquiring as to taxes due on the property, will receive notice of the obligation to pay the cost of such maintenance.

F. Fees and Penalties

Damage to or unapproved removal of an existing tree intended to be retained on a site will be subject to the maximum penalty allowed by state law.

A Subdivision Development Contract shall require a fee of $500 each for damage to or unapproved removal of an existing tree intended to be retained on a site.

For land disturbance or building on a lot where (1) a Subdivision Development Contract is not required and (2) a grading or building permit is required for an activity (under "III.G, Grading Plan Review"), an additional permit fee of $500 each shall be applied for damage to or unapproved removal of an existing tree intended to be retained on a site.

PART III. Construction Requirements and Approvals

A. General Requirements

For the purposes of this Section 23, public areas shall be defined as land owned by the City of Bartlett.

Tree planting shall be a required activity on public areas and on private property to which this Section 23 is applicable.

A planting program shall be developed by the City for all public areas and conducted in a systematic manner to assure diversity of age, classes, and species.

1. Sizes Defined

For the purpose of this ordinance, trees reaching up to twenty-five (25) feet in height at maturity are designated as small-density trees. Medium-density trees will mature at twenty-five (25) to fifty (50) feet. Large-density trees will mature at heights greater than fifty (50) feet.

2. Protection of Overhead and Other Utilities

   a. Street trees with a mature height of up to twenty-five (25) feet shall be planted at least twenty (20) feet from any overhead utility wire.

      Street trees with a mature height of more than twenty-five (25) feet and up to fifty (50) feet shall be planted at least twenty-five (25) feet from any overhead utility wire.

      Street trees with a mature height of more than fifty (50) feet shall be planted at least forty (40) feet from any overhead utility wire.

   b. No tree shall be planted within a utility easement.

3. Location Restrictions

   a. In street plantings, no tree shall be planted closer than ten (10) feet to a fire hydrant, utility pole or street light. No tree shall be planted within fifteen (15) feet of a driveway/street intersection, or within a visibility triangle as defined under Article VI, Section 15 of this Ordinance.

   b. Trees planted adjacent to sidewalks or curbs should not be planted any closer to either structure than two (2) feet for small trees, three (3) feet for medium trees and four (4) feet for large trees. However, trees planted in proper tree wells are not subject to these limitations.

4. Maintenance

   The trees and plant material required by this Section 23 for land uses other than single-family residential homes on individual lots shall be maintained in perpetuity by the owner (including a homeowners or property owners association), until a new site plan is approved and executed. This maintenance includes mowing, trimming, pruning, disease and pest control, weed control, fertilizing, watering, and dead plant replacement. If any such tree or plant material dies or is topped or is removed for any reason, it shall be replaced by the owner.

B. Trees to be Planted

1. Compatibility

Trees scheduled for planting for residential and non-residential developments must be quality specimens whose physical site requirements are compatible with the intended development.

2. Species Selection

a. All trees planted under the requirements of this Section 23 shall be of a species referenced on the City's recommended tree list (Attachment A) or approved by the Forester.

b. A minimum of twenty percent (20%) of all tree plantings shall be evergreen/coniferous species.

c. Species selection for the circumstances of a particular site is subject to site plan review and approval by the Forester.

3. Condition

All trees shall be free of insects, diseases, or mechanical injuries and have straight trunk(s) and a form characteristic of the species.

4. Minimum size when planted

Except as otherwise provided herein or specified by a licensed landscape architect for particular species, small-density trees shall be 6' to 8' high when planted, and medium-density trees shall be 8' to 10' high when planted. Large density trees planted for residential and non-residential developments shall be no smaller than 2" - 2 ½" caliper (measured at 12" above the ground, and in accordance with American Standards for Nursery Stock, ANSI Z60.1-1996). Street and parking lot trees shall be no smaller than 2.5" - 3" caliper, to assure minimum limb clearance height adjacent to streets, parking lots, and drives at the time of planting.

C. Official City Trees

It is hereby decreed that the Cherrybark oak shall be the official City tree. This selection is made because of its history, superior form and shape, and its strength and lifespan in our geographic area. While it is not recommended that this species be selected over other species in planting on public or private property, it is recommended that the tree be recognized as a symbol of the Bartlett community.

Further, seasonal City Trees are hereby designated, to offer citizens and businesses seasonal color and a wider range of suggestions, as follows:

- *Spring:* Yoshino cherry
- *Summer:* Crape myrtle (Natchez or Muskogee)
- *Fall:* Black tupelo
- *Winter:* Ilex deciduas (deciduous holly)

D. Development Other than Single-Family-Residential

On all new development other than single-family residential, planting areas shall be provided as described herein.

1. Landscape Architect

   Landscape planting, irrigation, and site amenity plans in compliance with these requirements shall be drawn by a registered landscape architect.

2. Landscaping Plan

   Plans shall demonstrate compliance with this Section 23 and shall include the following:

   a. Scale of 1" = 20' or a scale approved by the Planning and Economic Development Department.

   b. North arrow, graphic and written scale.

   c. Name and address of owner.

   d. Name and address of person preparing plan.

   e. Plant Schedule including species, common and botanical names, caliper, planting height, spread, quantities.

   f. Locations of all proposed plant materials.

   g. Tree survey as required in part III.H., "Tree Survey."

   h. Calculations demonstrating compliance with density requirements.

   i. Visibility triangles for entrances and intersecting streets.

   j. All existing and proposed utilities and utility easements.

   k. Seal and dated signature of Landscape Architect.

3. Frontage planting area

   On all street frontages, a landscaped depth of at least twenty (20) feet from the right-of-way line shall be provided, with or without berms,

depending on topography. Plates 23A, 23B, and 23C shall be used as guidelines for planting patterns. The landscaped depth may be increased and the Plates adjusted to accommodate overhead wires in accordance with part III.A.2, "Protection of Overhead and Other Utilities."

4. Parking areas

   a. A maximum of fifteen (15) parking spaces shall be allowed between planting islands along the street frontage.

   b. A mixture of shrubs, deciduous as well as evergreen, shall be provided.

   c. A planting island shall have a minimum area of 400 square feet for a large density tree (20' square or 22.5' diameter), 300 square feet for a medium density tree (17.3' square or 19.5' diameter), and 200 square feet for a small density tree (14.1' square or 16' diameter).

   d. All parking spaces shall be within a maximum distance of seventy-five feet (75') from a tree.

5. Green/open space generally

   a. A minimum of thirty-five percent (35%) of the total land area of the lot, excluding building footprints and pavement, shall be in green/open space.

   b. Green/open space shall be distributed over the lot in proportion to the land areas between the building and the property lines.

   c. Where land will be subdivided in a manner that distribution of green/open space required under 5.a and 5.b above on each lot is impractical, such distribution may be approved through submittal and approval by the Planning Commission of a Master Plan for compliance with these requirements over the entirety of the property to be developed.

   d. Trees shall be planted in green/open space in accordance with part III.E, "Site Plan Review."

   e. One percent (1%) of the green/open space shall be planted in seasonal color.

   f. Irrigation of the green/open space shall be required on the site of construction of a new building. Installation of irrigation shall not be required on the site of change of occupancy or additions to or renovation of an existing building.

      The irrigation system shall be in compliance with the following:

- Automatic controlled with timer.
- Sufficient coverage of all landscaped areas.
- Shall not spray onto paved areas, including sidewalks, driveways, streets, and parking and loading areas.
- Equipped with a reduced pressure principle backflow prevention device, which shall be inspected annually by a certified tester.
- Low-volume water conservation measures encouraged.

For a site with a landscaped area small enough that it can be maintained without an irrigation system, the irrigation requirement may be waived by the Board of Mayor and Aldermen upon submittal in the landscaping plan of reasonable alternative means of watering the area.

Drought-tolerant plant materials are encouraged.

6. Screen between Single-Family Residential and All Other Land Uses

A twenty-foot-deep (20') landscape screen, Plate 23D, shall be provided at the boundary between single-family residential use (or zoning, if the land is vacant) and all other land uses, on the property of the other use.

a. The landscape screen shall have the following configuration:

- 6' wood fence at the property line, with 2' square brick or stone columns at not more than 20' on centers, including at the property corners of the adjacent residential lots. Spacing of the brick or stone columns shall be determined in the same manner as in Article VI, Section 19, Fences, part F.6.
- Face of the columns and face of the fence flush at the residential property line.

  The fence shall be of shadowbox design unless a solid fence, with the smooth side toward the single-family-residential use, is approved by the Design Review Commission.
- Large evergreen shrubs at 6' on centers.

- Large-density deciduous shade trees, 2 ½" caliper, at 50' on centers.

- Between each pair of large-density trees, five (5) evergreen trees at 12' on centers (double rows, offset), 6' - 8' height when planted.

b. Use multiple layers of plant materials to provide a visually interesting mix, including consideration of berms.

c. Provide topography on the landscape plan, and show grades relative to adjacent residential lots.

d. Where irrigation of the green/open space is required in accordance with part III.D.5.f, irrigation of the landscape screen also shall be required.

Cross-reference. See also the requirements for screening of double-frontage residential lots, Article VI, Section 19, Fences.

7. Stormwater detention basins

Detention basin landscaping may be required by Engineering staff. Such landscaping may include a mix of deciduous, evergreen, and ornamental trees, shrubs, and groundcover. Areas not covered by plantings shall be seeded or sodded to minimize erosion. These areas may require irrigation depending on plant material selection. (See 8.d. below.)

8. Recommended plant materials

In addition to Attachment A, lists of recommended plant materials are available as follows:

a. Shrubs by category (deciduous, semi-evergreen, and evergreen) and size (small, medium, large).

b. Landscape screening plants (shrubs and trees).

c. The City of Bartlett Plant Index listing and describing trees; shrubs and vines; ornamental grasses, groundcovers, and ferns; perennials; and annuals.

d. For a detention basin, a template and specific list of plants may be provided by the Forester; or he may review the plant selection provided by the developer's engineer.

9. Bond

The developer will bond with the Engineering department the cost of landscaping prior to starting construction.

Such bond shall be in the amount of the bid price or the contract price for the work, whichever is determined by the Forester to be the best representation of the work. A cost estimate for the work shall be submitted for review by the Forester.

E. Site Plan Review

On developments that are required to have site plan approval by the Planning Commission and Design Review Commission, the quantity of trees on a site must meet a minimum tree density criterion in addition to the trees required in the frontage planting areas.

1. The site requirement is twenty (20) density units per acre.

2. Both existing trees and newly planted trees contribute to the total density, with the minimum tree size considered for existing trees to be six (6) inches DBH and the maximum tree size for existing trees to be forty (40) inches DBH.

F. Residential Subdivision Development

1. Tree Survey

A tree survey in accordance with part III.H, "Tree Survey," shall be prepared and submitted with a subdivision Master Plan application.

2. Trees to be Removed

The following trees may be shown as "to be removed":

a. Any tree lying within the proposed buildable area of a lot (bounded by the minimum yards) or within a proposed street right-of-way.

b. Any tree in an area that must be filled or cut, as determined by the City Engineer.

c. Any other tree where the Forester confirms that

- roots within the drip line of the tree are likely to be damaged by construction of a house, driveway, street, sidewalk, or utility lines to the degree that the tree will not survive, or

- limbs will have to be pruned away from a house to the degree that the tree will be so disfigured as to be of significantly less value, or

- the tree will cause functional problems for use of the house, such as blocking doorways or windows or the ability to pass through a side yard, such determination to be made in consultation with the Forester and the Director of Code Enforcement.

d. Trees in or adjacent to public sanitary sewer, water, and stormwater drainage easements where removal is determined by the City Engineer to be necessary.

Removal of trees under "a" and "b" above and especially other trees shall be subject to a determination of the Planning Commission that the following are not feasible:

- Adjust the layout of lots and streets or grading of lots to retain specific trees proposed to be removed.

- Retain groups of trees or larger individual trees by enlarging one or more adjoining lots or creating common open space, a park, or a landscaped median or cul-de-sac island around such trees or groups of trees.

3. Grading

Development of a subdivision as well as preparation of a lot for and construction of a single-family house is subject to part III.G, "Grading Plan Review."

4. Yard Trees

In residential subdivisions, at least one tree from the approved list with a minimum of 1.5 caliper-inches shall either exist or shall be planted in the front yard of every lot prior to issuance of a final permit approval.

5. Street Trees

On collector and arterial streets, where

- single-family residential lots face the street and

- depth is added to the right-of-way on each side to provide for a planting strip deeper than the conventional 4.5 feet between the sidewalk and curb.

place at least one street tree per lot in the additional depth. Use species indicated by the City to be suitable as street trees.

G. Grading Plan Review

1. Applicability

A grading or building permit shall be required for all grading, earth-moving, changing of elevation of property, or removal of live trees. This requirement applies to all such work, including the following:

- Work for which a site plan or a subdivision Construction Plan or Final Plan is required and has been approved by the Planning Commission. Application for a permit shall be to the Engineering Department.

- Work on a single-family residential lot for which a plot plan for a new house is required and has been approved by the Code Enforcement Department. Application for a permit shall be to the Code Enforcement Department.

- Work on any other lot where the owner has not obtained a permit for a site plan, subdivision, or plot plan for a house. Application for a permit shall be to the Code Enforcement Department.

2. Submittals

Permits may be obtained after the submittal of a written statement of the purpose of the work and a grading plan, site plan, or plot plan prepared by a licensed surveyor, landscape architect, architect, or engineer.

The grading plan, site plan, or plot plan shall include the following (see also parts III.D and III.F):

a. A tree survey in accordance with part III.H, "Tree Survey."

b. The nature and extent of the proposed grading, earth-moving or change in elevation.

c. Applicant's plans for controlling on-site-generated sedimentation, erosion and run-off.

3. Approval

A grading permit application shall be approved if the department authorized to accept the application determines that the following criteria are met:

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

b. The application addresses the saving of existing trees when warranted.

c. The application provides for sufficient and timely replanting of trees to compensate for the removal of trees and foliage.

d. Preserved and replanted trees meet the minimum tree density, where applicable.

e. The applicant intends to complete development according to a time schedule or has taken steps to prevent any negative impacts resulting from the work proposed.

H. Tree Survey

A tree survey shall be submitted for subdivision or site plan development. The survey shall include the entire property and not less than 25 feet outside the perimeter of any area to be disturbed by development.

1. Preliminary Master Plan Survey

A preliminary survey shall be submitted as part of the Master Plan for the development, which shall show the boundary of clusters of trees, based on aerial photography. Individual trees within the clusters need not be shown, but isolated individual trees shall be shown. A Certified Arborist shall review the clusters or isolated trees and designate "trees worthy of retention," in accordance with the following criteria:

a. *Listed*. The tree is on Attachment A below, the recommended list of trees by category (deciduous or evergreen) and size.

b. *Height*. The tree has attained a significant portion of the mature height characteristic of the species; that is, so many years' growth are invested that the tree should be considered for retention rather than replaced elsewhere on the site. (See the small-, medium-, and large-density trees in Attachment A.)

c. *Form*. If a tree meeting criteria #1 and #2 is isolated or likely to become isolated by removal of surrounding trees, the tree has attained a form (branching pattern, including symmetry) characteristic of a free-standing tree of that species.

d. *Designation*. A tree is designated a Champion, Landmark, or Historic Tree.

The tree survey shall be prepared on a sheet with existing topography and the proposed subdivision street and lot layout or proposed site plan. The City Forester may require additional tree survey work if, after a site visit and review of the tree survey submitted, the Forester determines that all trees meeting the above criteria are not shown.

No survey shall be required in required buffers for state-protected streams, but protective plans shall be developed to ensure that no damage occurs to these trees.

2. Final Construction Plan Survey

The survey at the Construction Plan level shall show three types of areas:

a. Trees worthy of retention (trees not to be disturbed). All trees in the zone shall be saved by the developer and builder.

b. Marginal coverage (trees to be taken out only with a permit at the builder level). The developer shall save these trees; and the builder shall submit a plan to Code Enforcement justifying removal of individual trees.

c. Removal zone (take-out zone). The trees may be removed by the developer.

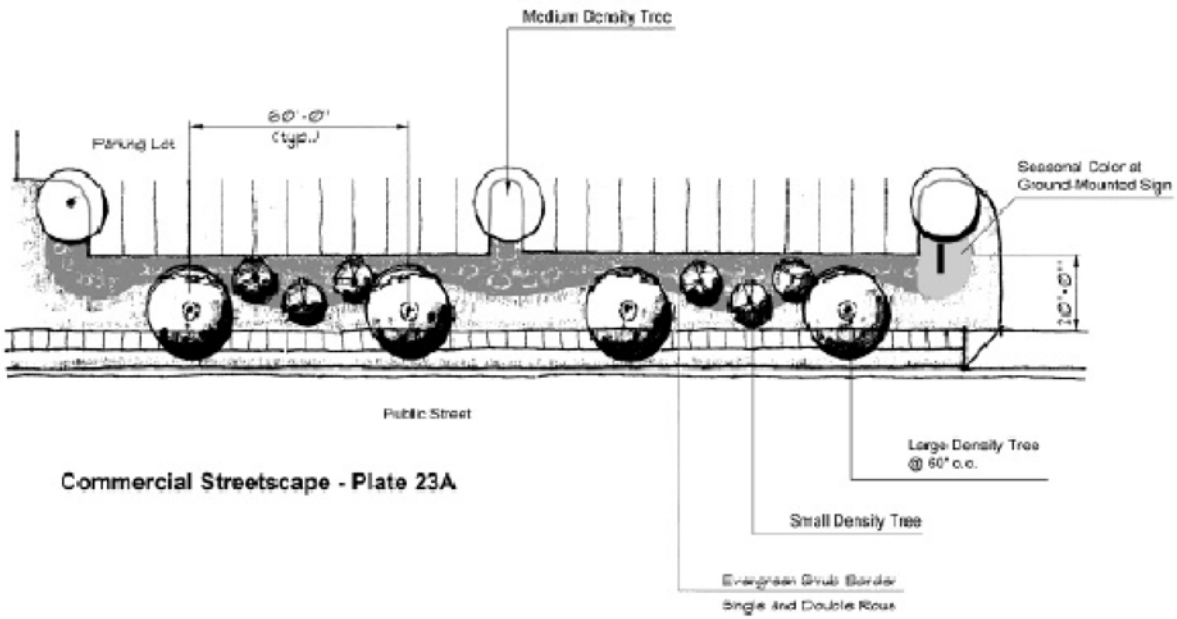
The three types of tree construction activity shall be located with an accurate survey shown on the plan. A protection plan will be devised for trees to be saved and submitted with construction Plans for approval. The protection plan will be reviewed and signed by the arborist and surveyor. All trees worthy of protection and groups of trees to be protected shall be delineated on the plat for protection. An additional sheet will be added to the final plat designating "trees worthy of retention" and "marginal" areas.

Attachment A. Trees by Category and Size
(bold type--Recommended street trees *-Recommended for use under and adjacent to overhead utility lines)
This list may be amended by Resolution of the Board of Mayor and Aldermen

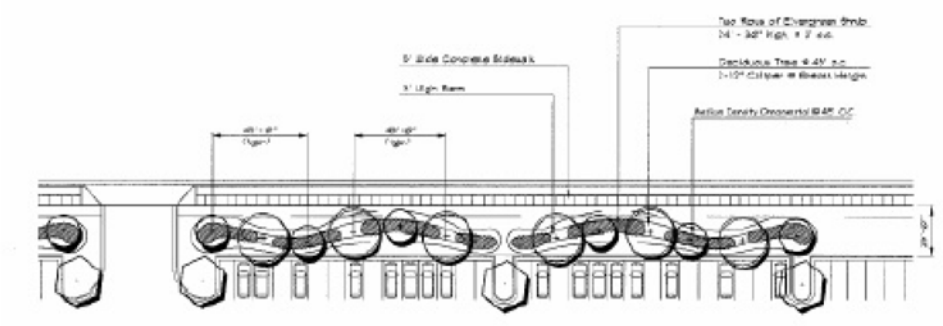
	Deciduous		Evergreen	
Small Density	**Bloodgood Japanese maple*** . . . . . . **Coral bark Japanese maple*** . . . . . . **Serviceberry*** . . . . . . Forest Pansy redbud . . . . . . **Smoketree** . . . . . . **Kousa dogwood*** . . . . . . **Winter King hawthorne*** Deciduous holly (possum haw) . . . . . . **Carolina Beauty crape myrtle*** . . . . . . **Catawba crape myrtle*** . . **Muskogee crape myrtle*** **Star magnolia*** . . . . . . Royal Star magnolia* . . . . . **Carolina cherrylaurel*** . . **Flowering plum*** . . . . . . Weeping Higan cherry . . . . Okame cherry . . . . . . Chastetree	*acer palmatum "Bloodgood"* *acer palmatum 'Sango-kaku'* *amelanchier spp. 'Autumn Brilliance 'Robin Hill,' 'Tradition'* *cercis canadensis 'Forest Pansy'* *continus coggygria* *cornus kousa* *crategus viridis 'Winter King'* *ilex deciduas* *lagerstroemia indica 'Carolina Beauty'* *lagerstroemia indica 'Catawba'* *lagerstroemia indica 'Muskogee'* *magnolia stellata* *magnolia stellata 'Royal Star'* *prunus caroliniana* *prunus cerasifera* *prunus subhirtella 'Pendula'* prunus x 'okame' vitex	Burford holly (tree-form) . . . . . . Yaupon holly (tree-form) . . . . . . Nellie R. Stevens holly Mary Nell holly . . . . . . Emily Bruner holly . . . Hollywood juniper . . . . Wax myrtle . . . . . . Emerald Green arborvitae	*ilex cornuta 'Burfordi'* *ilex vomitoria* *ilex x 'Nellie R. Stevens'* *ilex x 'Mary Nell'* *ilex x 'Emily Bruner'* *juniperus chinensis 'Torulosa'* *myrica cerifera* *thuja occidentalis 'Emerald Green'*

	Deciduous		Evergreen	
Medium Density	**Trident maple*** . . . . . . **Hedge maple*** . . . . . . Amur maple . . . . . . **Bowhall red maple** . . . . . . **Eastern redbud*** . . . . . . Red, white, pink dogwood . . **Thornless hawthorne*** . . **Golden raintree*** . . . . . . **Natchez crape myrtle*** . . **Saucer magnolia*** . . . . . . Sweetbay magnolia . . . . . . **Crabapple (various)*** . . . . Pistachio . . . . . . **Kwanzan cherry*** . . . . . . **Yoshino cherry*** . . . . . . Cleveland Select pear . . . . . **Greenspire linden**	acer buergeranum acer campestre acer ginnala acer rubrum 'Bowhall' cercis canadensis cornus florida crateaegus spp. koelreuteria paniculata lagerstroemia indicia 'Natchez' magnolia x soulangiana magnolia virginiana malus species pisticia vera prunus serrulata 'kwanzan' prunus serrulata 'Yoshino' pyrus celleryana 'Cleveland Select' tilia cordata 'greenspire'	Deodar cedar . . . . . . Hinoki cypress . . . . . . Savannah holly . . . . . . Fosters holly . . . . . . Burki juniper . . . . . . Little Gem magnolia . . Leyland cypress	*cedrus deodra* *chamaecyparis obtusa* *ilex x 'Savannah'* *ilex x attenuata 'Fosteri #2'* *juniperus virginiana 'Burki'* *magnolia grandiflora 'Little Gem'* *x cupressocyparis Leylandii*

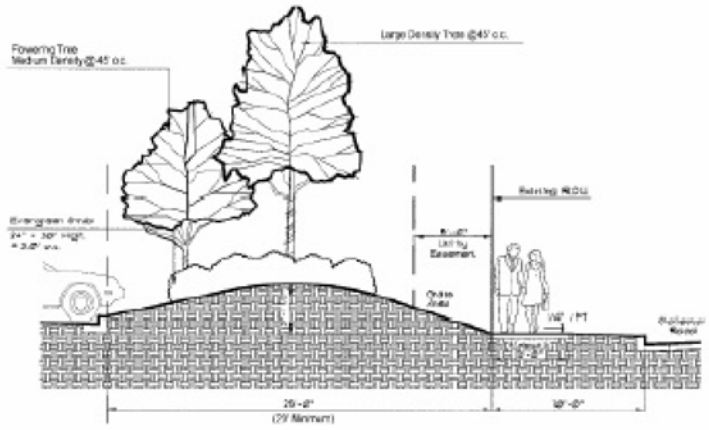
	Deciduous		Evergreen	
Large Density	Columnar Norway maple . .	*acer platanoides 'Columnar'*	Blue Nootka false cypress	*chamaecyparis nootkatensis 'glauca'*
	Armstrong red maple	*acer rubrum 'Armstron'*		
	October Glory red maple . . .	*acer rubrum 'October Glory'*		
	Autumn Blaze maple	*acer x freemanii*	Southern magnolia . . .	*magnolia gradiflora*
	American Yellowwood	*cladrastis lutea*	Eastern red cedar	*juniperus virginiana*
	Persimmon	*diospyros virginiana*	Japanese black pine . .	*pinus thunbergiana*
	Green ash (hybrids)	*fraxinus pennsylvanica*	Virginia pine	*pinus virginiana*
	Ginkgo (male only)	*ginkgo biloba*		
	Thornless honeylocust	*gleditsa triacanthos var. inermas*		
	Seedless sweetgum	*liquidambar styraciflua*		
	Tulip tree or yellow-poplar	*'Rotundiloba'*		
	Dawn redwood	*liriodendron tulipifera*		
	Black tupelo	*metasequoia glyptostroboides*		
	London planetree	*nyssa sylvatica*		
	Sawtooth oak	*platanus x acerifloria*		
	Swamp white oak	*quercus acutissima*		
	Southern red oak	*quercus bicolor*		
	Shingle oak	*quercus falcate*		
	Burr oak	*quercus imbricaria*		
	Chinkapin oak	*quercus macrocarpa*		
	Water oak	*quercus muehlenbergrii*		
	Nuttal oak	*quercus nigra*		
	Cherrybark oak	*quercus nuttallii*		
	Pin oak	*quercus pagoda*		
	Willow oak	*quercus palustris*		
	English oak	*quercus phellos*		
		quercus robur 'Skyrocket'		
	Northern red Oak	*'Pyramich,' 'Fastigiata'*		
	Bald-cypress	*quercus rubra*		
	American elm	*taxodium distichum*		
	Lace bark (or Chinese) elm	*ulmus americana*		
	Japanese zelkova	*ulmus parvifolia*		
		zelkova serrata		



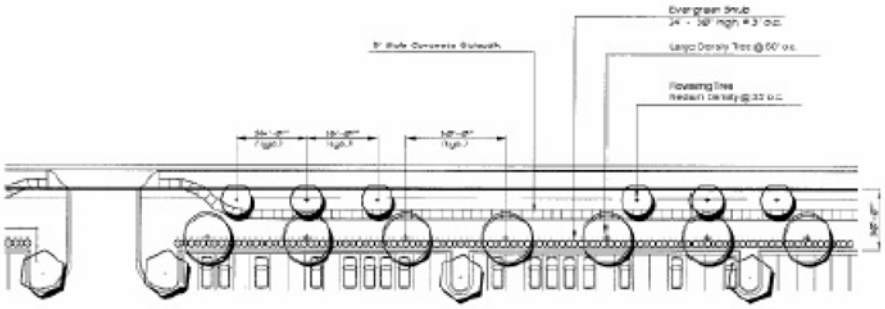
Commercial Streetscape - Plate 23A



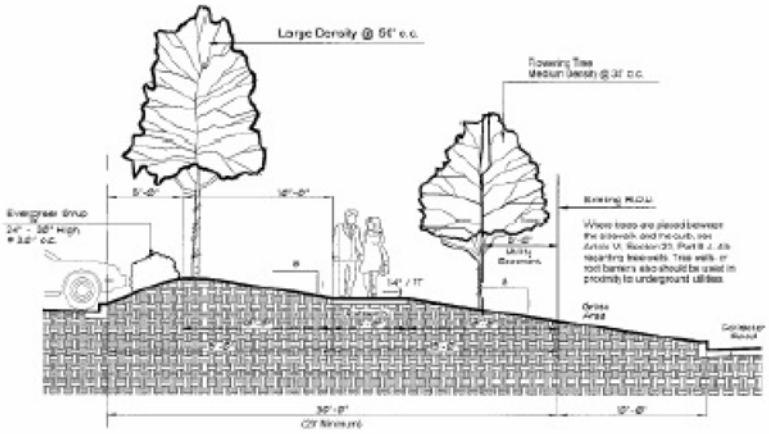
Commercial Streetscape Plate 23B



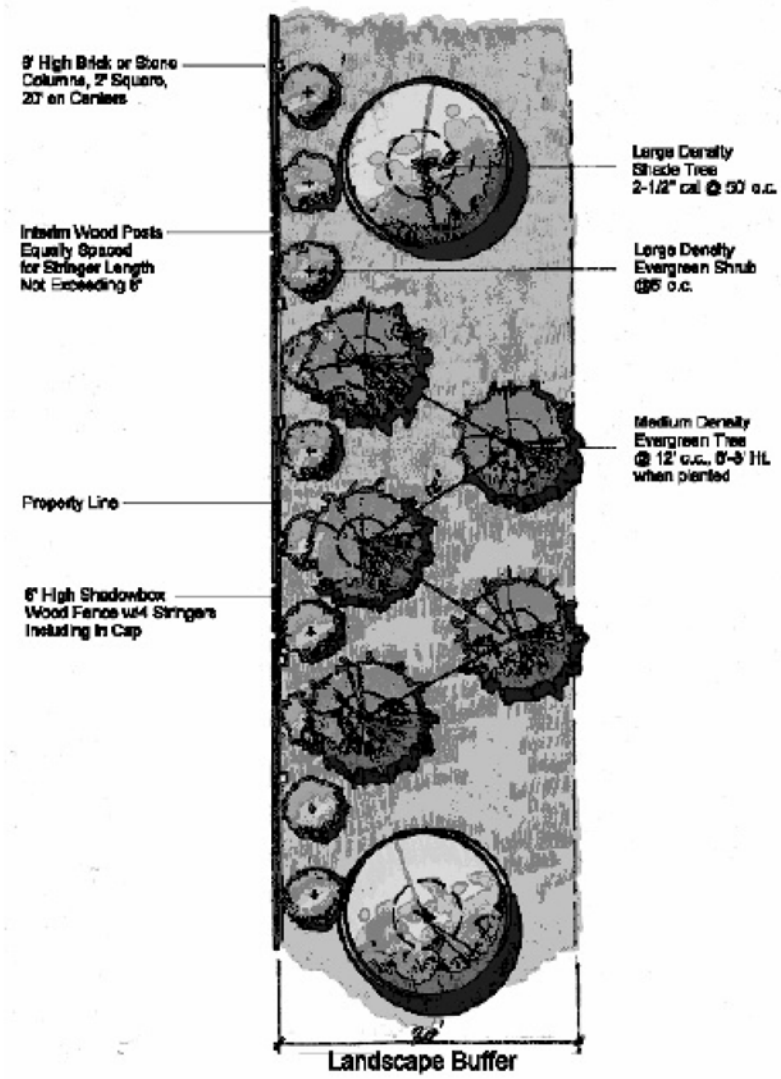
Commercial Streetscape Plate 23B



Commercial Streetscape Plate 23C



Commercial Streetscape Plate 23C



Screen Between Single-Family Residential and All Other Land Uses
Plate 23D

Section 24 - H - Historic Preservation Overlay Zone

(Ord. 99-12, 10/26/99)

A. PURPOSE

The purpose of this section is to describe and to provide for identifying the boundaries of areas wherein the provisions of Article VI, Section 25, Historic Preservation, apply.

B. RELATION BETWEEN HISTORIC PRESERVATION OVERLAY ZONES AND ZONING DISTRICTS

(Amended by Ord. 02-16, 12/10/02)

A historic preservation overlay zone is not a separate zoning district. Instead, it is an area within which additional requirements are imposed to supplement those of the underlying zoning districts in Article V. A single historic preservation overlay zone may extend over more than one zoning district.

The boundary of a historic preservation overlay zone and the boundaries of any underlying zoning districts are established independently and are not necessarily coincident. A historic preservation overlay zone may encompass all or only a portion of a particular zoning district.

Requirements for any area within a historic preservation overlay zone are

- the same as those for the underlying zoning district, including any special use permits approved in accordance with the Zoning Ordinance, plus
- the additional requirements of Article VI, Section 25, Historic Preservation.

C. DESIGNATION ON THE ZONING MAP

A historic preservation overlay zone shall be identified on the Official Zoning Map by marking the boundary and placing within the boundary the letter "H," together with such supplementary designation as is required by Article VI, Section 25, Historic Preservation.

Section 25 - Historic Preservation

(Ord. 99-12, 10/26/99)

A. STATEMENT OF PURPOSE

This Historic Preservation Ordinance is intended to promote and protect the health, safety, prosperity, education, and general welfare of the people living and visiting the City. More specifically, this Ordinance is designed to achieve the following goals:

1. Protect, enhance and perpetuate resources which represent distinctive and significant elements of the City's historical, cultural, social, economic, political, archaeological, and architectural identity.

2. Insure the harmonious, orderly, and efficient growth and development of the City.

3. Strengthen civic pride and cultural stability through neighborhood conservation.

4. Stabilize the economy of the City through the continued use, preservation, and revitalization of its resources.

5. Promote the use of resources for the education, pleasure, and welfare of the people of the City.

6. Provide a review process for the preservation and development of the City's resources.

B. DEFINITIONS

1. **Historic Resource.** A Historic Resource is a building, structure, object or site, at least fifty (50) years in age, which represents distinctive and significant elements of the City's historical, cultural, social, economic, political, archaeological and architectural identity.

2. **Historic Preservation District.** A Historical Preservation District is an area containing a group of contiguous properties where only normal maintenance and repairs, which do not alter the architectural characteristics of the properties, can be made without specific approval of the Commission.

3. **Historic Conservation District.** A Historic Conservation District is an area containing a group of contiguous properties where normal maintenance and repairs, including some alterations can be made without specific approval of the Commission.

4. **Historic Landmark District.** A Historic Landmark District is a collection of scattered, individual Landmark sites, which all meet the same criteria established by the Commission.

5. **Certificate of Appropriateness.** In a Historic District, a property owner, in most instances, will need a certificate of Appropriateness issued by the Historic Preservation Commission, as well as the normal permit issued by Bartlett Codes Enforcement, before commencing construction, alteration, relocation or demolition of a property.

6. **City building official.** The City of Bartlett's Director of Code Enforcement shall serve as the City building official as the term is used herein.

7. **Design review guidelines.** The Historic Preservation Commission will establish design review guidelines for each district and landmark with input from the property owners of the district or landmark. These guidelines will, among other things, determine what repairs, maintenance and alterations will or will not require a Certificate of Appropriateness.

8. **Property.** A property is any official subdivision lot and the improvements thereon.

9. **Economic Hardship.** The definition of economic hardship depends on what kind of property it is; income producing, residential, or a property owned by a not-for-profit organization.

    a. For an income-producing property, it is centered on whether or not a property can produce a reasonable rate of return on investment, if managed properly. The owner's financial circumstances are not to be considered; only the property's capability of generating a reasonable return. Also, if a property earns a reasonable rate of return, it would not be an economic hardship to prevent the construction of a new building that is capable of generating a higher rate of return. To prove economic hardship, the owner will be required to show that he realizes poor or non-existing earnings from the property; that he has made an honest effort to make a reasonable return; that he has considered alternative uses of the property, and he has been unsuccessful in trying to sell the property at a fair price to someone who would preserve it.

    b. Not-for-profit owners have a different standard for determining economic hardship. Here, the test is whether the property's historic designation physically or financially prevents or seriously interferes with carrying out the owner's non-profit purpose. To

prove economic hardship, the owner will be required to show the non-profit purpose of organization; how the property is interfering with achieving that purpose and that the owner has considered alternative ways the organization could achieve it's purpose without harming the property.

c. Economic hardship for homeowners is still another standard. The question is whether the historic home is capable of continued use as a home. Costs of real estate taxes, insurance, utilities, maintenance and repairs for older homes are higher than average, but may not interfere with the property's use as a residence. However, depending on the size of the property and the amount of expense necessary to occupy and maintain it, the feasibility of preserving it as a residence may diminish. To prove economic hardship, the owner will be required to show recent and anticipated costs of occupying and maintaining the property as a residence and why it is infeasible to continue doing so. The owner's financial circumstances may be considered.

C. HISTORIC COMMISSION: COMPOSITION AND TERMS

In accordance with Tennessee Code Annotated, § 13-7-401, the City hereby establishes a Historic Preservation Commission to preserve, promote, and develop the City's historical resources and to advise the City on the designation of preservation districts, conservation districts, landmarks, and landmark sites and to perform such other functions as may be provided by law.

The Historic Preservation Commission shall consist of nine (9) members, who shall be Bartlett citizens, including a representative of a local patriotic or historical organization; an architect or engineer, if available; a person who is a member of the Board of Mayor and Aldermen at the time of his/her appointment; a person who is a member of the City of Bartlett Planning Commission at the time of his/her appointment; and a person who is a member of the City of Bartlett Design and Review Commission at the time of his/her appointment. The remainder shall be from the community in general.

All members of the Historic Preservation Commission are appointed by the Mayor of the City of Bartlett, are approved by the City of Bartlett Board of Mayor and Aldermen, and serve at the will and pleasure of the Mayor. Members shall serve five-year terms and may be re-appointed. To achieve staggered terms, initial appointments shall be one member for one year, two members for two years, two members for three years, two members for four years and two members for five years. Members shall not receive a salary. All Commission members shall have a demonstrated knowledge of or interest, competence, or expertise in historic preservation, to the extent available in the community. The

Mayor should appoint professional members from the primary historic preservation-related disciplines of architecture, history, architectural history, or archaeology or from secondary historic preservation-related disciplines such as urban planning, American studies, American civilization, cultural geography, cultural anthropology, interior design, law, and related fields. The Mayor shall make a "good faith effort" to locate professionals to serve on the Historic Preservation Commission before appointing lay members. The Historic Preservation Commission shall also seek the advice, as needed, of professionals not serving on the board.

D. POWERS OF THE COMMISSION

1. The Historic Preservation Commission shall conduct or cause to be conducted a continuing study and survey of resources within the City.

2. The Historic Preservation Commission shall recommend to the Planning Commission and the Board of Mayor and Aldermen the adoption of ordinances designating preservation districts, conservation districts, landmarks, and landmark sites.

3. The Historic Preservation Commission may recommend that the Board of Mayor and Aldermen recognize sub-districts within any preservation or conservation district, and the Historic Preservation Commission may adopt specific guidelines for the regulation of properties within such a sub-district.

4. The Historic Preservation Commission shall review applications proposing construction, alteration, demolition, or relocation of any resource within the preservation districts, conservation districts, landmarks, and landmarks sites.

5. The Historic Preservation Commission shall grant or deny certificates of appropriateness and may grant certificates of appropriateness contingent upon the acceptance by the applicant of specified conditions.

6. The Historic Preservation Commission does not have jurisdiction over interior arrangements of buildings and structures, except where such change will affect the exterior of the buildings and structures.

7. The Historic Preservation Commission may apply to the Board of Mayor and Aldermen for appropriations for the purpose of carrying out the provisions of this ordinance.

8. The Historic Preservation Commission is authorized to request technical assistance from the staff of the City of Bartlett as may be required for the performance of its duties.

9. The Historic Preservation Commission is authorized, solely in the performance of its official duties and only at reasonable times and with the owner's permission, to enter upon private land or water for the examination or survey thereof. No member, employee, or agent of the Historic Preservation Commission shall enter any private dwelling or structure without the express consent and presence of the owner of record or occupant thereof.

E. RULES OF ORDER (BY-LAWS)

To fulfill the purposes of this ordinance and carry out the provisions contained therein, the Historic Preservation Commission shall take the following actions:

1. The Historic Preservation Commission annually shall elect from its membership a chairman and vice-chairman. It shall select a secretary from its membership or its staff. If neither the chairman nor the vice-chairman attends a particular meeting, the remaining members shall select an acting chairman from the members in attendance at such meeting.

2. The Historic Preservation Commission shall develop and adopt rules of order (by-laws) which shall govern the conduct of its business, subject to the approval of the Board of Mayor and Aldermen. Such rules of order (by-laws) shall be a matter of public record.

3. The Historic Preservation Commission shall develop design review guidelines for determining appropriateness as generally set forth in Section 25, paragraph G of this ordinance. Such guidelines shall insofar as possible be consistent with local, state, and federal guidelines and regulations, including, but not limited to, building safety and fire codes and the Secretary of the Interior's Standards for Rehabilitation. These guidelines shall be subject to the approval of the Board of Mayor and Aldermen.

4. The Historic Preservation Commission shall keep minutes and records of all meetings and proceedings including voting records, attendance, resolutions, findings, determinations, and decisions. All such material shall be a matter of public record.

5. The Historic Preservation Commission shall establish its own regular meeting time; however, regular meetings shall be scheduled at least once every three (3) months. The chairman or any two (2) members may call a special meeting to consider an urgent matter. Any members who miss three (3) regularly scheduled meetings in a one-year period are automatically removed from this Commission.

F. DESIGNATION OF LANDMARKS, LANDMARK SITES, AND HISTORIC DISTRICTS

By ordinance, the Board of Mayor and Aldermen may establish landmarks, landmark sites, preservation, and conservation districts within the area of its jurisdiction. Such landmarks, landmark sites, preservation districts and conservation districts shall be designated following the criteria specified in Section 25 paragraph A.

1. There are hereby created the following classifications of local historic overlay districts, as shown on the official zoning map of the City:

   a. Historic preservation district. In a designated historic preservation district, no building, structure, object or site shall be constructed, altered, relocated or demolished unless the action meets with the requirements set forth in the design review guidelines adopted for the historic preservation district and for issuance of a Certificate of Appropriateness.

   b. Historic conservation district. In a designated historic conservation district, no building, structure, object or site shall be constructed, relocated, demolished or increased or reduced in habitable area unless the action meets with the requirements set forth in the design review guidelines adopted for the historic conservation district and for issuance of a Certificate of Appropriateness.

   c. Historic landmark district. In a designated landmark district, no building, structure, object or site shall be constructed, altered, relocated or demolished unless the action meets with the requirements set forth in the design review guidelines adopted for the individual historic landmark and for issuance of a Certificate of Appropriateness. Each property in the landmark district will meet the criteria established for the district and have its own design review guidelines.

   The numbering system for the Historic district overlay zones shown on the zoning map shall be "HPD-1, HPD-2," etc. for Historic Preservation districts; "HCD-1, HCD-2," etc. for Historic Conservation districts; and "HL-1, HL-2," etc. for Historic landmarks. Each district shall have its own distinct set of design review guidelines. Any use permitted by the existing zoning classifications is also permitted in the Historic district overlay zone.

2. The Historic Preservation Commission shall initiate a continuing and thorough investigation of the archaeological, architectural, cultural, and

historic significance of the City's resources. The findings shall be collected in a cohesive format, made a matter of public record, and made available for public inspection. The Historic Preservation Commission shall work toward providing complete documentation for previously designated historic districts which would include the following:

a. A survey of all property within the boundary of the district, with photographs of each building.

b. A survey in a format consistent with the statewide inventory format of the Historic Preservation Division of the State Historic Preservation Office (SHPO).

3. The Historic Preservation Commission shall advise the Board of Mayor and Aldermen on the designation of preservation districts, conservation districts, landmarks, or landmark sites and submit or cause to be prepared ordinances to make such designation.

4. A resource or resources may be nominated for designation upon motion of three members of the Historic Preservation Commission or by an organization interested in historic preservation or by an owner of the property being nominated. A nomination shall contain information as specified by the Historic Preservation Commission. The Historic Preservation Commission must reach a decision on whether to recommend a proposed nomination to the Planning Commission within six months in the case of a preservation or conservation district and two months in the case of either a landmark or landmark site. After six months for a district and two months for a landmark or landmark site, if the Historic Preservation Commission has taken no action, the nomination shall be forwarded to the Planning Commission for their recommendation to the Board of Mayor and Aldermen.

5. The Historic Preservation Commission shall hold a public hearing on the proposed preservation or conservation district, landmark, or landmark site. If the Historic Preservation Commission votes to recommend the designation of a proposed resource, it shall promptly forward to the Planning Commission its recommendation, in writing, together with an accompanying file.

6. Before sending a recommendation to the Planning Commission for the designation of a preservation or conservation district, the Historic Preservation Commission shall take a vote of the owners of all property located within the proposed district. To take such a vote, the Historic Preservation Commission shall mail by Certified Mail, return receipt requested, to each of said property owners the following:

a. a copy of this Ordinance;

b. the boundaries of the proposed district;

c. the proposed design review guidelines for the district;

d. a letter requesting the owner's vote by a specific date and providing the names of Commission members as a source of additional information, if needed, and

e. one postage-prepaid, pre-addressed postal card for each property owned by the individual to be returned to the City Clerk of the City of Bartlett, showing the name of the owner and the tax assessor's parcel member assigned to the property and two choices to check:

_____ for the designation of the District or

_____ against the designation of the District

The card shall also provide a space for the owner's signature, which shall be required to record the vote.

The recommendation shall not be forwarded to the Planning Commission or Board of Mayor and Aldermen unless at least a majority of the properties located in the proposed district are represented by yes votes from the owners.

Before sending a recommendation to the Planning Commission or the Board of Mayor and Aldermen for the designation of a historic landmark, the Historic Preservation Commission shall supply the owner of the property with the same information required by this paragraph 6 subparagraphs a., b. and c. and obtain the owner's written approval of the recommendation.

7. The Historic Preservation Commission's recommendations to the Planning Commission for designation of a preservation or conservation district shall be accompanied by:

a. a map of the preservation district that clearly delineates the boundaries;

b. a written boundary description and justification;

c. a written statement of significance for the proposed preservation district;

d. the proposed design review guidelines for the district; and

e. a written statement setting forth the number of properties in the proposed district, the number of votes for designation and the number of votes against designation.

8. Upon receipt of a recommendation from the Planning Commission and receipt of the information provided under paragraph number 7, the Board of Mayor and Aldermen shall conduct a public hearing, after notice, to discuss the proposed designation and boundaries thereof. A notice of the hearing shall be published in a newspaper having general circulation in the City. Public hearing requirements which are set forth in Article 12 of the Zoning Ordinance shall be used.

9. After the public hearing held in connection herewith, the Board of Mayor and Aldermen shall reject or adopt the ordinance with or without modifications.

10. The Historic Preservation Commission shall recommend amendments to then existing Ordinances, which have designated a Landmark or Historic District, in order to change the boundaries and/or design review guidelines, by following the same procedures as is necessary to designate a new Landmark or Historic District.

11. Furthermore, the Historic Preservation Commission shall notify, as soon as is reasonably possible, the appropriate state, county, and municipal agencies of the official designation of all landmarks, and landmark sites, and all preservation and conservation districts. An updated list and map shall be maintained by the City and made available to the public.

G. CERTIFICATES OF APPROPRIATENESS

Except as provided in paragraph M herein, no exterior feature of any resource shall be altered, added to, relocated, or demolished until after an application for a Certificate of Appropriateness of such work has been approved by the Historic Preservation Commission. Likewise, no construction, which affects a resource, shall be undertaken without a Certificate of Appropriateness.

Therefore,

1. The Historic Preservation Commission shall serve as a review body with the power to approve and deny applications for certificates of appropriateness.

2. In approving and denying applications for Certificates of Appropriateness, the Historic Preservation Commission shall accomplish the purposes of this ordinance.

3. A Certificate of Appropriateness shall not be required for work deemed by the Historic Preservation Commission guidelines to be ordinary maintenance or repair which does not change the architectural characteristics of any resource.

4. All decisions of the Historic Preservation Commission shall be in writing and shall state the findings of the Historic Preservation Commission, its recommendations, and the reasons thereof.

5. Expiration of a Certificate of Appropriateness: A Certificate of Appropriateness shall expire if work has not begun within six (6) months of its issuance or not been completed with twelve (12) months. If a certificate has expired, an applicant may seek a new certificate.

6. Resubmitting of Applications: Twelve months after denial of an application for a certificate of appropriateness, the application may be resubmitted without change. A changed application may be resubmitted at any time.

H. CRITERIA FOR ISSUANCE OF CERTIFICATES OF APPROPRIATENESS

The Historic Preservation Commission shall use the Secretary of the Interior's Standards for Rehabilitation as the basics for Design Guidelines created for each district or landmark and the following criteria in granting or denying certificates of appropriateness:

1. General Factors:

    a. Architectural design of existing building, structure, or appurtenance and proposed alteration;

    b. Historic significance of the resource;

    c. Materials composing the resource;

    d. Size of the resource;

    e. The relationship of the above factors to and their effect upon the immediate surroundings and, if within a preservation district, upon the district as a whole and its architectural and historic character and integrity.

2. New Construction:

    a. The following aspects of new construction shall be visually compatible with the buildings and environment with which the new construction is visually related, including but not limited to

height, gross volume, proportion between width and height of the facade(s), proportions and relationship between doors and windows, rhythm of solids to voids created by openings in the facade, materials, textures, patterns, trims, and design of the roof.

b. Existing rhythm created by existing building masses and spaces between them shall be preserved.

c. The landscape plan shall be compatible with the resource, and it shall be visually compatible with the environment to which it is visually related. Landscaping also shall not be detrimental to the fabric of a resource or adjacent public or private improvements like sidewalks and walls.

d. No specific architectural style shall be required.

3. Exterior Alteration:

a. All exterior alterations to a building, structure, object, site, or landscape feature shall be compatible with the resource itself and other resources to which it is related.

b. Exterior alterations shall not adversely affect the architectural character or historic quality of a resource or the significance of resource sites.

4. In considering an application for the demolition of a landmark or a resource within a preservation district, the following shall be considered:

a. The Historic Preservation Commission shall consider the individual architectural, cultural, and/or historic significance of the resource.

b. The Historic Preservation Commission shall consider the importance or contribution of the resource to the architectural character of the district.

c. The Historic Preservation Commission shall consider the importance or contribution of the resource to neighboring property values.

d. The Historic Preservation Commission shall consider the difficulty or impossibility of reproducing such a resource because of its texture, design, material, or detail.

e. Following recommendation for approval of demolition, the applicant must seek approval of replacement plans, if any, as set forth in Section 25, paragraph I, prior to receiving a demolition permit and other permits. Replacement plans for this purpose shall include, but shall not be restricted to, project concept, preliminary elevations and site plans, and completed working drawings for at least the foundation plan, which will enable the applicant to receive a permit for foundation construction from the City Code Enforcement Department.

f. Applicants who have received a recommendation for demolition shall be required to obtain a demolition permit as well as a certificate of appropriateness for the new construction.

g. When the Historic Preservation Commission recommends approval of demolition of a resource, a permit shall not be issued until all plans for the site have received approval from all appropriate city boards, Commissions, departments, and agencies.

I. PROCEDURES FOR ISSUANCE OF CERTIFICATES OF APPROPRIATENESS

Anyone desiring to take action requiring a Certificate of Appropriateness concerning a resource for which a permit, variance, or other authorization from the City building official is required shall make application therefor in the form and manner required by the applicable code section or ordinance. Any such application shall also be considered an application for a Certificate of Appropriateness and shall include such additional information as may be required by the Historic Preservation Commission. After receipt of any such application, the City building official shall check to ensure that the application is proper, and no building permit shall be issued by the City building official that affects a resource without a Certificate of Appropriateness. In the event that a building permit need not be obtained for construction, alteration, demolition, or relocation of any resource, a Certificate of Appropriateness is still required before such work may be undertaken. Such application shall be reviewed in accordance with the following procedure:

1. When any such application is filed, the City building official shall immediately notify the Commission Chairman or Vice-Chairman, of the application having been filed.

2. The chairman or vice-chairman shall set the agenda for the regular meeting date or set a time and date, which shall be not later than thirty (30) days after the filing of the application, for a public hearing by the

Historic Preservation Commission, and the City building official shall be so informed.

3. The applicant shall, upon request, have the right to a preliminary meeting with the Historic Preservation Commission for the purpose of making any changes or adjustments that might be more consistent with the Commission's standards.

4. Not later than fifteen days before the date set for the said public hearing, the Commission Chairman shall mail notice thereof to the applicant at the address in the application and to all members of the Historic Preservation Commission.

5. The Commission Chairman shall give notice of the time and place of said hearing by publication in a newspaper having general circulation in the City at least fifteen (15) Days before such hearing and by posting such notice on the bulletin board at City Hall.

6. At such hearing, the applicant for a Certificate of Appropriateness shall have the right to present any relevant evidence in support of the application. Likewise, the Commission shall have the right to present any additional relevant evidence regarding the application.

7. The Historic Preservation Commission shall have the right to conditional approval.

8. Either at the hearing or within not more than thirty (30) days after the date of the application or the date of the preliminary meeting, which ever is later, the Historic Preservation Commission shall act upon it, either approving, or denying the application. Evidence of approval of the application shall be by Certificate of Appropriateness issued by the Historic Preservation Commission, and, whatever its decision, notice in writing shall be given to the applicant and the City building official.

9. The issuance of a Certificate of Appropriateness shall not relieve an applicant of the requirement for a building permit, special use permits, variance, or other authorization or from compliance with any other requirement or provision of the laws of the City concerning zoning, construction, repair, alteration, relocation or demolition.

J. ECONOMIC HARDSHIP

No decision of the Commission shall cause undue economic hardship. Any applicant denied a Certificate of Appropriateness by the Historic Preservation

Commission may, within thirty (30) days, make application for a Certificate of Economic Hardship from the Historic Preservation Commission.

1. Information to be supplied by the applicant.

   a. The applicant shall submit by affidavit the following information:

      (1) The assessed value of the property and/or the structure in the case of a demolition, for the two (2) most recent assessments.

      (2) Real property taxes paid for the previous two (2) years.

      (3) The amount paid for the property by the owner, the date of purchase and the party from whom purchased, including a description of the relationship, if any, between the owner and the person from whom the property was purchased.

      (4) The current balance of any mortgages or any other financing secured by the property, and the annual debt service, if any for the previous two (2) years.

      (5) All appraisals obtained within the previous five (5) years by the owner or applicant in connection with purchase, offerings for sale, financing or ownership of the property, or state that none were obtained by the current owner.

      (6) All listings of the property for sale or rent, price asked and offers received, if any, within the previous five (5) years, or state that none were obtained by the current owner.

      (7) All studies Commissioned by the owner as to profitable renovation, rehabilitation or utilization of any structures or objects on the property for alternative use, or a statement that none were obtained.

      (8) For income producing property, itemized income and expense statements from the property for the previous two (2) years.

      (9) An estimate of the cost of the proposed alteration, construction, demolition or removal and an estimate of any additional cost that would be incurred to comply with the recommendations of the Historic Preservation Commission for changes necessary for it to approve a Certificate of Appropriateness.

(10) Form of ownership or operation of the property, whether sole proprietorship, for-profit or not-for-profit corporation, limited partnership, joint venture or other.

b. In the event that the information required to be submitted by the applicant is not reasonably available, the applicant shall file with the affidavit a statement of the information that cannot be obtained and shall describe the reasons why such information is unavailable.

c. Notwithstanding the submission of the above information, the Historic Preservation Commission may require additional evidence.

2. Public Hearing

a. The Historic Preservation Commission shall hold a public hearing on the application within thirty (30) days following receipt of the completed application form.

b. Notice of the application and of the public hearing and conduct of the public hearing, shall be in accordance with the provisions of the "Sunshine Law."

3. Determinations

The determination by the Historic Preservation Commission shall be made within thirty (30) days following the close of the public hearing and submission of all information, documentation or evidence requested by the Commission. The determination shall be accompanied by findings of fact.

4. Demolition Applications

The Historic Preservation Commission shall not grant approval of an application involving demolition, unless the Commission determines, upon clear and convincing evidence, that one or more of the following circumstances apply:

a. The structure is not subject to this Section 25; or

b. Denial of a demolition permit would result in a hardship to the property owner so great that it would effectively deprive the owner of all reasonable use of the property. The extent of any demolition permitted shall be limited to the amount necessary to allow

reasonable use of the property. Where the condition of the structure is claimed to prevent any reasonable use, the applicant shall establish that such condition is not the result of the acts of neglect of the owner or his predecessors in title occurring in whole or in part after adoption of this Section 25.

5. Disapproval by the Historic Preservation Commission

If the determination of the Historic Preservation Commission is to disapprove the application for a Certificate of Economic Hardship, the applicant shall be notified within ten (10) business days. The notice shall include a copy of the findings of fact and report.

K. APPEALS

The applicant who desires to appeal a decision by the Historic Preservation Commission shall file an appeal with the circuit court in the manner provided by law.

L. MINIMUM MAINTENANCE REQUIREMENTS

In order to ensure the protective maintenance of resources, the exterior features of such properties shall be maintained to meet the requirements of the City's building code.

M. PUBLIC SAFETY EXCLUSION

None of the provisions of this ordinance shall be construed to prevent any action of construction, alteration, or demolition necessary to correct or abate the unsafe or dangerous condition of any resource, or part thereof, where such condition has been declared unsafe or dangerous by the City building official or the fire department and where the proposed actions have been declared necessary by such authorities to correct the said condition; provided, however, that only such work as is necessary to correct the unsafe or dangerous condition may be performed pursuant to this section. In the event any resource designated as a landmark or located within a preservation or conservation district, shall be damaged by fire or other calamity to such an extent that it cannot be repaired and restored, it may be removed in conformity with normal permit procedures and applicable laws, provided that the City building official concurs with the property owner that the resource cannot be repaired and restored and so notifies the Historic Preservation Commission in writing before the demolition begins so that photographs can be made for the historic record.

N. ENFORCEMENT AND PENALTIES

The provisions of this ordinance shall be enforced by the City Building Official who shall have the right to enter upon any premises necessary to carry out his duties in this enforcement. Penalties for violations are as set forth in Article XIII of the Zoning Ordinance.

O. APPROPRIATIONS

The Board of Mayor and Aldermen is authorized to make appropriations to the Historic Preservation Commission as necessary for the expenses of the operation of the Commission.

P. DISQUALIFICATION OF MEMBERS BY CONFLICT OF INTEREST

Any member of the Historic Preservation Commission who has an interest in the property in question or in property within three hundred feet of such a property, or who is employed with a firm that has been hired to aid the applicant in any matter whatsoever, or who has any proprietary, tenancy, or personal interest in a matter to be considered by the Historic Preservation Commission shall be disqualified from participating in the consideration of any request for a Certificate of Appropriateness involving such a property. If any member of the Historic Preservation Commission must be disqualified due to a conflict of interest on a regular and continuing basis, the chairman or the vice-chairman, in his stead, shall ask the member to resign his Commission seat.

Section 26 - MS - Main Street Commercial Overlay District

(Ordinance 01-08, 6/26/2001)

A. Overlay district. The "Main Street Commercial Overlay" (MS) zoning overlay district may be applied by action of the Board of Mayor and Aldermen to any specific area within the City having an "office" or "commercial" zoning classification -- i.e., OR-1, OR-2, C-L, C-G, C-H, or SC-1.

Nothing in this section shall preclude either (1) changes to another zoning classification of the zoning districts underlying the MS overlay or (2) application to the same land area of the PRD-1 Planned Residential Development in Bartlett Station overlay or (3) removal of the MS overlay from areas no longer deemed appropriate for such overlay.

The standards herein shall apply within this overlay district but shall apply to existing development only upon construction of a new building or expansion of floor space of an existing building.

Except as otherwise provided, determination to be made within a designated MS district shall be made by the Planning Commission.

B. **Purposes.** The purpose of this zoning overlay district are as follows. No site plan shall be approved unless it is determined that these purposes are satisfied to a reasonable degree or to the extent feasible given the circumstances of the property, in accordance with the provisions of these regulations:

1. Maximize the building floor area on each lot.

2. Locate parking off the street frontage, so that businesses can move close to the sidewalk and more readily attract pedestrians.

3. Place buildings at a minimal front set-back line, close behind a sidewalk of adequate width.

4. Encourage construction of at least two-story buildings.

5. Locate retail uses on the ground-floor street frontage, preferably adjacent to other retail uses. Locate on second and higher floors office, service, and other non-residential uses that generate relativity low or no pedestrian traffic from the general public so as not to interrupt the continuity along the street frontage of retail uses.

6. Provide better access to the land areas remaining undeveloped or underdeveloped.

7. Develop sidewalks and building features (e.g., entrances, weather protection) so as to maximize safety, comfort, ease of movement, and convenience for pedestrians.

C. **Permitted uses.** All permitted uses of the underlying zoning districts shall be permitted by this overlay district.

D. **Lot width.** Minimum lot width may be reduced to twenty (20) feet, provided

- the width is uniform,
- a building of two or more stories is constructed on the lot, and
- any building less than 40 feet in width shall be attached to another building such that the total width of the attached buildings along the street frontage is at least 40 feet.

E. **Lot coverage.** There shall be no limit on lot coverage by buildings except where other site requirements such as setbacks, utility or access easements, parking, or landscaping preclude such coverage.

F. **Setbacks.** All building setback requirements shall be zero (0) feet, except as provided in part G.2, "Front setback," and in the following circumstances:

- Where other site requirements such as utility or access easements or landscaping preclude such reduction.
- Where it is determined that the use of existing buildings on adjacent parcels would be significantly adversely affected by setbacks from side or rear property lines that are smaller than those on the adjoining parcels (e.g., light would be blocked from existing windows on the side of a building).
- Where minimum required clearance from a 3-phase electric power line, based on the National Electric Code, must be maintained, especially for buildings of more than one story.

The front setback normally required for tree planting is addressed in part G.6.

For a particular site plan, a determination shall be made that setbacks approved are consistent with the purposes and provisions of this overlay district.

G. **New buildings and additions to existing buildings.** The following shall apply to either a new building or an addition to an existing building.

1. *Number of stories.* A new building for which any part of the parking requirement will be met off-site, as provided in part H.1, shall have at least two stories but not more than five stories. This also shall apply to an addition to an existing building unless it is determined that more than one story is impractical within the area available for expansion.

Such upper floors may be used and shall be suitable and available for retail, office, or other non-residential use.

A "half-story" under a pitched roof, with adequate dormers or other window arrangement for natural light, may be counted as a second story provided

- floor area is at least half that of the first floor;

- said floor area has at least nine-foot (9-foot) ceilings; and
- it is determined that the floor area, layout, and access are reasonably well-suited to the proposed use.

Floors above ground level shall have independent, separate access to the street.

2. *Front setback.* A new building or addition to an existing building shall be constructed no farther back than

- at the street right-of-way line or
- at the back of a required 15-foot sidewalk (see part G.3) or
- at a distance behind the curb specified in plans adopted by the Board of Mayor and Aldermen for a specific area,

whichever is the greatest distance behind the street curb. In no case shall the front setback specified for the underlying zoning district take precedence. (See part G.6 regarding the frontage tree-planting requirement.)

Exceptions to the aforesaid front setback are:

a. where a pedestrian courtyard (including outdoor seating for a business serving food or beverages) is created behind the sidewalk, in which case a building that abuts the courtyard may be set immediately behind it;

b. where a building must be set back from the street to a location where the property is wider, because the street frontage is too narrow for the building; or

c. where an addition to an existing building is at such a substantial distance from the aforesaid setback line or so located that it is determined that it can not reasonably be extended to that line (e.g., an addition to an existing building set well back on a shopping center property).

3. *Sidewalk.* Where the front setback for a new building is not an exception under part G.2, a sidewalk fifteen (15) feet in depth shall extend from the street curb to the building face. Street trees may be planted in the portion of the sidewalk area nearer the street curb.

The sidewalk requirement also shall apply to an addition to an existing building, except:

a. as provided in part H.6 for alteration of existing front parking; or

b. where the space between the existing front building face and a line fifteen (15) feet behind the curb is landscaped or improved for pedestrian use.

The width of sidewalk beyond the existing right-of-way may be either

- dedicated to the City; or
- maintained by the owner, with a public access easement granted to the City.

4. *Street face.* At least seventy percent (70%) of the horizontal dimension of ground-floor street faces of a new building or addition to an existing building shall be composed of windows opening into the interior, display windows (which need not be open into the interior), or entrances, which openings are determined by the Design Review Commission to be well-distributed along the face of the building or addition so as to minimize the lengths of blank wall areas.

   Every street face shall have a public entrance that is open during business hours on the ground-floor space. (On a corner lot, a corner entrance may serve both street faces.)

5. *Building width.* A new building or addition to an existing building shall occupy the full width of the lot, except in the following circumstances:

   a. A pedestrian passageway to parking or other businesses to the rear of the building is provided.

   b. A side yard is used as an outside seating area for a restaurant or a public courtyard.

   c. A driveway to parking spaces in the rear is allowed alongside the building because there is no reasonable alternative access to the parking spaces.

   d. A utility easement precludes use of the full width, in which case one of the above uses shall be placed over the easement.

   Where a new building will occupy an undivided portion of a shopping center parking lot, a "development area" for that building shall be identified and treated the same as if it were a separate lot.

6. *Trees.* Where the front setback is as provided in part G.2 above, the frontage planting strip and frontage trees requirement shall be reduced to zero (0).

With regard to the "20 density units per acre" tree-planting requirement of Article VI, Section 23, Part II, subpart B of the Zoning Ordinance, the calculation of density units may be altered in the following circumstances:

Where a portion of a lot is covered

- by a new building of two stories or more or
- by an addition of two stories or more to an existing building,

the area of such portion shall not be included in the lot area for the purpose of calculating required density units.

No tree planted shall have a caliper measurement of less than three-fourths (3/4) inch.

7. *Front parking.* No parking, driveway, or other area for vehicles shall be placed between the building and the street; or, if parking or other vehicle area already exists in front of an existing building, it shall be altered as described in part H.6 below.

H. **Parking.** Other parking requirements in the Zoning Ordinance notwithstanding, the following requirements shall apply:

1. *Off-site parking.* Where alternative off-site parking (either public parking or private parking obtained by lease or easement) is provided within 300 feet of the property, the on-site parking requirement shall be reduced to as little as zero (0), provided that the total of on-site and alternative off-site parking together shall meet the requirement for the proposed use and

a. the building meets the requirement of part G.1 regarding number of stories or

b. the use of existing floor space is proposed to be altered in a manner that requires more parking spaces (e.g., an existing space is being changed from office to retail use, or a restaurant is expanding the number of seats).

The availability of alterative off-site parking for a particular development shall be determined based on

- the total number of off-site parking spaces that will be available by the time of occupancy of the new floor space,

- the cumulative amount of new floor space for which the off-site parking spaces are counted in meeting the parking requirement, and

- the maximum number of such off-site parking spaces likely to be utilized at any one time by the cumulative new floor space.

2. *Parking ratios.* The number of parking spaces provided for a site shall meet but shall not exceed the number calculated from the parking ratios required by the Zoning Ordinance, unless such higher number is justified to and approved by the Planning Commission.

   For a building of two or more stories, floor area lost to stairwells and elevator shafts shall not be included in total floor area for parking calculations.

3. *Parallel parking.* Where parallel parking is allowed on a street section abutting the property and on the same side of the street as the property, such parallel parking shall count toward meeting the parking requirement for the property.

4. *Alleys.* As development or redevelopment of the area permits, alleys shall be created for access to parking on the rear of properties.

5. *Shared parking.* Where a parking area will serve two or more uses for which peak parking demand occurs at different times, the Planning Commission may permit an appropriate number of such spaces to count toward the parking requirement for more than one of those uses.

6. *Existing parking in front of buildings.* Upon adding floor space to a lot with an existing building, where parking requirements are otherwise met, existing parking in front of buildings shall be replaced by uses such as

   - expansion of the existing building, including a one-story expansion such as a porch,

   - small "kiosk"-size retail buildings (for walk-up traffic),

   - outdoor seating for serving food or beverages, or

   - a pedestrian courtyard.

I. **Weather protection.** Awnings or canopies are not required, but any awnings and canopies approved by the Design Review Commission may extend over sidewalks (public or private), to protect patrons and to

facilitate movement of pedestrians from building to building in inclement weather.

Supporting structure for such awnings or canopies shall not block any portion of a public sidewalk.

Awnings and canopies and any signs suspended from them shall clear the sidewalk by at least eight (8) feet.

J. **Pedestrian circulation.** Pedestrian circulation throughout the district shall be improved as development or redevelopment occurs, in accordance with general design principles and objectives of safety, comfort, ease of movement, and convenience of access to properties.

K. **Development pattern, land access.** As development and redevelopment occur, a pattern of "blocks and streets" shall be created where feasible, including private streets where determined to be appropriate. Such streets shall be two-way and have a 71 foot right-of-way, which shall include:

- two travel lanes (each 10 feet);
- a parallel parking lane (8 feet) on each side, which parking lane shall be terminated at intersections and at other pedestrian crossings with curb "bump-outs" so that pedestrians leave the sidewalk only to cross the travel lanes;
- curbs and gutters (2.5 feet each side);
- a sidewalk (15 feet) on each side, with any utilities so located that tree-planting wells may be placed in that portion of the sidewalk nearer the curb; and
- marked pedestrian crossings, including curb "bump-outs" at all intersections and mid-block pedestrian crossings.

This pattern shall be designed to permit safe, low-speed circulation of cars and pedestrians throughout the area, provide for the creation of small lots and buildings, and facilitate placement of additional buildings at the sidewalks of such additional streets.

Other street configurations may be considered, subject to determination that the purposes and provisions of this overlay district are satisfied to a reasonable degree.

Section 27 - Special Events

(Ord. 02-03, 3/12/02)

A. Purpose and intent

The purpose and intent of this Section is to provide for the temporary use of property for special events in a manner consistent with its normal use and not detrimental to the general welfare of the public. Furthermore, it is the intent of this Section to protect nearby property owners, residents and businesses from special events that may be disruptive, unsightly, unsafe or inappropriate given site conditions, traffic patterns, land use characteristics, or the nature of the proposed use.

B. Special event defined

The term "special event" shall mean a temporary use of land or structures for one or more of the following types of activities:

1. *Type 1: Noncommercial Events.* Fund-raising or non-commercial events held outside an enclosed permanent structure, including parades, advertised demonstrations, or events, including structures used in conjunction with the event.

2. *Type 2: Special Seasonal Events.* Farmers' market, Christmas tree sales, fruit, flower or vegetable sales, or sale of other seasonal products, when sold other than on the site where grown, constructed or assembled.

3. *Type 3: Commercial Events.* Significant commercial events such as tent sales, sidewalk sales, trade shows, merchandise sales, product demonstrations or transient merchants.

4. *Type 4: Public Attractions.* Significant outdoor public events intended primarily for entertainment or amusement, such as carnivals, concerts, or festivals, including fireworks displays.

C. Exemptions

The following special events are exempt from the requirements of this Section:

1. *Public property.* Any special event wholly on public streets and right-of-ways or other property of the City, excluding public parks, which special event is allowed specifically or generally by action of the Board of Mayor and Aldermen.

2. *Public parks.* Any special event held within a public park. (Although exempt from this Section, these types of special events shall be governed by other provisions of the Codified Ordinances regulating conduct in City parks and recreation areas.)

3. *City sponsorship.* Any special event sponsored or co-sponsored by the City. Such event shall, however, be in compliance with the performance standards in Section 27.F.

4. *Special use permit or site plan.* Any business already operating under a special use permit or site plan that authorizes the display and sale of outdoor goods or authorizes the operation of any special event as defined herein.

5. *Yard sales.* Yard sales regulated under Article VI, Section 1 of the Zoning Ordinance.

6. *Auctions/estate sales.* Auctions/estate sale for individual property that is not considered a special event and is conducted by duly licensed auctioneers.

7. *Business deliveries.* Newspaper delivery or bona fide merchants who deliver goods in the regular course of business.

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

9. *First Amendment activity.* The dispensing of religious pamphlets or other literature which is protected by the United States Constitution under Freedom of Speech, Religion or Press.

10. *Political campaigning.* Campaigning for public office.

D. Cross references

See the Codified Ordinances, Title 9, "Peddlers, Transient Vendors, Mobile Frozen Dessert Vendors" regarding (1) commercial activity on city streets and street right-of-ways and (2) door-to-door sales and similar activities in residential areas.

E. Special event approvals

When a permit is required under any City ordinance for a special event, such permit shall be granted pursuant to the application procedures and requirements specified in said ordinance.

When permit application procedures and requirements are not otherwise specified, the procedures and requirements specified in this Section shall apply.

F. Special event performance standards

Special events shall comply with the following standards:

1. *Location*. Special events that do not require the use of public right-of-way shall be conducted on private property in a commercial or industrial zoning district, except that non-profit organizations may conduct special events on any property where the owner has granted permission.

   For all special events that require the use of public right-of-way, the permit granted shall clearly specify the streets to be used for the event and the time that the streets will be closed, if applicable.

   Type 3 outdoor sales must be conducted by an existing permanent business adjacent to and on the property of the location of the permanent business. The outdoor sales are to be conducted as an adjunct to the existing permanent business.

2. *Land-use compatibility*. The special event shall be compatible with the purpose and intent of this Section and with adjacent land uses.

   The special event shall not impair the normal, safe and effective operation of a permanent use on the same site.

   The special event shall not endanger or be detrimental to the public health, safety or welfare or injurious to property or improvements in the immediate vicinity of the special event, given the nature of the activity, its location on the site and its relationship to parking and access points.

3. *Compliance with other regulations*. All structures shall meet all applicable provisions of the Building Code.

   Any temporary structure shall be promptly removed upon the cessation of the event. Within forty-eight (48) hours of cessation of the event, the site shall be returned to its previous condition, including the removal of all litter, signage, attention-attracting devices or other evidence of the special event. If the site is not returned to its previous condition, the City may restore the site at the event coordinator's expense.

4. *Hours of operation and duration.* The duration and hours of operation of a special event shall be consistent with the surrounding land uses. The total duration of a special event shall not exceed the duration set forth in Table VI, 27a; however, the duration of the special event may be modified by conditions attached to the issuance of the special event permit, as set forth in Section 27.F.

Table [VI-27a]. Special Event Maximum Duration	
Type of Special Event	**Duration**
Type 1: Noncommercial	30 days
Type 2: Special Seasonal	90 days
Type 3: Commercial	14 days
Type 4: Public Attractions	14 days

In addition to the maximum duration as set forth in Table VI, 27a, a shopping center may hold centralized special events, not connected to individual businesses within the shopping center, which do not exceed sixty (60) days in a calendar year. The duration of all special events in a shopping center may be extended on a case by case basis if the special event(s) take place in shopping center parking areas not required for the primary businesses.

5. *Frequency.* Except as otherwise provided herein, the maximum frequency of a special event on the same property shall be two (2) times per calendar year, excluding a shopping center. A shopping center shall be allowed to hold four (4) centralized events not connected to any individual business located within the center in addition to those events held by the individual businesses located within the shopping center.

Type 3 outdoor sales at a specific location may be permitted only as follows:

a. Outdoor sales may be permitted once in each calendar month if the duration is not more than three (3) days.

b. Outdoor sales may be permitted once in each calendar quarter if the duration is more than three (3) days but not more than ten (10) days.

c. The minimum time between consecutive outdoor sales periods for the same business on the same property shall be fourteen (14) days from the beginning of one period to the beginning of the next period.

Permitted durations are not cumulative in any time period, that is, the time periods in both "a" and "b" may not be added together.

6. *Traffic circulation.* The special event shall not cause undue traffic congestion or accident potential, given anticipated attendance and the design of adjacent streets, intersections, parking and traffic controls. All sidewalks shall be left open for pedestrian traffic unless special approval is received for blockage. No alleys, driveways, fire lanes or other access points shall be blocked by the special event unless specific approval is granted for the special event.

7. *Street closings.* The special event permit recipients shall be responsible for securing, installing and immediate removal upon cessation all barricades and signs when street closings are approved. Large Class III barricades shall be sandbagged to prevent blowing over.

8. *Fire safety.* The fire department shall be consulted for the following requirements and inspection, as necessary.

   a. Fire lanes a minimum of 20 feet in width and 12 feet in height or as otherwise approved by the Fire Chief must be provided in order to allow Fire Department access within 150 feet of all structures and on at least two sides of all two-story structures within 500 feet of the location of the special event.

   b. All fire hydrants in the area of the special event must be left with five (5) feet of clearance on all sides and shall be accessible from the fire lanes that are designated with the event.

   c. No open fires shall be permitted unless advance approval is obtained from the Fire Department.

   d. Fire extinguishers shall be available as determined by the Fire Chief.

   e. Temporary electrical wiring for the special event shall be installed in accordance with the requirements of the National Electrical Code.

f. Tents shall comply with the Fire Code and applicable building codes.

g. Exit signs and proper exiting aisles shall be provided in temporary special event structures.

9. *Off-street parking.* The event shall not create a parking shortage for any other use. All off-street parking surfaces used for the special event shall be concrete or asphalt.

10. *Public conveniences and litter control.* Adequate on-site rest room facilities and solid waste containers shall be provided. The applicant shall calculate the demand for such facilities and specify how the need will be addressed.

11. *Nuisances.* The special event shall not generate excessive noise, dust, smoke, glare, spillover lighting or other forms of environmental or visual pollution.

12. *Area of parking lot dedicated to outdoor special events.*

a. No more than ten (10) percent of the parking stalls required for the structure associated with the parking lot in which the special event occurs shall be permitted to be used for a special event. Regardless of how many stalls are occupied by the special event, no special event that occurs in the parking lot for a permanent structure may cause a parking shortage for primary and accessory uses associated with that structure.

b. No spikes, nails, anchors or other devices shall be driven into any public street, sidewalk or parking lot surface or into any existing concrete or asphalt. Such devices may be used on private parking lots provided any damage resulting therefrom shall be fixed upon cessation of the event and removal of the devices.

13. *City services.* If the applicant requests the City to provide services or equipment, including but not limited to traffic control or security personnel, or if the City otherwise determines that services or equipment are required to protect the public health, safety, or general welfare, the applicant shall be required to reimburse the City for the cost of the services. The City may require the applicant to submit a security deposit, in an amount determined by the Chief Administrative Officer and in the form approved by the City Attorney, prior to the event to ensure that the applicant complies with this provision.

14. *Insurance coverage.* Special event permit recipients must show proof of liability insurance at time of application. If the special event will take place on public property, said certificate of insurance shall name the City as an additional insured party in an amount determined by the Chief Administrative Officer based on the nature of the special event.

G. Conditions

When reviewing a request for a special event permit, the Permitting Official may establish any additional conditions deemed necessary to ensure compatibility with adjacent land-uses and to minimize potential adverse impacts on nearby uses, including but not limited to the following:

1. Limitations on signs.

2. Temporary arrangements for parking and traffic circulation.

3. Requirements for screening/buffering and guarantees for site restoration and cleanup following the special event.

4. Modifications or restrictions on the hours of operation, duration of the event, size of the event or other operational characteristics.

5. The posting of security in an amount required by the Permitting Official to help ensure that the operation of the event and the subsequent restoration of the site are conducted according to required special event standards and conditions of approval.

6. The provision of traffic control or security personnel to ensure the public safety and convenience.

7. Execution of a "Special event agreement" in a form acceptable to the City Attorney to ensure the indemnification of the City and that public property will be protected and/or restored to its condition prior to the special event.

H. Special event permit - when required

A special event permit shall be required for all special events, as defined in this Section, except those events not requiring a permit as set forth in part C.

I. Special event permit - application, content and submission Requirements

A complete application shall be submitted to the Permitting Official at least ten (10) days prior to the requested start date of any special event. Any person desiring to operate any special event that, in accordance with this Section,

requires a special event permit shall submit a written application on the form provided by the City to the Permitting Official. The application shall set forth and contain the following information:

1. Name and address of the applicant.

2. Names and address of the owner of the premises on which the proposed event is to be held.

3. Written approval from the property owner agreeing to the proposed event, if the applicant is not the same as the property owner.

4. Description of the site on which the proposed event is to be held.

5. Date of the proposed event.

6. A narrative written description of the proposed event, the hours of operation, anticipated attendance, and any buildings/structures, signs or attention-attracting devices proposed to be used in conjunction with the event, as well as a statement that the standards set forth in this Section have been satisfied. The narrative written description shall also state what public streets, if any, are requested to be used for the special event.

7. A site plan in the form and the level of detail as required by the Permitting Official, showing the location of all existing or proposed uses, structures, parking areas, outdoor display areas, signs, streets, and property lines.

8. Location and number of proposed temporary public toilets.

9. Proposed temporary potable water supplies, which shall be subject to approval by the Director of Code Enforcement, pursuant to applicable authority of the City.

10. Any other information deemed necessary by the Permitting Official to ensure compliance with the standards set forth in this Section.

J. Special event permit - authorization by Permitting Official

Type 1, 2 and 3 special events (as defined in part B) may be issued a special event permit by the Permitting Official on the form provided by the City when all of the following conditions have been satisfied and continue to be met throughout the special event:

1. A complete application is made on the form provided by the City and a fee paid in accordance with City ordinances.

2. The application has been reviewed and approved in writing by the Code Enforcement, Fire, Police, and Public Works Departments for traffic control and other safety concerns.

3. An electrical plan, if required for the special event, is approved by the Director of Code Enforcement.

4. The Permitting Official determines the following:

   a. The special event will comply with the special event performance standards set forth in part F;

   b. The special event will not endanger the public health, safety, or general welfare given the nature of the activity, its location on the site, and its relationship to parking and access points;

   c. The special event will not impair the usefulness, enjoyment or value of adjacent property due to the generation of excessive noise, smoke, odor, glare, litter, or visual pollution;

   d. The special event shall comply with all applicable state and federal health, safety, environmental and other applicable requirements.

K. Special event permit - authorization by Board

All Type 4 events, and any other event not meeting the criteria of a Type 1, 2 or 3 special event, may be granted a special event permit by the Board of Mayor and Aldermen after review and report by the Permitting Official, and when all of the conditions set forth in part J have been satisfied.

L. Special event permit - appeals

Any denial of an application or notice of revocation of an existing permit by the Permitting Official shall be in writing. In the event a special event permit is denied or an existing permit revoked, the applicant shall have the right to appeal the decision of the Permitting Official to the Board of Mayor and Aldermen at the next regular meeting of the Board.

M. Special event permit - standards of operation

The standards and conditions governing the operation of a special event pursuant to a special event permit shall be as enumerated in this Section and as specified in the permit.

N. Special event permit -prohibition on transfer

No special event permit issued under the provisions of this Section shall be assignable or transferable to any other person or transferable to another location for the operation of a special event by that business or person at a different location.

Section 28 - Guest Unit

(Ord. 04-01, 2/10/04)

A. Definition

A guest unit is a second dwelling unit, attached or detached, on the same lot with a principal dwelling unit and treated as an extension of the principal dwelling unit.

A guest unit is detached if it is in a separate building from the principal dwelling unit and such buildings do not have a common or party wall joining them. A guest unit is attached if it is within the same building as the principal dwelling unit and is joined to the principal dwelling unit by one or more common interior doorways.

With regard to regulation of accessory buildings under other parts of this Zoning Ordinance, a guest unit is not considered an "accessory building."

B. Lot size

For a detached guest unit, the lot must have an area of at least one acre (43,560 square feet) and a minimum width at the regulation front setback line of 150 feet. For an attached unit, there is no minimum lot size, but all minimum setback and maximum lot coverage requirements of the Zoning Ordinance must be met.

C. Location, setbacks

The guest unit shall be located to the rear of the main dwelling unit but within the building setback lines for the main dwelling unit. If the guest unit is detached, it shall be separated from the main dwelling unit by at least ten (10) feet.

D. Floor area

Heated floor area of the guest unit shall not exceed one-third (1/3) of the heated floor area of the main dwelling unit or one thousand (1,000) square feet, whichever is less; but shall not be less than five hundred (500) square feet in any case. A guest unit may have a covered porch or covered patio of no more than one hundred (100) square feet.

E. Stories

The guest unit shall have only a single story, at ground level. No part of a basement may be used as a guest unit.

F. Design

All requirements of City codes for a dwelling unit shall be met.

The unit shall be of an architectural design compatible with the main dwelling unit, as determined by the Building Official. Where it is determined that a garage for a detached unit is acceptable, no more than one-car garage shall be permitted.

For an attached unit, there shall be no impediment, in terms of layout and access, to a single family making normal use of the entire building; and there shall be nothing about the configuration of the floor space or the exterior appearance (such as a separate entrance on the front facade) that suggests a separate rental unit. This determination will be made by the Building Official. A separate outside entrance is permitted to the extent needed for fire safety.

G. Variances prohibited

In no case shall variances to the setback (yard) requirements or maximum lot coverage requirements be allowed for the addition of a guest unit.

H. Number of guest units; covenants

No more than one guest unit may be placed on a lot with a principal single-family dwelling unit.

Addition of a guest unit must be in compliance with any subdivision covenants.

I. Extension

A guest unit, whether attached or detached, is an extension of the principal dwelling unit and may not be rented separately from the principal unit. The guest unit shall not have a separate street address or separate utility metering from that of the principal dwelling unit.

J. Submittals

A request for approval of a guest unit shall include the following:

1. Photographs of the principal dwelling unit showing all four sides.

2. A plot plan showing locations of all present buildings and the proposed guest unit, drawn to scale.

3. Plans of the proposed guest unit, including elevations, drawn to scale.

4. A copy of any subdivision covenants governing the lot on which the guest unit is to be placed, or a copy of the deed to show that there are no such restrictions.

Section 29 - RC - Residential Condominium Overlay District

(Ord. 05-07, 9/13/05)

A. General Description

This overlay district is intended to allow residential condominium development in buildings of two or more stories, in suitable areas. The "Residential Condominium Overlay" (RC) zoning overlay district may be applied as a special use permit, by action of the Board of Mayor and Aldermen, to a specific area within the City having one of the following "office" or "commercial" zoning classifications: OR-1, OR-2, O-C, C-L, C-G, C-H, or SC-1.

Density, yards, and lot coverage within the overlay district will be regulated to ensure adequate sunlight, air, and open space. The location and intensity of this land use should not be so great as to cause traffic congestion or to preclude the amenities of good housing. The district may require condominium forms of ownership of dwelling units, improvements and real estate. In review and approval of the special use permit, the City may impose conditions necessary to achieve these objectives.

B. Uses Allowed

1. Residential condominiums in multi-story, multi-unit buildings.

2. Retail, personal service, business service, and office uses permitted in the underlying zoning district, on the first floor in buildings of two or three stories; or on the first two floors in buildings of four stories or more.

C. Yard Requirements

Minimum yards shall be as listed in Article V, Chart 2.

D. Building Height

Building height shall be as listed in Article V, Chart 2. Provision shall be made to ensure adequate water pressure throughout a building for both fire protection and domestic use, as determined by the appropriate City departments.

E. Building Separation

Minimum separation of buildings on the same lot shall be one-half (½) the height of the taller building or twenty (20) feet, whichever is greater.

F. Off-Street Parking

The number of off-street parking spaces shall be as provided in Article VI, Section 12, part B.

An off-street parking lot may be placed between a street and the building, but temporary parking may be allowed along a drive-through plaza serving the building entrance, provided there is adequate landscaping to mitigate the appearance of the paved areas.

As much of the required off-street parking as is reasonably possible shall be placed in parking structures, including underground parking, to avoid excessive use of land for surface parking fields. Parking structures may be on street frontages only if the ground level frontage is occupied by retail and personal service uses.

G. Open Space

Plans for open space in the site plan shall be prepared by a registered landscape architect.

Open space as defined herein shall be available to condominium residents at a minimum of 2.5 acres per 1,000 residents. Points of access to all tracts making up such acreage shall be within a walking distance of one-quarter (¼) mile; and it shall not be necessary to cross a street with more than two travel lanes to reach such tracts (counting a center turn lane but not a median as a travel lane).

Each resident shall have access to the minimum acreage determined above, although not necessarily to the same acreage. (That is, some buildings may provide open space for which access is limited to the residents of that building only.)

Open space shall be provided in the forms described herein.

1. Where areas of sufficient size are available, open space shall be provided in the form of natural corridors or neighborhood parks.

2. Where smaller spaces are available close to buildings, open space also shall be provided in the form of greens or squares.

3. Where open space immediately adjacent to building entrances is needed for persons with limited mobility or is desired for convenience of residents, open space may be provided in the form of terraces, courts, or

quadrangles; with shade trees provided to mitigate the effects of any substantial areas of pavement in warm weather.

The above notwithstanding, open space limited to access by fewer than all of the residents of a building may not be counted toward the requirement.

ARTICLE VII.

NON-CONFORMING LOTS, USES OF LAND, STRUCTURES, USES OF STRUCTURES AND PREMISES, AND NON-CONFORMING CHARACTERISTICS OF USE

Section 1 -Intent

Within the district established by this Ordinance or amendments that may later be adopted there exist lots, structures, uses of land and structures, and characteristics of use which were lawful before this Ordinance was passed or amended, but which would be prohibited, regulated, or restricted under the terms of this Ordinance or future amendment. Non-conforming uses are declared by this Ordinance to be incompatible with permitted uses in the districts involved. It is the intent of this Ordinance to permit these non-conformities to continue until they are removed, but not encourage their survival. To avoid undue hardship, nothing in this Ordinance shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this Ordinance and upon which actual building construction has been carried on diligently. Actual construction is hereby defined to include the placing of construction material in permanent position and fastened in a permanent manner. Where excavation or demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such excavation or demolition or removal shall be deemed to be actual construction, provided that work shall be carried on diligently.

Section 2 -Non-Conforming Lots Of Record

In any district in which single family dwellings are permitted, a single family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this Ordinance, notwithstanding limitations imposed by other provisions of this Ordinance. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the district, provided that yard dimensions and requirements other than these applying to area or width or both of the lot shall conform to the regulations for the district in which such lot is located. Variance of yard requirements shall be obtained only through action of the Board of Zoning Appeals.

Section 3 -Non-Conforming Uses of Land (or Land With Minor Structures Only)

Where at the time of passage of this Ordinance, lawful use of land exists which would not be permitted by the regulations imposed by this Ordinance, the use may be continued so long as it remains otherwise lawful, provided:

A. That no change in the use of the land is undertaken;

B. No additional land shall be acquired for expansion of the non-conforming use;

C. If any such non-conforming use of land ceases for any reason for a period of more than thirty (30) days, any subsequent use of such land shall conform to the regulations specified by this Ordinance for the district in which such land is located;

D. No additional structure not conforming to the requirements of this Ordinance shall be erected in connection with such non-conforming use of land.

Section 4 -Non-Conforming Structures

Where a lawful structure exists at the effective date of adopting or amendment of this Ordinance that could not be built under the terms of this Ordinance by reason of restrictions on area, lot coverage, height, yards, such structure may be continued as long as it remains otherwise lawful, subject of the following provisions:

A. No such non-conforming structure may be enlarged or altered in a way which increases its non-conformity, but any structure or portions thereof may be altered to decrease its non-conformity.

B. Should such non-conforming structure be destroyed by any means to an extent of more than fifty (50) percent of its replacement cost at the time of destruction, it shall not be reconstructed except in conformity with the provisions of this Ordinance.

Section 5 -Non-Conforming Uses of Structures or of Structures and Premises In Combination

(Amended by Ord. 02-16, 12/10/02)

If lawful use involving individual structures or of structure and premises in combination exists at the effective date of adoption or amendment of this Ordinance that would not be allowed in the district under the terms of this Ordinance, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

A. Any non-conforming use may be extended throughout any part of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of this Ordinance.

B. Any structure, or structure and land in combination, in or on which a non-conforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district, and the non-conforming use may not thereafter be resumed.

C. When a non-conforming use of a structure, or structure and premises in combination, is discontinued or abandoned for six (6) consecutive months or for eighteen (18) months during any three (3) year period (except when government action impeded access to the premises), the structure, or structure and premises in combination shall not thereafter be used except in conformity with the regulations of the district in which it is located.

Section 6 - Repairs, Maintenance and Building Expansion

On any non-conforming structure or portion of a structure containing a non-conforming use, work may be done on ordinary repairs, or on repair or replacement of the structure as the case may be, provided that there is a reasonable amount of space for such expansion on the property owned by such industry or business so as to avoid nuisances to adjoining land owners. Any building expansion or rebuilding shall occur only on land owned and in use by such non-conforming business, and shall not operate to permit expansion of an existing industry or business through the acquisition of additional land. Nothing in this Ordinance shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by an official charged with protecting the public safety, upon order of such official.

(Section 7 deleted by Ord. 02-16, 12/10/02.)

ARTICLE VIII.

ADMINISTRATION AND ENFORCEMENT--BUILDING PERMITS AND CERTIFICATES OF ZONING COMPLIANCE

Section I - Administration and Enforcement

A. Building Official designated by the Board of Mayor and Aldermen shall administer and enforce this Ordinance. He may be provided with the assistance of such other persons as the Board of Mayor and Aldermen may direct.

B. If the Building Official shall find that any of the provisions of this Ordinance are being violated, he shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. He shall order discontinuance of illegal use of land, buildings, or structures; removal of illegal buildings or structures or of illegal additions, alterations, or structural changes; discontinuance of any illegal work being done; or shall take any other action authorized by this Ordinance to insure compliance with or to prevent violation of its provisions.

Section 2 - Building Permits Required

(Amended by Ord. 02-16, 12/10/02)

No building or other structure shall be erected, moved, added to, or structurally altered without a permit therefore, issued by the Building Official. No Building Permit shall be issued by the Building Official except in conformity with the provisions of this Ordinance, unless he receives a written order from the Board of Zoning Appeals in the form of an administrative review or variance as provided by this Ordinance.

Section 3 - Application for Building Permit

(Amended by Ord. 06-06, 4/25/06)

All applications for Building Permits for non-residential property and multi-family property shall be accompanied by three (3) sets of working plans and three (3) sets of plot plans prepared by a registered architect or registered engineer drawn to scale, showing the actual dimensions and shape of the lot to be built upon; the exact sizes and locations on the lot of buildings already existing, if any; and the location and dimensions of the proposed building or alteration. Any applications for Building Permits for additions or outbuilding on non-residential and multi-family property shall be accompanied by three (3) sets of working plans prepared by a registered architect or registered engineer which show the dimensions of the addition or outbuilding and how it will relate to

existing buildings and all lot lines. The application shall include such other information as lawfully may be required by the Building Official including existing or proposed building or alteration; existing or proposed uses of the building and land; the number of families, housekeeping units, or rental units the building is designed to accommodate; conditions existing on the lot; and such other matters as may be necessary to determine conformance with, and provide for the enforcement of this Ordinance.

One copy of the working plans shall be returned to the applicant by the Building Official after he shall have marked such copy either as approved or disapproved and attested to same by his signature on such copy. The original and one copy of the working plans and plot plans similarly marked shall be retained by the Building Official. All other applications for Building Permits shall be accompanied by one (1) set of working plans and one (1) set of plot plans drawn to scale, showing the actual dimensions and shape of the lot to be built upon; the exact sizes and locations on the lot of buildings already existing, if any; and the location and dimensions of the proposed building or alteration. Any applications for Building Permits for additions or outbuildings shall be accompanied by one (1) set of plot plans which show the dimensions of the addition or outbuilding and how it will relate to existing buildings and all lot lines. The application shall include such other information as lawfully may be required by the Building Official, including existing or proposed uses of the building and land; the number of families, housekeeping units, or rental units the building is designed to accommodate; conditions existing on the lot; and such other matters as may be necessary to determine conformance with, and provide for the enforcement of this Ordinance. Said one (1) copy of the working plans and plot plans shall be retained by the Building Official.

Before receiving approval to begin construction on a building, the contractor, owner or occupant must first place the foundation boards and have a form survey completed by a surveyor, licensed by the State of Tennessee, to ensure compliance with the required setbacks. The form survey must take into consideration the exterior finish dimensions to be applied as part of the building. The required form survey must be submitted to the Code Enforcement Department prior to the building being framed for interior and exterior walls. Framing may begin once Code Enforcement has reviewed the survey and contacted the builder to proceed.

The Director of Code Enforcement may grant a variance of up to 2% of an applicable required front or rear yard setback and 5% for a required side yard setback for a residentially zoned lot of record. The person seeking the variance must submit an application and fee as is required for other variances. Public notice shall not be required. Any appeal of an administrative decision shall be to the Board of Zoning Appeals. Public notice of the Board of Zoning Appeals hearing on such an appeal shall be the same as other applications for variances.

Administrative variance may be granted only when it is determined that a field error has occurred regarding the placement of the structure on the lot. If the Director of Code Enforcement denies an application for a variance and the Board of Zoning Appeals denies any subsequent appeal of same, a reapplication on the same property, for the same variance may not be filed within one year of the date that the Board of Zoning Appeals took final action or the previous application, unless authorized by the Board of Mayor and Aldermen.

Section 4 - Certificates of Zoning Compliance for New, Altered or Non-Conforming Use

It shall be unlawful to use or occupy or permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted, or wholly or partly altered or enlarged in its use or structure until a Certificate of Zoning compliance shall have been issued therefore by the Building Official stating that the proposed use of the building or land conforms to the requirements of this Ordinance. No non-conforming structure or use shall be maintained, renewed, changed, or extended until a Certificate of Zoning Compliance shall have been issued by the Building Official. The Certificate of Zoning Compliance shall state specifically wherein the non-conforming use differs from the provisions of this Ordinance, pro vided that upon enactment or amendment of this ordinance, owners or occupants of non-conforming uses or structures shall have three (3) months to apply for Certificate of Zoning Compliance. Failure to make such application within three (3) months shall be presumptive evidence that the property was in conforming use at the time of enactment or amendment of this Ordinance. No permit for erection, alteration, moving, or repair of any building shall be issued until an application has been made for a Certificate of Zoning Compliance, and the Certificate shall be issued in conformity with the provisions of this Ordinance upon completion of the work. A temporary Certificate of Zoning Compliance may be issued by the Building Official for a period not exceeding six (6) months during alterations or partial occupancy of a building pending its completion provided that such temporary certificate may include such conditions and safeguards as will protect the safety of the occupants and the public. The Building Official shall maintain a record of all Certificates of Building Compliance, and a copy shall be furnished upon request to any person. Failure to obtain a Certificate of Zoning Compliance shall be a violation of this Ordinance and punishable under Article XIII.

Section 5 - Expiration of Building Permit

If the work described in any Building Permit has not begun within ninety (90) days from the date of issuance thereof, said permit shall expire, and be canceled by the Building Official and written notice thereof shall be given to the persons affected. If the work described in any Building Permit has not been substantially

completed within one (1) year of the date of issuance thereof, said permit shall expire and be canceled by the Building Official and written notice thereof shall be given to the persons affected, together with notice that further work as described in the canceled permit shall not proceed unless and until a new Building Permit has been obtained.

Section 6 - Construction and Use to Be as Provided in Applications, Plans, Permits and Certificates of Zoning Compliance

Building Permits or Certificates of Zoning Compliance issued on the basis of plans and applications approved by the Building Official authorize only the use, arrangement, and construction set forth in such approved plans and applications, and no other use, arrangements, or construction. Use, arrangement, or construction at variance with that authorized shall be a violation of this Ordinance and is punishable as provided by Article XIII.

Section 7 -Abandonment of Construction Activity

If the work described in any Building Permit has begun within the required time but work has thereafter stopped and no substantial work is done within one hundred eighty (180) continuous days, the Building Official may, at his discretion, order the persons affected to complete the structure or to remove it within sixty (60) days. The Building Official shall give the parties affected written notice. Violation of the order of the Building Official shall be a violation of this Ordinance and is punishable as provided by Article XIII.

ARTICLE IX.

BOARD OF ZONING APPEALS

Section 1 - Establishment

A Board of Zoning Appeals is hereby established, which shall consist of five (5) members to be appointed by the Mayor and approved by a majority of the membership of the Board of Mayor and Aldermen, each for a term of three (3) years. The Board shall consist of at least one (1) member of the Board of Mayor and Aldermen, one (1) member of the Municipal Planning Commission and one (1) member of the Community Design and Review Commission. Members of the Board of Zoning Appeals may be removed from office by the Board of Mayor and Aldermen. Vacancies shall be filled by the Board of Mayor and Aldermen for the unexpired term of the member affected.

Section 2 -Proceedings of the Board of Zoning Appeals

The Board of Zoning Appeals shall adopt rules necessary to the conduct of this Ordinance. Meetings shall be held at the call of the chairman and at such other times as the Board may determine. The Chairman or, in his absence, the acting Chairman, may administer oaths and compel the attendance of witnesses. All meetings shall be open to the public.

The Board of Zoning Appeals shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be a public record and be immediately filed in the office of the Board.

Section 3 -Hearings; Appeals; Notice

(Amended by Ord. 02-16, 12/10/02)

Appeals to the Board of Zoning Appeals concerning interpretation or administration of this Ordinance may be taken by any person aggrieved or by any officer or bureau of the governing body of the City affected by any decision of the Building Official. Such appeals shall be taken within a reasonable time, not to exceed sixty (60) days or such lesser period as may be provided by the rules of the Board, by filing with the Building Official and with the Board of Zoning Appeals a Notice of Appeal specifying the grounds thereof. The Building Official shall forthwith transmit to the Board all papers constituting the record upon which the action appealed from was taken. The Building Official shall also transmit to the Planning Commission notice of the appeal. The Board of Zoning Appeals shall fix a reasonable time for the hearing of appeal, give public notice thereof as well as due notice to the parties in interest, and decide the same

within a reasonable time. At the hearing, any party may appear in person or by agent or attorney.

At least fifteen (15) days notice of the time and place of the Public Hearing shall be published in a newspaper of general circulation in the City, and written notice given residents whose property is within three hundred (300) feet of the site or a minimum of ten (10) property owners, whichever results in the greater number of notices, for Administrative Review and Variance cases. The applicant shall provide a vicinity map showing the property which is the site of the application and all parcels of property required to be notified. Such vicinity maps shall show any and all streets, roads, or alleys and shall indicate the owner's name and dimensions of each parcel of property shown. The applicant shall also provide a list of the names and addresses of the owners of property shown on the vicinity map.

Section 4 - Stay of Proceedings

An appeal stays all proceedings in furtherance of the action appealed from, unless the Building Official, from whom the appeal is taken, certifies to the Board of Zoning Appeals, after the notice of appeal is filed with him, that by reason of facts stated in the Certificate, a stay would, in his opinion, cause imminent peril to life and property. In such case proceedings shall not be stayed other than by a restraining order which may be granted by the Board of Zoning Appeals or by a court or record on application, on notice to the Building Official from whom the appeal is taken and on due cause shown.

Section 5 - Powers and Duties

(Amended by Ord. 02-16, 12/10/02)

The Board of Zoning Appeals shall have the following powers and duties:

A. ADMINISTRATIVE REVIEW

To hear and decide appeals where it is alleged by the appellant there is error in any order, requirement, permit, decision, or refusal made by the Building Official or any other administrative official in the carrying out or enforcement of any provision of this Ordinance; and for interpretation of the Zoning Map.

B. VARIANCES: CONDITIONS GOVERNING APPLICATIONS; PROCEDURES

Where,

- by reason of exceptional narrowness, shallowness or shape of a specific piece of property at the time of the enactment of the Zoning Ordinance, or

- by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of such piece of property,

the strict application of the Zoning Ordinance would result in peculiar and exceptional practical difficulties to or exception or undue hardship upon the owner of such property; to authorize, upon an appeal relating to the property, a variance from such strict application so as to relieve such difficulties or hardship; provided, that such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the Zoning Map and Zoning Ordinance.

A variance from the terms of this Ordinance shall not be granted by the Board of Zoning Appeals unless and until the following requirements are met:

1. A written application for a variance is submitted demonstrating

   a. That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district;

   b. That literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Ordinance.

   c. That the special conditions and circumstances do not result from the actions of the applicant.

   d. That granting the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to other lands, structures, or buildings in the same district.

   No non-conforming use of neighboring lands, structures, or buildings in the same district, and no permitted or non-conforming use of lands, structures or buildings in other districts shall be considered grounds for the issuance of a variance.

2. Notice of public hearing shall be given as required in this Article.

3. The public hearing shall be held. Any party may appear in person, or by agent or attorney.

4. The Board of Zoning Appeals shall make findings that the requirements of this Article have been met by the applicant for a variance.

5. The Board of Zoning Appeals shall further make a finding that the reasons set forth in the application justify the granting of the variance,

and that the variance is the minimum variance that will make possible the reasonable use of the land, building, or structure.

6. The Board of Zoning Appeals shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this Ordinance, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

In granting any variance, the Board of Zoning Appeals may prescribe appropriate conditions and safeguards in conformity with this Ordinance. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Ordinance and punishable under Article XIII of this Ordinance.

Under no circumstances shall the Board of Zoning Appeals grant a variance to allow a use not permissible under the terms of this Ordinance in the district involved, or any use expressly or by implication prohibited by the terms of this Ordinance in said district.

C. BOARD HAS POWERS OF ADMINISTRATIVE OFFICIAL ON APPEALS; REVERSING DECISION OF THE BUILDING OFFICIAL

In exercising the above mentioned powers, the Board of Zoning Appeals may, so long as such action is in conformity with the terms of this Ordinance, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from and may make such order, requirement, decision, or determination as ought to be made, and to that end shall have the powers of the Building Official from whom the appeal is taken.

The concurring of a majority of the Board of Zoning Appeals shall be necessary to reverse any order, requirement, decision, or determination of the Building Official, or to decide in favor of the applicant on any matter upon which it is required to pass under this Ordinance, or to effect any variation in the application of this Ordinance.

Section 6 -Appeals from the Board of Zoning Appeals

Any person or persons, or any board, tax payer, department, board or bureau of the City aggrieved by any decision of the Board of Zoning Appeals may seek review by a court of record of such decision, in the manner pro vided by the laws of the State of Tennessee.

All decisions and findings of the Board of Zoning Appeals on appeals or upon applications for variances shall in all instances be final administrative decisions.

ARTICLE X.

DUTIES OF THE BOARD OF MAYOR AND ALDERMEN

It is the intent of this Ordinance that the duties of the Board of Mayor and Aldermen in connection with this Ordinance shall not include hearing and deciding questions of interpretation and enforcement that may arise. The procedure for deciding such questions shall be as stated in Article IX of this Ordinance. Under this Ordinance the Board of Mayor and Aldermen have only duties (1) of considering and adopting or rejecting proposed amendments or the repeal of this Ordinance, as provided by law of the State of Tennessee and (2) of establishing a schedule of fees and charges.

ARTICLE XI.

ESTABLISHMENT OF FEES, CHARGES AND EXPENSES

The Board of Mayor and Aldermen shall establish a schedule of fees, charges, and expenses and a collection procedure for Building Permits, Certificates of Zoning Compliance, appeals, and other matters pertaining to this Ordinance. The schedule of fees shall be posted in the office of the Building Official and may be altered or amended only by the Board of Mayor and Aldermen.

Until all applicable fees, charges, and expenses have been paid in full, no action shall be taken on any application or appeal.

ARTICLE XII.

AMENDMENTS

Section 1 - Public Hearing Required before Amendment

The regulations, restrictions and boundaries set forth in this Ordinance may from time to time be amended, supplemented, changed, or repealed by the Board of Mayor and Aldermen. Such amendments may be at the Board's own initiative, at the recommendation of the Planning Commission, or at the request of an applicant with a contractual interest in the property. All requests for amendments shall be reviewed by the Planning Commission before submission to the Board of Mayor and Aldermen. The Planning Commission shall submit its recommendations on the request to the Board.

The request for an amendment shall be heard by the Board of Mayor and Aldermen at a regularly scheduled meeting. Before enacting any amendment, the Board shall set a public hearing for the proposed amendment.

No amendment may be approved until after a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. At least fifteen (15) days notice of the time and place of such hearing shall be published in a newspaper of general circulation in the City, and written notice given residents whose property is within one thousand (1,000) feet of the land proposed for rezoning or a minimum of fifty (50) property owners, whichever results in the greatest number of notices. The applicant shall provide a vicinity map showing the property which is the site of the application and all parcels of property required to be notified. Such vicinity maps shall show any and all streets, roads, or alleys and shall indicate the owner's name and dimensions of each parcel of property shown. The applicant shall also provide a list of the names and addresses of the owners of property shown on the vicinity map. The applicant shall pay the cost of notifying residents.

The party requesting the rezoning must place a 4' x 4' sign on the property at least fifteen (15) days before a Public Hearing at the Planning Commission level and Board of Mayor and Aldermen level. Said sign must clearly state the name, address and telephone number of the party requesting the rezoning and date, time and place of the Public Hearing. The sign must show the existing zoning and the proposed zoning change with the telephone number of the City of Bartlett Planning Department. The location of the sign on the property will be set by the Bartlett Planning Department.

Section 2 -Re-Application

When an application for rezoning is rejected, no re-application can be made on the same property for at least twelve (12) months after the date of rejection.

ARTICLE XIII.

LEGAL STATUS PROVISIONS

Section 1 - Provisions of Ordinance Declared to be Minimum Requirements

In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements, adopted for the promotion of the public health, safety, morals or general welfare. Wherever the requirements of this Ordinance are at variance with the requirements of any other lawfully adopted rules, regulations, ordinances, or deed restrictions, the most restrictive, or that imposing the higher standards, shall govern.

Section 2 - Complaints Regarding Violations

Whenever a violation of this Ordinance occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint stating fully the causes and basis thereof shall be filed with the Building Official. He shall record properly such complaint, immediately investigate, and take action thereon as provided by this Ordinance.

Section 3 -Penalties for Violation

(Amended by Ord. 02-16, 12/10/02)

Violation of the provisions of this Ordinance or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances) shall constitute a misdemeanor. Any person who violates this Ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not more than Fifty Dollars ($50.00), and in addition shall pay all costs and expenses involved in the case. Each day such a violation may continue shall be considered a separate offense.

The owner or tenant of any building, structure, premises, or part thereof, and any architect, builder, contractor, agent, or other person who commits, participates in, assists in, or maintains such violation may each be found guilty of a separate offense and suffer the penalties herein provided.

Nothing herein contained shall prevent the City from taking such other lawful action as is necessary to prevent or remedy any violation.

ZONING ORDINANCE
INDEX

See the "Definitions" section of this ordinance for additional terms. Specific land uses are indexed under the term "land use."

Accessory Buildings
Height restrictions A--VI-82
Number of buildings A--VI-82
Number of stories A--VI-82
Setbacks A--VI-82
Setbacks and height; Table VI-6 . . . . . A--VI-83

Automobile Service Stations
Gasoline pump islands A--VI-84

Bartlett Station
Boundaries A--VI-55
Building style to be diverse A--VI-60
Common open space A--VI-61
Common open space; access to A--VI-62
Common open space; frontage A--VI-62
Common open space; legal provisions for A--VI-66
Common open space; lot layout A--VI-61
Common open space; maintenance A--VI-61
Common open space; paths A--VI-62
Common open space; requirements for A--VI-62
Density A--VI-57
Design goals A--VI-57
Garages A--VI-59
Infrastructure A--VI-57
Lots A--VI-58
Open space A--VI-61
Perimeter buffer A--VI-59
Planned Residential Development A--VI-54
Planning Commission recommendation A--VI-56
Proposed Planned Residential Development A--VI-56
Setbacks A--VI-58
Sidewalks A--VI-58
Storm drainage A--VI-57
Street frontage A--VI-58
Submittals to the Design Review Commission A--VI-56
Trees A--VI-61
Visitor Parking A--VI-59

Board of Mayor and Aldermen
Duties A--X-220
To establish schedule of fees, charges, and expenses A--XI-221

Board of zoning appeals
Appeals A--IX-216
Establishment A--IX-216
Hearings A--IX-216
Notice A--IX-216
Powers and duties A--IX-217
Proceedings A--IX-216
Stay of proceedings A--IX-217

Building Permit
Violation of A--V-32

Building permits and certificates of zoning compliance
Administration and enforcement A--VIII-212
Building permits required A--VIII-212
Building permits; application for A--VIII-212
Certificates of zoning compliance A--VIII-214
Expiration of A--VIII-214

Criteria for specific uses
Automobile rental, satellite A--VI-113
Nursing home A--VI-112
Psychic and fortune telling businesses A--VI-114

Day Nurseries and Kindergartens
Requirements A--VI-81

Definitions A--I-1
Accessory Building A--I-1

Design and Review Commission
Landscaping and landscape buffers subject to approval A--VI-94

District boundaries
Official Zoning Map A--III-27
Rules for Interpretation of A--III-27

District regulations
A-O - Agricultural and Open Land District A--V-29
Application of A--IV-28
C-G - General Business District A--V-34
C-H - Highway Business District A--V-34
C-L - Neighborhood Business District A--V-34
Exceptions to height regulations A--VI-94
FW - Floodway District A--V-38
FW - Floodway District; prohibition on development A--V-38
I-P Screening and landscaping A--V-37
I-P - Planned Industrial Park A--V-37
O-C - Office Center District A--V-33
O-R 1 - Neighborhood Office District A--V-32

O-R-2 - Neighborhood Office District A--V-32
POS - Public Open Space District A--V-38
POS; Signs to be approved by design and review commission . A--V-44
POS; Site plan approval A--V-44
R-D - Two Family Residential District A--V-31
R-E - Residential Estate District A--V-29
R-M - Multiple Family Residential District A--V-31
R-TH - Townhouse Residential District A--V-31
RS-10 - Single Family Residential District A--V-30
RS-12 - Single Family Residential District A--V-30
RS-15 - Single Family Residential District A--V-30
RS-18 - Single Family Residential District A--V-30
SC-1 - Planned Unit Commercial Development A--V-35
SC-1 - Planned Unit Commercial Development; distance requirement A--V-35
SC-1 - Planned Unit Commercial Development; noise screening A--V-35
SC-1 - Planned Unit Commercial Development; rezoning application A--V-35
SC-1 - Planned Unit Commercial Development; right-of-way . A--V-35
SC-1; screening and landscaping A--V-36
SC-1-Planned Unit Commercial Development; preliminary site plan A--V-35
Schedule of A--V-29
Wholesale and warehouse district A--V-37

Fences

Alternatives to brick or stone A--VI-101
Brick or stone columns A--VI-102
Drainage A--VI-102
Fence Plate 19A A--VI-97
Fence Plate 19B A--VI-98
Fence Plate 19C A--VI-100
Fence Plate 19D A--VI-101
Height requirement in front yard A--VI-95
Located in side and rear yards A--VI-96
Materials for A--VI-96
On corner lots A--VI-96
Other materials may be used upon approval A--VI-103
Periodic posts, decorative columns, and lighting fixture A--VI-95
Residential fence setbacks; figure VI-19 . . . . . A--VI-97

Floodplain Overlay Zone

Abrogation and greater restrictions A--VI-128
Application for approval of a development A--VI-129
Board of zoning appeals A--VI-139
Building officials; duties and responsibilities A--VI-132
City engineer; designation of A--VI-129
Compliance A--VI-128
Definitions A--VI-117

Development approval; construction stage A--VI-130
Development permit requirement A--VI-128
National Flood Insurance Program A--VI-115
Objectives A--VI-116
Penalties for violation A--VI-129
Provisions for flood hazard reduction A--VI-132
Provisions for flood hazard reduction; specific standards . . . A--VI-133
Purpose A--VI-116
Standards for areas with established base flood elevation . . A--VI-137
Standards for areas with floodways designated A--VI-137
Standards for manufactured homes A--VI-134
Standards for subdivision proposals A--VI-138
Standards for unmapped streams A--VI-138
Variance procedures A--VI-139
Variances; conditions for A--VI-140
Warning and disclaimer of liability A--VI-129

Garages for Sales, Storage and Services
New or used motor vehicles A--VI-85
Use of public streets prohibited A--VI-85

Guest Unit
Defined A--VI-204
Design A--VI-205
Floor area A--VI-204
Location, setbacks A--VI-204
Lot size A--VI-204
Number of A--VI-205
Stories A--VI-205
Variances prohibited A--VI-205

Historic Districts
Certificate of appropriateness A--VI-179
Economic hardship; commission shall not cause A--VI-183
Historic conservation district A--VI-176
Historic landmark district A--VI-176
Historic preservation district A--VI-176
Nomination to planning commission A--VI-177
Numbering system A--VI-176
Public hearing on proposed preservation or conservation district A--VI-177
Vote of owners prior to recommendation to planning commission A--VI-177

Historic Preservation Commission
Appeals A--VI-186
Appropriations A--VI-187
Composition and terms A--VI-173
Disqualification of members by conflict of interest A--VI-187

Powers A--VI-174
Rules of order (by-laws) A--VI-175

Historic Preservation Ordinance
Definitions A--VI-171
Enforcement and penalties A--VI-187
Public safety exclusion A--VI-186

Historic Preservation Overlay Zone
Defined A--VI-170
Historic Preservation Ordinance A--VI-171
Requirements for A--VI-170
Zoning map designation A--VI-170

Legal Status Requirements A--XIII-223
Complaints regarding violations A--XIII-223
Penalties for violation A--XIII-223

MS - Main Street Commercial Overlay District A--VI-187
Development pattern, land access A--VI-194
Lot coverage A--VI-189
Lot width A--VI-188
New buildings and additions to existing buildings A--VI-189
Pedestrian circulation A--VI-194
Permitted uses A--VI-188
Setbacks A--VI-189
Weather protection A--VI-193

Non-Conforming Lots of Record A--VII-209

Non-Conforming Structures A--VII-210

Non-Conforming Uses of Land A--VII-209
Repairs, maintenance and building expansion A--VII-211

Off-Street Parking Requirements
Dual function operating hours A--VI-87
Landscape area A--VI-87
Loading space requirements A--VI-87
Other than residential uses A--VI-86
Residential; location of A--VI-87

Official Zoning Map A--II-25
Replacement of A--II-25

Parking and Storage of Certain Vehicles
Motor vehicles or trailers without current license plates A--VI-85

Parking Design Requirements
Accessible parking spaces required A--VI-93
Figure [VI-12a] A--VI-89
Minimum requirements A--VI-92
Structures to have access A--VI-93

Parking, Storage, or Use of Major Recreational Equipment
Defined A--VI-85
Parking regulations A--VI-85

Planned Commercial or Industrial Development Regulations
Commercial or industrial developments; criteria for A--VI-74
Construction plan A--VI-79
Final plan approval process A--VI-79
General standards and criteria A--VI-74
Inadequate or unsafe access to A--VI-73
Modification of district regulations A--VI-73
Outline plan approval A--VI-77
Permitted districts A--VI-73
Post-completion certificate A--VI-81
Pre-application procedure A--VI-76
Pre-application procedure; outline plan A--VI-76
Procedure for amendment A--VI-81
Procedures for approval A--VI-75
Purpose A--VI-71
Reapplication if denied A--VI-81
Relation to zoning districts A--VI-72
Site plan review A--VI-80
Special permit A--VI-72
Traffic volume A--VI-73
Zoning administration--permits A--VI-80

Planning Commission
Petitioning rezoning A--V-32

Public Hearing Required before Amendment A--XII-222

Residential Condominium Overlay District
Building heights A--VI-206
Building separation A--VI-206
Off-street parking A--VI-207
Open space A--VI-207
Uses allowed A--VI-206
Yard requirements A--VI-206

Residential Districts
Off-street parking lots A--VI-86
Planned Residential Development--55+ Senior Housing A--VI-66
Visibility at Intersections in A--VI-93

Satellite Dish
Defined A--VI-95
Number allowed A--VI-95
Permit required A--VI-95
Permitted residential satellite dish antennas A--VI-95
Screening of ground mounted A--VI-95

Senior housing
Planned residential development A--VI-66

Special Events
Approvals A--VI-197
Conditions A--VI-201
Defined A--VI-195
Exemptions A--VI-195
Performance standards A--VI-197
Permit; appeals A--VI-203
Permit; application A--VI-201
Permit; authorization by board of mayor and aldermen A--VI-203
Permit; authorization by permitting official A--VI-202
Permit; non-transferable A--VI-203
Permit; standards of operation A--VI-203
Permit; when required A--VI-201

Special Use Permits
Amendments to A--VI-110
Compliance with conditions A--VI-110
Conditions may be imposed A--VI-111
Effect of issuance of A--VI-110
Initiation of request for A--VI-108
Procedures A--VI-108
Purpose A--VI-108
Reapplication if denied A--VI-110
Standard for A--VI-111
Standards of general applicability A--VI-111

Subdivision Ordinance
Requirements must be met if site is to be subdivided A--V-32

Supplementary District Regulations
Commercial Streetscape - Plate 23A A--VI-166
Commercial Streetscape - Plate 23B A--VI-167
Commercial Streetscape - Plate 23C A--VI-168
Fence Plate 19A A--VI-104
Fence Plate 19B A--VI-104
Fence Plate 19C A--VI-105
Fence Plate 19C Shadowbox Detail A--VI-106
Fence Plate 19D A--VI-107
Home Occupation A--VI-50
Planned Unit Residential Development A--VI-51

Planned Unit Residential Development; multi-family structures A--VI-54
Planned Unit Residential Development; off-street parking . . . A--VI-54
Planned Unit Residential Development; requirements A--VI-52
Planned Unit Residential Development; sanitary sewers A--VI-53
Planned Unit Residential Development; standards A--VI-53
Planned Unit Residential Development; streets and drives . . A--VI-53
PRD-1 - Planned Residential Development in Bartlett Station A--VI-54
Screen Between Single Family Residential/Other Uses - Plate 23D A--VI-169
Temporary Uses A--VI-47

Tree and landscaping ordinance

Applicability A--VI-143
City beautiful commission A--VI-146
Code enforcement department to enforce A--VI-146
Compatibility required with the intended development A--VI-152
Construction requirements and approvals A--VI-151
Definitions A--VI-144
Design review commission A--VI-146
Development other than single-family residential A--VI-154
Enforcement A--VI-149
Enforcement; cost assessed to property owner A--VI-150
Enforcement; failure to comply A--VI-150
Enforcement; fees and penalties A--VI-151
Enforcement; notice to finance department A--VI-151
Enforcement; right of appeal A--VI-150
Engineering department; responsibilities A--VI-146
Grading or building permit required for all earth-moving . . . A--VI-160
Grading plan review A--VI-159
Location restrictions; street plantings A--VI-152
Maintenance A--VI-147
Maintenance; notice of required maintenance A--VI-148
Maintenance; responsibility for A--VI-147
Minimum size when planted A--VI-153
Official city trees A--VI-153
Overhead utilities; protection of A--VI-152
Planning commission A--VI-146
Planning development A--VI-146
Planting program to be developed by city A--VI-151
Protection of existing tree cover A--VI-147
Pruning A--VI-149
Purpose A--VI-143
Recommended plant materials A--VI-157
Residential subdivision development A--VI-158
Screen between Single-Family Residential and All Other Land Uses A--VI-156
Site plan review A--VI-158
Sizes defined A--VI-151

Species selection A--VI-153
Stormwater detention basins A--VI-157
Street trees A--VI-159
Tree planting on public areas A--VI-151
Tree removal A--VI-149
Tree survey A--VI-161
Tree topping prohibited A--VI-148
Trees of historic significance A--VI-149
Trees shall be free of insects, diseases or mechanical injuries A--VI-153
Yard trees A--VI-159

Wireless Communication Supporting Structures
Associated appurtenances, including cabinets, cabling, equipment A--VI-142
Existing on-site vegetation shall be preserved A--VI-142
Facilities (i.e. attached antenna arrays and related equipment) A--VI-142
Materials to be architecturally compatible A--VI-142
Minimum setback A--VI-142
Security fencing and/or equipment screening A--VI-142
Support structures A--VI-142
Towers shall not be lighted A--VI-142
Within residential zoning districts A--VI-141

Zoning districts
Establishment of A--II-24
Official Zoning Map A--II-25