Chapter 38

ZONING[1]

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[1] This chapter contains the complete text of the Chattanooga Zoning Ordinance, as enacted by Ordinance No. 5149, and re-enacted by Ordinance No. 6958. Ordinance No. 9492, adopted November 20, 1990, added clarification and interpretation to the zoning ordinance. This chapter is taken from Appendix B of the 1995 Chattanooga City Code, as amended, through December 31, 2008. **Amendments have also been added through SEPTEMBER 13, 2011.** The compiler has added headings and modified numbering to follow the basic format of the city code. The zoning map is published separately.

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ARTICLE I. IN GENERAL

Sec. 38-1. Title.

This chapter shall be known and cited as the "Chattanooga Zoning Ordinance."

ARTICLE II. DEFINITIONS

Sec. 38-2. Definitions; use of words and terms.

For the purpose of this Chapter, words and terms are defined as set forth below.

Words used in the present tense include the future; words in the singular number include the plural, and words in the plural number include the singular; the word "building" includes the word "structure;" the word "shall" is mandatory and not directory.

Accessory Use of Building: A use of building subordinate to the main building on the lot and used for purposes customarily incidental to those of the main building.

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.

Alley: A way which affords only secondary means of access to abutting property.

Antenna: An apparatus designed for telephonic, radio, television or other communications through the sending or receiving of electromagnetic waves, including but not limited to panel antenna, parabolic, or dish antenna. This definition shall not apply to a ground or building mounted antenna if the height including any post or supporting structure and antenna does not exceed thirty-five (35) feet for a ground mounted antenna, the applicable height restriction for the zone, or twenty feet above a building whichever is less.(Ord.No.10705,6-02-98)

Apartment Houses: See "Dwelling, Multiple."

Appeal: A request for a review by a higher authority of the interpretation of any provision of these regulations or a request for variance.

Area of Special Flood Hazard: The land in the flood plain within a community subject to a one percent (1%) or greater chance of flooding in any given year (see also "High Water Stage").

Assisted Living Facility: Any building, establishment, complex which accepts persons for domiciliary care and provides room, board, and non-medical living assistance to the residents. Prescribed medical treatment may be administered subject to the provisions of Tennessee Code Annotated, § 68-11-201. (Ord. No. 10447, 7/16/96)

Attached: Connected by an enclosure of either continuous walls or supporting columns, roof and floor and structurally integrated into the principal building on site.

Auto Wrecking Yard: Any place where three (3) or more vehicles not in running condition, or the parts thereof, are stored in the open. This definition is not intended to include such businesses as auto repair garages, service stations, auto wrecker services of similar uses which store vehicles only on a temporary basis and not for salvage purposes. All outdoor storage areas of such uses shall be totally, visually screened on all sides by a sight-obscuring fence at least six (6) feet in height. Slatting or a covering for chain link fences may be used subject to approval of slat or cover material by the Inspection Department. All front yard areas used for vehicle or parts storage must be set back at least twenty-five (25) feet from any public right-of-way.

Bar: A commercial establishment where alcoholic beverages or light meals are served to customers for on-premise consumption provided that the occupancy capacity is less than one hundred (100) persons. (Ord. No. 12468, §2, 1-25-11)

Base Flood: For purposes of adopted flood regulations, means the flood having a one percent change of being equaled or exceeded in any given year. This term is also referred to as the 100-hyear flood or the one (1) percent annual change flood. (Ord. No. 12318, §1, 11-17-09)

Basement: A story partly underground and having at least one-half (1/2) of its height above grade. A basement shall be counted as a story if the vertical distance from the grade to the ceiling is over five (5) feet or if used for business purposes or for dwelling purposes by other than a janitor or his family.

Bed and Breakfast: Any house or other structure used, advertised or held out to the public to be a place where sleeping accommodations are supplied for pay to transients and shall contain no more than nine (9) bedrooms for that purpose. Meals, usually breakfast, may be provided for the tenant. (Ord. No. 12230, § 1, 4-21-09)

Boarding House: Any house, or other structure, used, advertised or held out to the public to be a place where living or sleeping accommodations are supplied for pay to tenants and shall contain no more than nine (9) bedrooms for that purpose. Meals may or may not be provided to the tenant. (Ord. No. 12230, § 1, 4-21-09)

Buffer: Reserved area to be maintained as open space except for required screening material. No building or structure shall be placed in the designated buffer area. The buffer area is not to be used for parking, access, or any other purpose related to the use of the property

Building: Any structure used or built for the shelter or enclosure of persons, animals, or chattels.

Building, Height of: The vertical distance between the level and the highest point of the roof surface of a flat roof, the deck line of a mansard roof and to a point two thirds (2/3's) the height of a gable, hip or gambrel roof: If the building is set back from the street line, the height may be measured from the average elevation of the finished grade at the front of the building, provided that the distance from the street line to the front of the building is not less than the height of such finished grade above the established curb level.

Carrier application: The total number of antennas needed for a single carrier to place their equipment on a communication tower. (Ord. No. 10705, 6/02/98)

Cemetery: 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. (Ord. No. 12241, § 1, 5/19/09)

Clinic: Medical services for outpatients only.

Columbarium: A place for public storage of urns. Columbaria can be either free standing units, part of a mausoleum or another building. (Ord. No. 12241, § 1, 5/19/09)

Commercial Use: Activity involving the sale of goods or services carried out for profit.

Communications Tower: Any structure that is designed and constructed primarily for the purpose of supporting any telecommunication antenna, dish or transmitter, including monopole communication towers and lattice communication towers. (Ord. No. 10705, 6/02/98)

Communications Tower Height: The distance measured from the ground level to the highest point on the communication tower excluding antennae. (Ord. No. 10705, 6/02/98)

Community: A neighborhood, vicinity, or locality.

Cremation: The act of reducing a corpse by burning, generally in a crematorium furnace or crematory fire. (Ord. No. 12241, § 1, 5/19/09)

Crematory: A building or structure containing properly installed, certified apparatus, intended for the use in the act of cremation. (Ord. No. 12241, § 1, 5/19/09)

Curb Level: The main level of the established curb in front of the building. Where no such curb has been established, the City Engineer shall establish such curb level.

Day Care Home: A home operated by any person who receives therein for pay not more than seven (7) children under 17 years of age, who are not related to such person and whose parents or guardians are not residents of the same home for less than 24 hours supervision and care, without transfer of custody. Also, a home operated by any person who receives therein for pay not more than seven (7) aged persons, who are not related to such person, for less than 24 hours supervision and care.

Day Care Center: A place, except schools graded one (1) through twelve (12) and kindergartens operated by any governmental unit or under the supervision of any religious

organization, operated by a person, society, agency, corporation, or institution, or any group wherein are received for pay eight (8) or more children under 17 years of age for group care, without transfer of custody for less than 24 hours per day. The term "day care center" shall include, but not be limited to, child development centers, nursery schools, day nurseries, play schools, and kindergartens, as well as agencies providing before and after school care regardless of name, purpose, or auspices. Also, a place operated by a person, society, agency, corporation, or institution, or any group where are received for pay eight (8) or more aged persons for group care for less than 24 hours per day. This definition is not applicable to any such use operated by any governmental unit.

Development: Any man-made change to improved or unimproved real estate, including, but not limited to, building or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

Dwelling: Any building or structure or part thereof used and occupied for human habitation or intended to be so used, including any outhouses or appurtenances belonging thereto or usually enjoyed therewith.

Dwelling, Attached: A dwelling which is joined to another dwelling at one or more sides by a party wall or walls. (Ord. No. 12379, § 1, 4/20/10)

Dwelling, Detached: A dwelling which is entirely surrounded by open space on the same lot. (Ord. No. 12379, § 1, 4/20/10)

Dwelling, Single-Family: A building occupied or intended to be occupied as an abode of one family.

Dwelling, Single-Family Zero Lot-Line: A building occupied or intended to be occupied as an abode of one family which is set on one side and/or rear property lines.

Dwelling, Two-Family (Duplex): A detached building designed for or occupied exclusively by two families, independently of each other.

Dwelling, Multiple: A building or portion thereof used or designed as a residence for three or more families living independently of each other.

Dwelling Unit: Any room or group of rooms located within a dwelling and forming a single habitable unit with facilities which are used or intended to be used for living, cooking, sleeping, and eating.

Equine: Horses (including miniature horses, ponies, donkeys, mules, burros. (Ord. No. 12508, §1, 5/24/11)

Ethanol Transfer Facility: A facility for the handling, and transfer of only ethanol products shipped or transferred by rail, pipe or truck. (Ord. No. 12550, §1, 10/18/11)

Existing Manufactured Home Park or Subdivision: 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

before September 3, 1980, (the effective date of the flood plain management regulations adopted by the City of Chattanooga).

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).

Family: A group of one or two persons or parents with their direct descendants and adopted and foster children, together with not more than three persons not so related, living together in a room or rooms comprising a single housekeeping unit. Every additional group of five or less persons living in such housekeeping unit shall be considered a separate family.

Filling Station: See "Service Station."

Flood or Flooding: A general and temporary condition of partial or complete inundation of normally dry land areas from:

(1) the overflow of inland waters;

(2) the unusual and rapid accumulation or runoff of surface waters from any source.

Flood Hazard Boundary Map (FHBM): An official map of a community on which the Federal Insurance Administration has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

Flood Hazard Zone: The Flood Hazard Zone includes all areas covered by the Floodway Zone plus all areas of special flood hazard as set forth and identified as such by the Federal Emergency Management Agency in its most recent Floodway Maps and Flood Insurance Rate Maps (FIRM) for the community and all property which is considered to be below the elevation of the "High Water Stage" for the Tennessee River and its tributaries. Changes and additions to the Flood Hazard Zone by Tennessee Valley Authority study are hereby adopted and add to or change the Flood Hazard Zone.

Flood Insurance Rate Map (FIRM): An official map of a community, on which the Federal Emergency Management Agency had delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

Flood Insurance Study: The official report provided by the Federal Emergency Management Agency. The report contains flood profiles, as well as the flood Boundary Floodway Map and the water surface elevation of the base flood.

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.

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 increasing the water surface elevation at the High Water State or the Base Flood. The Floodway Zone of Ninemile Branch, Black Creek, Ryall Springs Branch, Mackey Branch and Friar Branch is identified by the Federal Emergency Management Agency and shown on its Flood Boundary and Floodway Maps dated September 6, 1989. The Floodway Zone for other streams is identified by lines and the notation

'F/W' on the official Zoning Maps. Changes and additions to the Floodway Zone by Tennessee Valley Authority study are hereby adopted and add to or change the Floodway Zone.

Frontage: The Width of the lot measured along the dedicated street right-of-way except that lot frontage on cul-de-sac turn-arounds or curves with a radius of 500 feet or less at the lot line may be less than the lot frontage required by this Zoning Ordinance, provided that the lot has the required minimum lot frontage at the rear of the front yard required by this Zoning Ordinance. (Ord. No. 812277, § 1, 8/18/09)

Functional Classification of Streets and Roads: The following shall be the criteria whereby streets and roads are classified:

(1) Principal Arterials: Significant intra-area travel; such as between central business districts and outlying residential areas, between major inner city communities, or between major suburban centers should be served by this system. Principal arterials are not restricted to controlled access routes. For principal arterials, the concept of service to abutting land should be subordinate to the provision of travel service to major traffic movements.

(2) Minor Arterials: Should interconnect with and augment the urban principal arterial system and provide service to trips of moderate length at a somewhat lower level of travel mobility than principal arterials. These facilities place more emphasis on land access than the higher system. Minor arterials, ideally, do not penetrate identifiable neighborhoods.

(3) Collector Streets: Provides both land access and traffic circulation within residential neighborhoods as well as commercial/industrial areas. It differs from the arterial system in that facilities on the collector system may penetrate through the area to the ultimate destination. In the central business district (CBD), and in other areas of like development and traffic density, the collector system may include the street grid which forms a logical entity for traffic circulation.

(4) Local Streets: Compromises all facilities not on one of the higher systems. It serves primarily to provide direct access to abutting land and access to the higher order systems. It offers the lowest level of mobility and through traffic movement usually is deliberately discouraged.

Funeral Home: A building or part thereof used for human funeral services. Such building may contain space and facilities for (a) embalming and performance of other services in preparation of dead for burial; (b) the storage of caskets, urns and other related supplies; (c) display of deceased and rituals connected thereto; and (d) storage of funeral vehicles. Facilities for cremation may be allowed in zoning district permits. (Ord. No. 12241, § 1, 5/19/09)

Garage, Private: A building or space used as an accessory to or a part of a main building permitted in any residential zone and providing for the storage of motor vehicles and in which no business, occupation or service for profit is in any way conducted.

Garage, Public: Any building or premises, except those described as a private or storage garage, used for the storage or care of motor vehicles, or where any such vehicles are equipped for operation, repair or kept for remuneration, hire or sale.

Garage, Storage: Any building or premises, other than a private or public garage, used exclusively for the parking or storage of motor vehicles.

Garden Center: A place of business where retail and wholesale products and produce are sold to the consumer. These centers, which may include a nursery and/or greenhouses, import most of the items sold, and may include plants, nursery products and stock, potting soil, hardware, power equipment and machinery, hoes, rakes, shovels, and other garden and farm variety tools and utensils. (Ord. No. 12253, § 1, 6/16/09)

Greenhouse, Commercial: A building used for retail and/or wholesale of plants grown within such building. (Ord. No. 12253, § 1, 6/16/09)

Habitable Floor: Any floor usable for living purposes, which includes working, sleeping, eating, cooking or recreation, or a combination thereof. A floor used only for storage purposes is not a Habitable Floor. (This definition shall replace the definition of Lowest Habitable Floor.)

Highest Adjacent Grade: For purposes of adopted flood regulations, means the highest natural elevation of the ground surface, prior to construction, adjacent to the proposed walls of a structure. (Ord. No. 12318, §1, 11-17-09)

High Water Stage: The High Water Stage for the Tennessee River (Nickajack Lake) and its tributaries shall be that elevation determined by the Federal Emergency Management Agency as the 100 year flood elevation as shown on the flood profiles in its Flood Insurance Study for the City of Chattanooga, Tennessee, dated September 6, 1989, and any other applicable profiles as completed by the Tennessee Valley Authority.

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 a state inventory of historic places in 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 Interior in states without approved programs.

Home Occupation: An occupation in a dwelling unit, provided that:

(1) No person other than members of the family residing on the premises shall be engaged in such occupation;

(2) 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 twenty-five (25) percent of the floor area of the dwelling unit shall be used in the conduct of the home occupation;

(3) 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;

(4) There shall be no sales of products or commodities on the premises;

(5) Any home occupation that generates vehicular traffic to the premises as determined by the City Traffic Engineer shall be permitted only by Special Permit from the Board of Appeals in accordance with provisions of Article VIII, Section 38-568(13) of this chapter. (Ord. No. 10204, 4/18/95)

(6) 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, nor shall any equipment or process be used which creates visual or audible interference in any radio or television receiver off the premises, or cause fluctuations in the line voltage off the premises. In the case of a duplex, or apartment building, no use shall be permitted which affects another unit in the same building in the above mentioned ways.

(7) R-3 and R-4 are the only residential zones in which a sign may be located; said sign shall consist of one name plate, non-illuminated, attached to the building entrance and not more than one (1) square foot in area. No sign or advertisement of any type shall be permitted in the R-1, R-2, R-3MD, RT-1, RZ-1, or R-5 residential zones which indicate the presence of a business on the premises. Signs prohibited in these zones include, but are not limited to the following: mailbox signs or nameplates, window signs, signs attached to door facing or other parts of a house or structure, portable signs not affixed to home or structure, awning signs, banners, balloon signs.

Hospital: Any institution, place, building or agency where care, accommodations, facilities and equipment are furnished, for one (1) or more non-related persons who need the care of nursing, medical or surgical services. (Ord. No. 10447, 7/16/96)

Hospital, Small Animal: A facility for the boarding, care and treatment of animals commonly considered small at maturity and including domestic dogs and cats and other ordinary household pets; but specifically excluding goats, swine, cattle, and horses.

Hotel: A building or other structure, kept, used, maintained, advertised as, or held out to the public to be, a place where sleeping accommodations are supplied for pay to transient or permanent guests or tenants, in which ten (10) or more rooms are furnished for the accommodations of such guests, and having or not having one (1) or more dining rooms, restaurants or cafes where meals or lunches are served to transient or permanent guests, such sleep accommodations and dining rooms, restaurants or cafes, if existing, being conducted in the same building or buildings in connection therewith.

Houseparent or Guardian: Persons who provide care for the residents of Residential Homes for the Handicapped and/or Aged Persons, Assisted Living Facilities, and Medically Assisted Living Facilities. (Ord. No. 10447, 7/16/96)

Junkyard: A junkyard is an open area where waste or scrap materials are bought, sold, exchanged, stored, baled, packed, disassembled or handled, including, but not limited to, scrap iron and metals, paper, rags, rubber tires and bottles. A junkyard includes an auto wrecking yard but does not include uses established entirely within enclosed buildings.

Late Night Entertainment/Event Facility: See *Nightclub* definition. (Ord. No. 12529, § 1, 7-19-11)

Lattice Communication Tower: A self supporting support multi-leg structure, erected on the ground, which consists of metal crossed strips or bars to support antennas and related equipment. (Ord. No. 10705, 6/02/98)

Liquor: Beverages exceeding five percent (5%) alcohol.

Liquor Store: Retail store selling package liquor.

Loading Space: A space within the main building or on the same lot providing for the standing, loading or unloading of trucks, having a minimum dimension of twelve feet (12') by thirty-five feet (35') and a minimum vertical clearance of fourteen feet (14').

Lodger: An occupant of a lodging or rooming house other than the owner or caretaker or his immediate family.

Lodging House: Any house or other structure used, advertised or held out to the public to be a place where sleeping accommodations are supplied for pay and shall contain no more than nine (9) bedrooms for that purpose. Meals may not be provided.

Lot: A piece of land occupied or intended for occupancy by a building(s) or structure(s), together with any accessory building(s) or structure(s); including the open space and yards required by this Ordinance. (Ord. No. 10393, 3/19/96)

Lot, Corner: A lot abutting upon two (2) or more streets at their intersection.

Lot, Depth: The depth of a lot for the purpose of this chapter, is the distance measured in the mean direction of the side lines of the lot from the midpoint of the front line to the midpoint of the opposite main rear line of the lot.

Lot, Infill: Any proposed residential lot zoned R-1, R-2 or R-3 in the Urban Overlay Zone or Zoned R-1 in other areas which, also, is not a combination of existing lots.
(Ord. No. 12277, § 1, 8/18/09)

Lot, Interior: A lot other than a corner lot.

Lot, Through: An interior lot having frontage on two streets, other than a corner lot.

Lot, Width: The length of the line marking the rear of the required front yard, or the front of the building measured parallel to the street, and extending to the side lot lines. In zones where no front yard is required, the lot width shall be the same as the street frontage.

Lot Lines: The lines bounding the lot.

(1) *Lot Line, Front*: The front lot line of an interior lot is the line separating the lot from the street or easement of principal access. The front lot line of a corner lot shall be the lot line of least length abutting the street or streets, except that any street lot line may be elected to be the front lot line (front yard) for the purposes of this chapter, provided it is so designated on the application for a building permit.

(2) *Lot Line, Rear*: The rear lot line is the boundary line or lines opposite, most distant, and more or less parallel to the front lot line. The rear lot line or lines of an irregular lot shall be determined by the Director of Codes Administration or

assignee thereof. For purposes of setback, measurements from the established rear lot line shall be to the closest point of the building.

(3) *Lot Line, Side*: A side lot line is any boundary line not a front lot line, or a rear lot line. A side lot line separating a lot from a street line is an exterior side lot line. Any other side lot line is an interior side lot line.

Lowest Floor: For purposes of adopted flood regulations, means the lowest floor of the lowest enclosed area, including a basement. An unfinished or flood resistant enclosure used solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor, provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of applicable flood regulations. (Ord. No. 12318, §1, 11-17-09)

Manufactured Home: A structure, transportable in one (1) or more sections, which, in the traveling mode, is eight (8) body feet or more in width, or forty (40) body feet or more in length, or, when erected on site, is three hundred twenty (320) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air condition, and electrical systems contained therein. For flood plain management purposes the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days. For building permit purposes there shall be affixed to a factory manufactured home the appropriate State Of Tennessee certification label before same shall be considered to meet standards required for issuance of a building permit.

Manufactured Home Park or Subdivision: A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Mausoleum: A building used for the entombment of human remains above ground. (Ord. No. 12241, § 1, 5/19/09)

Mean Sea Level: The average height of the sea for all stages of the tide.

Medically Assisted Living Facility: A group home facility not otherwise regulated or defined by this chapter or otherwise exempt from local regulations, where living assistance (including prescribed medical treatment) is given to the residents. (Ord. No. 10447, 7/16/96)

Modular Unit: (Sectional or relocatable home): A factory fabricated transportable building designed to be used by itself or to be incorporated with similar units at a building site into a single structure without carriage or hitch. The term is intended to apply to major assemblies and may not include prefabricated sub-elements which are to be incorporated into a structure at the site. Such units are designed as stationary construction for placement upon permanent foundation, to be connected to utilities and may consist of one or more components.

Monopole Communication Tower: A communication facility which consists of a monopolar structure, erected on the ground to support communication antennas and connected appurtenances. (Ord. No. 10705, 6/02/98)

Mortuary: See funeral home definition. (Ord. No. 12241, § 1, 5/19/09)

Motel: A building or group of buildings used or intended to be used for overnight occupancy by transient motorists. The primary distinction between a motel and a hotel is that the motel has parking space adjacent or reasonably close to each sleeping unit.

New Construction: For purposes of adopted flood regulations, means any structure for which the "start of construction" commenced on or after the effective date of the initial floodplain management regulations, and includes any subsequent improvements to such a structure.
(Ord. No. 12318, § 1, 11-17-09)

New Manufactured Home Park or Subdivision: 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 September 3, 1980, (the effective date of flood plain management regulations adopted by the City of Chattanooga).

Nightclub: A commercial establishment, which may or may not be held out to the public as a Bar or social gathering place, with an occupancy capacity of 100 or more people which serves alcohol or allows alcohol on the premises and which is operated as a place of entertainment at night for eating, drinking, dancing and provides live or recorded entertainment, characterized by any or all of the following activities as a principal use:

1) Festival Seating: A form of audience/spectator accommodation for entertainment events in which limited or not seating, other tan floor or ground surface, is provided for the audience/spectators gathered to observe entertainment events, dance, or watch a performance. It is not the intent of this section to apply the term festival seating to exhibitions, sports events, conventions, and bona fide political, religious, and educational events.
2) Musical or video or live entertainment-live or recorded (DJ) that is amplified or very loud. This category does not include karaoke unless such activity continues after midnight.
3) Dance floor available for use during certain hours.
4) Later operating house – defined as after midnight.
5) Low lighting levels or darkness during any musical, video or live entertainment event. It is not the intent of this section to apply to movie theaters.
6) Stage/platform for floor shows or other live or recorded performances.
7) Operates with a city or state license to serve alcohol or allows consumption of alcohol on the premises during musical, video, or live entertainment events between the hours of 11:00 p.m. until 3:00 a.m.

The above factors need not be present during all hours of operations nor include the entirety of the establishment to result in the necessity for a special permit as required under Chattanooga City Code 38-527. (Ord. No. 12280, §1, 8-25-09; Ord. No. 12468 §1, 1-25-11)

Non-Conforming Use: A use that does not conform with the regulations of the use zone in which it is situated.

Nursery, Commercial: An enterprise that conducts the retail and/or wholesale of plants grown on the premises. (Ord. No. 12253, § 1, 6/16/09)

Nursing Home: Any institution, place, building or agency where care is provided for one (1) or more non-related persons who are not acutely ill, but who do require skilled nursing care

and related medical services beyond the basic provisions of food, shelter and laundry. (Ord. No. 10447, 7/16/96)

Office Building: A building used primarily for conducting the affairs of a business, profession, service, industry, or government or like activity.

Open Air Market: A retail market or sale operated outdoors or beneath unenclosed shelters and doing business on a continuing basis, or for as many as six (6) days during a sixty (60) day period, where inexpensive and/or secondhand items and/or food- stuffs are offered for sale, and including all fruit or vegetable markets, flea markets, rummage sales, garage or attic sales and similar undertakings when operated in such a manner as to fall within the limits of this definition.

Park, Ornamental: All municipal, state, federal, and private parks designed for passive recreational uses, including, for example, but not limited to Fountain Square, Memorial Place, the Downtown Park, and the Patten Parkway Park.

Park, Recreational: All municipal, state, federal, and private parks which are primarily designed for active recreational uses.

Parking Lot: An area or plot of land used for the storage or parking of vehicles, including all necessary additional space needed for vehicular access or maneuvering thereto or therefrom.

Parking Space: Dimensions for parking spaces shall be determined by the City Traffic Engineer. Handicapped Parking as required by T.C.A. and the Chattanooga Building Code shall meet the current ADA standards. A copy of the ADA standards is available in the office of the Clerk of the City Council. All signs and pavement markings for handicapped parking shall conform to City Traffic Engineering Drawing No. A5-H7. The enforcement of the parking requirements shall be the duty of the City Traffic Engineer. (Ord. No. 10162, 1/17/95)

Pasture: Open, uncultivated land used for the grazing of livestock (including equine) which contains sufficient vegetation to serve as the principal food source for the livestock confined therein. (Ord. No. 12508, §1, 5/25/11)

*Planned Unit Development - Institutional***:** An Institutional Planned Unit Development is a completely planned institutional zone, professionally designed as a unit, and approved by the Chattanooga City Council, on a site of not less than five (5) acres, in an R-4 Zone.

Planned Unit Development - Residential: Planned Unit Development-Residential: A Planned Unit Development is a completely planned residential development, professionally designed as a unit, and approved by the Chattanooga City Council on a site of not less than two (2) acres in zones which allow P.U.D. residential development, except for A-1 Urban Agricultural Zone. The A-1 Urban Agricultural Zone shall be at least twenty (20) acres.
(Ord. No.11597,§1, 08-17-04)

Professional Office: Professional offices shall include the following uses: medical and dental offices, attorney offices, engineering, architectural and planning offices, accountant offices, and any office use which in the judgment of the Board of Appeals is similar in character, type and effect to the above uses.

Publicly-owned Building: Any building, structure, facility, or complex used by the general public, whether constructed by any state, county or municipal government agency.

Quarry: An open excavation for obtaining building stone, slate, limestone or other mineral substances. The process of removal can include blasting, crushing, screening, sizing and conveying of the material. The material derived is usually sold on a commercial basis.
(Ord. No. 10811, 12/15/98)

Recreational Vehicle: A vehicle which is:
(1) built on a single chassis;
(2) 400 square feet or less when measured at the largest horizontal projection;
(3) designed to be self-propelled or permanently towable by a light duty truck; and
(4) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping travel, or seasonal use.

Repetitive Loss: For purposes of adopted flood regulations, means flood–related damage sustained by a structure on two separate occasions during a 10 (ten) year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds twenty-five percent (25%) of the market value of the structure before the damage occurred. (Ord. No. 12318, § 1, 11-17-09)

Residential Home for Handicapped and/or Aged Persons: A home represented and held out to the general public as a home which accepts handicapped and/or aged persons for permanent, domiciliary care, and which provides room, board, and personal services (excluding nursing services). This facility may include up to two (2) additional persons (plus their dependents) acting as house parents or guardians, who need not be related to each other or to any of the handicapped or aged persons residing in the facility. The term "handicapped" includes "physically handicapped" persons and "mentally handicapped" and "mentally retarded" persons who have been formally diagnosed by a licensed psychologist with competency in clinical psychology as suffering from psychiatric illness, and is receiving treatment or care for mental illness; but the term "handicapped" does not include persons who are mentally ill, and who, because of such mental illness pose a likelihood of serious harm (as defined in T.C.A. 33-604) or who have been convicted of serious criminal conduct related to such mental illness. The term "aged" usually means those persons who are sixty (60) years or older.

Restaurant, sit down: A commercial establishment where the principle use is the preparation and sale of food and beverages and whose operation is characterized by customers being provided with an individual menu and being served their food and beverages by a restaurant employee at the same table or counter where the items are consumed before the hours of midnight on weekday and weekends. (Ord. No. 12468, §2, 1-25-11)

Restaurant, drive-in: A commercial establishment and adjoining parking area used for the purposed of furnishing food, soft drinks, ice cream, and similar confections to the patrons. Food services are provided principally while patrons remain in their vehicles. (Ord. No. 12468, §2, 1-25-11)

Restaurant, fast food: A commercial establishment engaged primarily in the business of preparing food and purveying it on a self-serve or semi self-serve basis. Customer orders and/or service may be by means of a walk-up counter or window designed to accommodate automobile traffic. Consumption may be either on or off the premises. (Ord. No. 12468, §2, 1-25-11)

Sale, Yard (also referred to as a Garage, Rummage and Estate Sale): A sale, occurring no more than two (2) days in a one hundred twenty (120) day period, of used household or personal items.

Sale, Benefit: A sale of seasonal goods conducted by a nonprofit organization (such as a church or charity) to help support its programs.

Service Station: A building or lot where gasoline, oil and grease are supplied and dispensed to the motor vehicle trade, or where battery, tires, and other similar services are rendered.

Setback: The distance between the building or structure and any lot line.

Short-Term Vacation Rental: A single family detached dwelling unit that is rented in part or its entirety on a daily or weekly basis for not more than thirty (30) days for overnight stay where a permanent residence is not established (mailing address, vehicle registration, etc.) and are generally advertised or otherwise held out to the public. Short-Term Vacation Rentals are also sometimes referred to as "tourist homes" or "short-term residential rentals" and advertised as such. Short-Term Vacation Rentals do not include hotels, motels, or bed and breakfast establishments. Short-Term Vacation Rentals are only permitted in zoning districts that specifically list them as a permitted use, provided that:

(1) There shall be no signage.
(2) The residence shall not be rented for events such as weddings, business meetings, or other such group events.
(3) There shall be no more than five (5) sleeping rooms.

(Ord. No. 12231, § 1, 4-21-09)

Sieving Plant: A plant where a device with meshes or perforation is used to separate finer particles of a mixture of (as of ashes, flour, or sand) various sizes from coarser particles.

(Ord. No. 10811, 12/15/98)

Sign: Any structure, part thereof, or device attached thereto or painted or represented thereon, used, as, or in the nature of, any place, product or service, which is located upon any land, or any buildings, or otherwise displayed. Provided, however, the following shall not be included within the meaning of this definition:

(1) The flat emblem, or other insignia of a nation, government unit; educational, charitable or religious group which designated only the use of occupancy of a building and is wholly attached to said building.
(2) Directional or other official signs or notices that are required or authorized by law.
(3) Temporary signs identifying construction or paving sites, which are removed from the property as soon as the activity is completed.

(Ord. No. 10338, 11/21/95)

Sign, Information:

(1) A non-illuminated professional or announcement sign, not exceeding one (1) square foot in area and attached wholly to building, or
(2) A single sign pertaining only to the rent, lease or sale of property upon which displayed, or
(3) A church bulletin board, or

(4) A sign for customer convenience such as "park here", "enter", "delivery in rear", not exceeding two (2) square feet in area.

Sign, Off-Premise: A sign which directs attention to a person, place, product or service elsewhere than on the premises upon which said sign is located.

Sign, On-Premise: A sign which directs attention to a person, place, product or service on the premises upon which said sign is located.

Social Service Agency: Establishments providing assistance and aid to those persons requiring counseling for psychological problems, employment, leaning disabilities, and physical disabilities.

Sports Bar: A Sit Down Restaurant that may include any of the following amenities: a microbrewery, multiple television sets, billiard tables/pool tables, darts, video games and other recreational activities regardless of the occupancy capacity. (Ord. No. 12468, §2, 1-25-11)

Stable, Pleasure: Stable used to shelter horses, mules, burros or ponies kept or ridden for the sole purposed of recreation or pleasure by the property owner. The stable is not held out for remuneration or hire. (Ord. No. 12508, §1, 5/24/11)

Stable, Private: A stable with capacity of not more than one (1) horse for each three thousand five hundred (3,500) square feet of lot area where such stable is located and where such horses are owned by the owners or occupants of the premises and are not kept for remuneration, hire, or sale.

Start of Construction: Either the first placement of permanent construction of a structure on a site, such as the pouring of slab 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.

Stockyard: A yard in which transient cattle, sheep, swine, or horses are kept temporarily for slaughter, market, or shipping. (Ord. No. 10811, 12/15/98)

Story: That portion of a building included between the surface of the next floor above it, or if there is no floor above it, then the space between such floor and the ceiling next above it. In computing the height of building, the height of basement shall not be included if below grade.

Structure, Temporary: A structure erected for special events or activities and used for a maximum of thirty (30) days or less upon approval by the Director of Codes Administration, to include tents or other code complying prefabricated structures.

Structural Alterations: Any change, except for repair or replacement, in the supporting members of a building, such as bearing walls, columns, beams or girders.

Story, Half: A story under a gabled, hipped or gambrel roof the wall plates of which, on at least two (2) opposite exterior walls, are not more than three (3) feet above the finished floor of such story.

Streets: Those rights-of-way dedicated to the public and accepted by the public authorities, and includes highways and roads, and provides primary access to the abutting properties.

Street Line: The line between the street and abutting property.

Structure: Anything constructed or erected, the use of which requires permanent location on the land, or attached to something having a permanent location on the land.

Studio: A studio includes, in addition to other usual meanings, the processing, finishing, framing, and incidental handling of portrait, photographic and other artistic work generated by or from the premises or by persons employed in or reporting to the premises.

Substantial Damage: For purposes of adopted flood regulations, means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred. Substantial damage also means flood-related damage sustained by a structure on two (2) separate occasions during a ten (10) year period for which the cost of repairs at the time of each flood event, on the average, equals or exceeds twenty-five percent (25%) of the market value of the structure before the damage occurred. (Ord. No. 12318, §1, 11-17-09)

Substantial Improvement: For a building built prior to the enactment of these regulations, any repair, reconstruction, or improvement of a building, the cost of which equals or exceeds fifty percent of the market value of the building either:

(1) Before the improvement or repair is started, or
(2) If the building has been damaged and is being restored, before the damage occurred.
(3) For the purposes 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 buildings. The term does not, however, include either:
    (a) Any project for improvement of a building to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions, or,
    (b) Any alteration of a building listed on the National Register of Historical Places or a State Inventory of Historic Places.

Substantially Improved Existing Manufactured Home Parks or Subdivisions: Is where the repair, reconstruction, rehabilitation or improvement of the streets, utilities and pads equals or exceeds fifty percent (50%) of the value of the streets, utilities and pads before the repair, reconstruction or improvement began.

Tank Farm: An open-air facility for the bulk storage of greater than five hundred (500) gallons of material in liquid, powder or pellet form primarily for the purpose of wholesale distribution.

Townhouse: A townhouse is a single-family dwelling unit attached by fireproof common walls to other similar type units, each unit having an open space for light, air, and access in the front and rear. There shall be not less than three (3) or more than twelve (12) such units connected together.

A two (2) unit townhouse may be permitted if it is part of a townhouse-only or mixed-residential development that consists predominantly of townhouses with three (3) or more units. The two-unit townhouses should be sited to the interior of a development and shall not be placed adjacent to any existing single-family detached dwelling unless landscaping is provided as required by the Landscaping Ordinance, or Type C landscaping is provided, or a landscape equivalent is provided per the Landscaping Coordinator, or if the existing single-family dwelling and the two-unit townhouse are part of the same development. Two-unit townhouses shall not have frontage on an exterior public street or have a rear or side property line abutting an exterior public street. This does not apply to existing duplexes being converted into two (2) unit townhouses for subdivision in fee simple purposes.

(Ord. No. 12215, §1, 2-24-09; Ord. No. 12396, §1, 5/18/10; Ord. No. 12415, §1, 7/20/10)

Travel Trailer: Any vehicle used, or so constructed as to permit its being used as conveyance upon the public streets or highways and duly licensable as such, and constructed in such a manner as will permit occupancy thereof as a dwelling or sleeping place for one (1) or more persons, and designed for short-term occupancy for a period not to exceed thirty (30) days, for frequent and/or extensive travel, and for recreational and vacation use, including camper trucks and self-propelled campers, etc.

Travel Trailer Camp: Any plot of land upon which two (2) or more travel trailers are located and used as temporary living or sleeping quarters. The occupants of such camps may not remain in the same trailer camp more than ninety (90) days.

Undertaking: See funeral home definition. (Ord. No. 12241, § 1, 5/19/09)

Used Car Lot: Any parcel of land used for the storage, display, and sale of new and used automobiles and where no repair work is done except the necessary reconditioning of the cars to be displayed and sold on the premises.

Variance: A grant of relief to a person from the requirements of this chapter which permits construction in a manner otherwise prohibited by this chapter where specific enforcement would result in unnecessary hardship.

Vehicle: Any conveyance used in transporting passengers or things by land, water, or air.

Vehicle, Inoperable: A vehicle is classified as inoperable when any of the following applies:

(1) Lacks major or essential mechanical or body parts;
(2) Is junked or partially disassembled;
(3) Has been burned or flooded throughout;
(4) Cannot be driven legally on public streets under State law or City ordinance;
(5) Is otherwise incapable of moving under its own power;
(6) Does not comply with State and City Codes with respect to license and registration;
(7) Has one (1) or more tires missing or not fully inflated; and
(8) Is economically impractical to restore to operating condition.

(Ord. No. 12407, §1, 6/15/10)

Violation: For purposes of adopted flood regulations, means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certification, or other evidence of compliance required in the adopted flood regulations is presumed to be in violation until such time as that documentation is provided. (Ord. No. 12318, § 1, 11-17-09)

Warehouse (mini or self-storage): A building or group of buildings in a controlled access and fenced compound that contains various sizes of individual, compartmentalized, and controlled-access stalls or lockers for the storage of customer's goods or wares.

Yard: An open space on the same lot with a building unoccupied and unobstructed from the ground upward, except by trees, plants, shrubberies, walls, fences, ornaments, utility poles and wires, dog houses, outdoor furniture, swimming pool, accessory buildings, gas pumps, pump islands, signs (where permitted), tanks and similar things merely necessary to the main building or the permitted use thereof.

Yard, Front: An open space across the full width of the lot, extending from the closest point of the building, (including porches, porticos, entry landings and similar structures greater than five (5) feet in width), to the front line of the lot. [See *Lot Lines,* (1) *Lot Line, Front*].

Yard, Side: An open unoccupied space on the same lot with a building between the building and the side line of the lot extending through from the front building line to the rear yard or to the rear line of the lot where no rear yard is required.

Yard, Rear: A yard extending across the full width of the lot and measured between the rear line of the lot and the rear line of the main building.
(Code 1995, Appendix B, Art. II; Ord. No. 11977, § 1, 6-19-07; Ord. No. 12215, § 1, 2-24-09; Ord. No. 12230, § 1, 4-21-09; Ord. No. 12231, § 1, 4-21-09; Ord. No. 12241, § 1, 5-19-09; Ord. No. 12253, § 1, 6-16-2009; Ord. No. 12318, 11-17-09; Ord. No. 12379, § 1, 4-20-10; Ord. No. 12396, § 1, 5-18-10; Ord. No. 12407, § 1, 6-15-10; Ord. No. 12415, § 1, 7-20-10; Ord. No. 12468 §1, 1-25-11; Ord. No. 12508, §1, 5/24/11; Ord. No. 12529, § 1, 7-19-11)

ARTICLE III. ZONES AND BOUNDARIES

DIVISION 1. ZONES[1]

Sec. 38-3. Enumerated.

In order to regulate and limit the height and size of buildings; to regulate and limit intensity of the use of lot areas; to regulate and determine the areas of open space within the surrounding buildings; to classify, regulate, and restrict the location of trades and industries; and the location of buildings, designed for specified industrial, business, residential, and other uses, the City of Chattanooga, Tennessee, is hereby divided into zones known as:

		Ord. No.	Date
R–1	Residential Zone	7677	06-17-80
RT-1	Residential Townhouse Zone	7677	06-17-80
RZ-1	Zero Lot Line Residential Zone	7678	06-17-80
R-2	Residential Zone	7678	06-17-80
R-3	Residential Zone	7678	06-17-80
R-3MD	Moderate Density Zone	7727	09-16-80
R-4	Special Zone	6837	01-07-75
MXU	Mixed Use Zone	11851 (11706)	02-28-06
R-5	Residential Zone	6837	01-07-75
O-1	Office Zone	7593	12-18-79
C-2	Convenience Commercial Zone	7593	12-18-79
UGC	Urban General Commercial Zone	11924	01-16-07
C-3	Central Business Zone	7462	01-09-79
C-4	Planned Commercial Central Zone	7462	01-09-79
C-5	Neighborhood Commercial Zone	7462	01-09-79
M-1	Manufacturing Zone	6717	01-29-74
M-2	Light Industrial Zone	6717	01-29-74
M-3	Warehouse and Wholesale Zone	6717	01-29-74
F/W	Floodway Zone	7712	08-12-80
F/H	Flood Hazard Zone	7712	08-12-80
R-T/Z	Residential Townhouse/Zero Lot Line Zone	10184 (10461)	03-21-95
C-7	Northshore Commercial/Mixed Use Zone	10717 (10750)	04-13-98
M-4	Outdoor Industrial Use Zone	10811	12-15-98
A-1	Urban Agricultural Zone	11107	12-12-00

(Code 1995, Appendix B, Art. III)

[1] C-1 Highway Commercial Zone and C-6 Commercial Zone were deleted by Ord. No. 11364, 01-24-03

DIVISION 2. BOUNDARIES

Section 38-4. Zoning map.

(1) The City of Chattanooga Council has adopted the Official Zoning Map (also known as the Digital Zoning Map or Zoning Map). This map contains the boundary of the above zones and all overlay boundaries as described in this Zoning Ordinance and conforms to provisions of this Zoning Ordinance and all ordinances and laws related to zoning that are now in effect which in the future may be in effect. The map and all notations, references, and other information shown thereon are a part of this Ordinance.

(2) The repository for the Official Zoning Map, in any form including digital as shown on a geographic overage layer as part of the geographic information system (GIS), is the Regional Planning Agency (RPA). The RPA also has the responsibility for maintenance of the Official Zoning Map.

(3) The Planning Director, or designee, shall revise the Official Zoning Map when amendments are passed by the governing body.

(4) No unauthorized person may alter or modify the Official Zoning Map. Errors in the Official Zoning Map shall be corrected as they are discovered, and the corrected information shall be shown on the GIS system.

(Code 1995, Appendix B, Art. III, § 101; Ord. No. 10764, 09-22-98; Ord. No. 11838, § 1, 6-20-06; Ord. No. 11887, § 1, 9-19-06)

Section 38-5. Considerations in creating zones.

In the creation by the Ordinance of the respective Zones, the City Council has given due and careful consideration to the peculiar suitability of each and every such zone for the particular regulations applied thereto, and the necessary, proper and comprehensive grouping and arrangements of the various uses and densities of population in accordance with a well considered plan for the development of the City.
(Code 1995, Appendix B; Art. IV, § 102)

Sec. 38-6. Boundaries.

The boundaries of such zones are shown upon the map adopted by this chapter or amendment thereto, are hereby adopted and approved and the regulations of this chapter governing the uses of land and buildings, the height of buildings, building site areas, and the size of yards about buildings and other matters as hereinafter set forth, are hereby established and declared to be in effect upon all land included within the boundaries of each and every zone shown on said map. (Code 1995, Appendix B; Art. IV, § 103)

Sec. 38-7. Uncertain boundaries.

Where uncertainty exists as to boundaries of any zone shown on said map, the following rules shall apply:

(1) Where such zone boundaries are indicated as approximately following street lines, alley lines or lot lines, such lines shall be such boundaries;

(2) In unsubdivided property where a zone boundary divides a lot, the location of such boundary, unless the same is indicated by dimensions, shall be determined by use of the scale appearing on the map.

(3) Where any street or alley is hereafter officially vacated or abandoned, the regulations applicable to each parcel of abutting property shall apply to that portion of such street or alley added thereto by virtue of such vacation or abandonment.

(Code 1995, Appendix B, Art. III, § 104)

Secs. 38-8 – 38-10. Reserved.

DIVISION 3. URBAN OVERLAY ZONE

Section 38-11. Intent.

(1) As downtown Chattanooga and its surrounding neighborhoods have a different development pattern than the rest of the city, the Urban Overlay Zone has been created to maintain the physical layout of this older urban area. This layout generally includes sidewalks, public transit routes, available on-street parking, and smaller lots. This Urban Overlay Zone, as defined by the attached map and legal description, is generally bounded by Missionary Ridge on the east, North Chattanooga to the north, the base of Lookout Mountain to the west and the state line to the south. An overlay zone is a tool to deal with special requirements and is placed over the existing zoning to alter some of the regulations. The overlay does not change the permitted uses, yard, landscaping, and height and access requirements present in the underlying zone.

(Code 1995, Appendix B; Art. III, § 105)

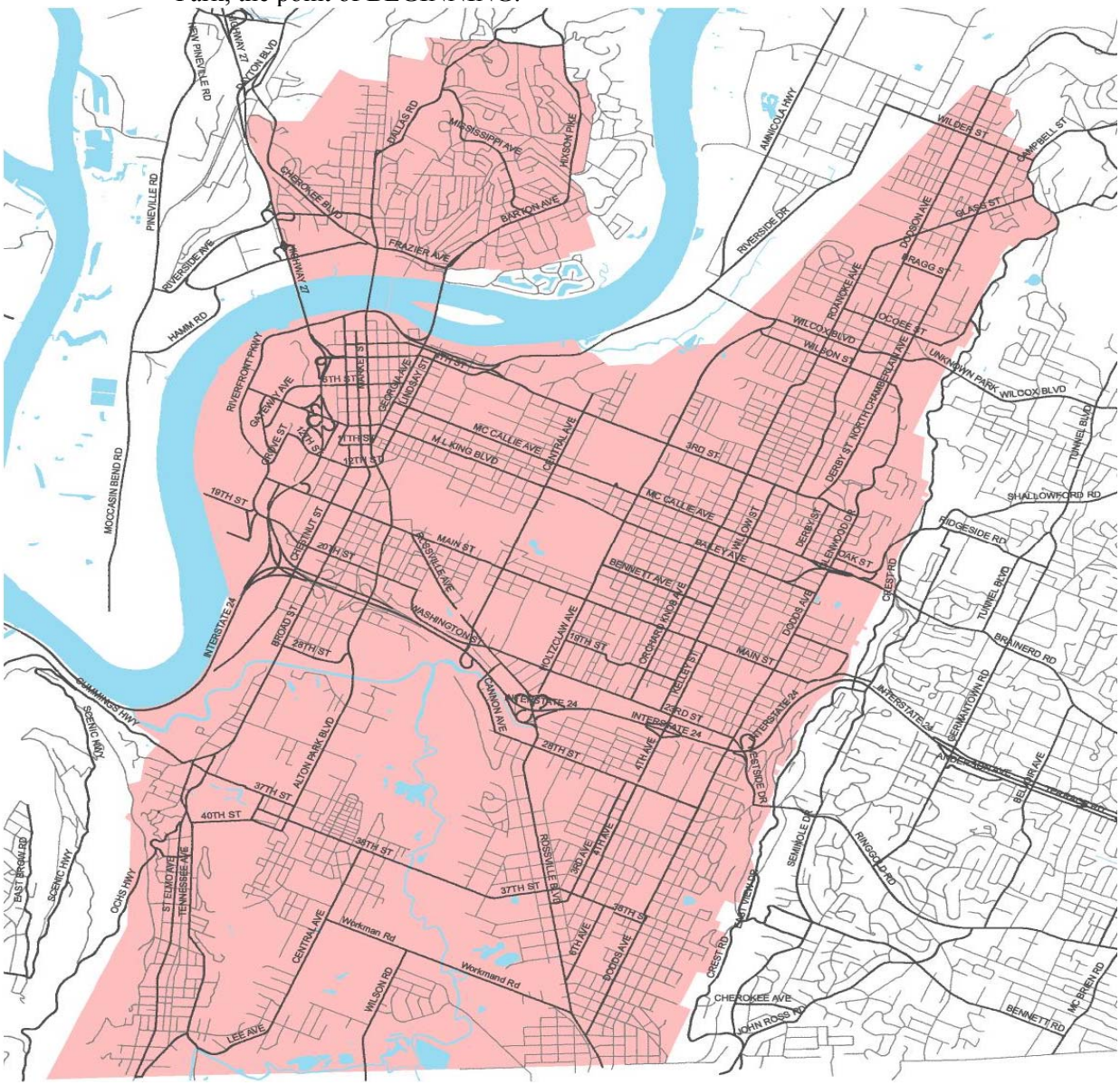
(2) The Urban Overlay Zone contains that area described herein:

BEGINNING at the intersection of the southeast corner of Tax Map 154-015, being The Chickamauga National Military Park, and the Tennessee Georgia State Line, thence following the east line of said parcel northeastwardly and northwestwardly to its intersection with the west line of the 4000 block of Jo Conn Guild Trail, thence some 40 feet east to the east line of said Trail, thence northeastwardly and northwestwardly along said east line to the southwest corner of Tax Map 155O-B-007, thence following the west line of parcel 007 to the southwest corner of Tax Map 155J-C-051, thence along the west line of parcel 051 to its north corner thence northeast to the southeast corner of Tax Map 155J-C-038, thence along the south line of parcel 038 to its southwest corner, thence along the west line of parcel 038 to the southwest corner of Tax Map 155J-C-039, thence northeast along the west line of parcel 039 to the northeast corner of Tax Map 155J-C-037, thence northwest to the southeast corner of Tax Map 155J-C-036, thence northeast along the east line of parcel 036 to its northeast corner, thence northwest to the southwest corner of Tax Map 155J-C-009, thence northeast along its west line to the northwest corner of parcel 009 and the south line of the 1800 block of Old Wauhatchie Pike, thence northwest across said pike to the southeast corner of Tax Map 155J-B-004, thence northeast along the east line of parcel 004 to the southeast corner of Tax Map 155J-B-001, thence to the northeast corner of parcel 001 and the south line of the 1900 block of Cummings Highway, thence northeast across said highway to the southwest corner of Tax Map 155G-A-0-14, thence northwest to the north line of Interstate 24 and the south line of the Tennessee River, then following the meanderings of said river northeastwardly to the northeast corner of Tax Map 145O-A-001, thence northwest along the north line of parcel 001 to its northwest corner and the east line of the Tennessee River, thence following the meanderings of the Tennessee River northwestwardly and northeastwardly to the center line of the Unit Block of Highway 27, thence northwestwardly along the center line of said highway to the center line Highway 27 at Whitehall North Bound Off Ramp, thence northeastwardly along said center line to its intersection with the center line of the 900 block of East Frontage Road, thence northeastwardly along said center line to its intersection with the City of Chattanooga/City of Red Bank City Limits Line, thence following said line northeastwardly and southeastwardly to the southeast corner of Tax Map 126E-B-019, thence southwardly to the center line

of the 500 block of West Oxford Road, thence continuing southeast along said road to its intersection with the center line of the 1600 block of White Oak Road, thence northeast along the center line of White Oak Road to its intersection with the center line of Auburndale Avenue, thence continuing southeast along White Oak Road to its intersection with the center line of the 700 block of Dallas Road, thence northeast along the center line of Dallas Road to its intersection with the center line of the 1000 block of East Dallas Road, thence southeast along the center line East Dallas Road to its intersection with the 1200 block of Duane Road, thence continuing northeast along the center line of the 1200 block of East Dallas Road to its intersection with the center line of the 1800 block of Hixson Pike, thence southeast along the center line of Hixson Pike to its intersection with the center line of the 1300 block of Shady Circle, thence northeast along the center line of Shady Circle to its intersection with the center line of the 1600 block of Shady Circle, thence southeast along the center line of said circle to its intersection with the center line of the 1500 block of Sunset Road, thence southeastwardly and southwestwardly along said road to its intersection with the 1400 block of Riverview Road, thence southwest along Riverview Road to its intersection with the center line of the 1300 block of Falmouth Road, thence continuing southwestwardly along the center line of said road to its intersection with the center line of the 1200 block of Hixson Pike, thence southwest along the center line of said pike to its intersection with the southwest line of the 1300 block of Dorchester Road, thence southeastwardly to the northeast corner of Tax Map 136G-A-001, thence southwest along the north line of parcel 001 to its northwest corner, thence southeast along the west line of said parcel to the southeast corner of Tax Map 136H-M-022, thence southwest along the south line of parcel 022 to the northeast corner of Tax Map 136H-J-038.01, thence southeast along the east line of said parcel to the north line of Tax Map 136H-J-015.10, thence southwest along the north line of parcel 015.10 to the southwest corner of Tax Map 136H-J-015.04, thence northwest to the northeast corner of Tax Map 136H-J-015.14, thence southwest along the north line of said parcel to the northwest corner of said parcel, thence northeast to the northeast corner of Tax Map 135E-N-021, thence northwest along the north line of parcel 021, thence south to the south line of the 200 block of Dickerson Avenue, thence southwestwardly and northwestwardly to its intersection with the east line of the Unit Block of Georgian Avenue, thence southwest along the east line of Georgia Avenue to the south line of the Tennessee River, thence northeast along the south line of said river to the northeast corner of Tax Map 136P-A-001, thence southeast along the east line of parcel 001 to the north line of the 1000 block of Riverside Drive, thence southeast across said drive to the northeast corner of Tax Map 136P-D-001, thence southeast to the south line of the Southern Railway Right-of-way, thence following the south line of said railway right-of-way southeastwardly and northeastwardly to the south line of the 2100 block of Sims Street, thence southeast along the south line of Sims Street to the northeast corner of Tax Map 128P-G-001, thence southwest along the east line of parcel 001 to its southeast corner, thence southeast to the northeast corner of Tax Map 128P-G-002, thence southeast along the east line of parcel 002 to the north line of the 2300 block of Allin Street, thence southeast to the intersection of the center line of the 2300 block of Allin Street with the center line of the 2300 block of Searle Street, thence southeast along the center line of Searle Street to its intersection with the center line of an unnamed right-of-way, thence southeast along said right-of-way to its intersection with the center line of the 3200 block of Wheeler

Avenue, thence southwestwardly along said avenue to its intersection with the center line of the 2400 block of Elmendorf Street, thence southeast to the center line of the 3100 block of North Chamberlain Avenue, thence southwest along the center line of said avenue to its intersection with the center line of an unnamed right-of-way, thence southeast along said right-of-way to its intersection with the center line of the 3100 block of Noa Street, thence southeast across said right-of-way to the northwest corner of Tax Map 128P-N-022 thence southeast following the north property lines of Tax Maps 128P-N-022, 128P-N-017 and 128P-N-013 to the west line of the 3100 block of Campbell Street, thence southeastwardly to the center line of Campbell Street, thence following the center line of said street southwestwardly and to its intersection with the 700 block of North Crest Road, thence following southeastwardly and southwestwardly along the center line of said road, thence across said road to the northeast corner of 137H-G-006, thence following the west property lines of Tax Maps 137H-G-006 and 137I-A-042 to the north line of Tax Map 137I-B-008, thence southeast to the west line of the 500 block of North Crest Road, thence southwest across North Crest Road to its intersection with the east line of the 2000 block of Marshall Street, thence southwest along the east line of said street to its intersection with the south line of the 1900 block of Marshall Street, thence southeast along the south line of said street to the northeast corner of Tax Map 137P-A-006, thence following the western property lines of Tax Maps 137P-A-004.01, 137P-A-006, 137P-A-007, 137P-A-007.01, 137P-A-009 thru 137P-A-023, 146D-M-001 thru 146D-M-008, 146E-K-001, 146E-K-002.01, 146E-K-002.02, 146E-K-003 thru 146E-K-011, 146E-K-013, 146E-K-015 thru 146E-K-017, and 146L-J-001 thru 146L-J-005 to the northwest line of the unit block of Shallowford Road, thence southwest to the northwest corner of Tax Map 146L-H-003, thence southeast to the northwest corner of Tax Map 146L-H-005, thence following the western property lines of Tax Maps 146L-L-005 thru 146L-L-010 and 146L-L-012 thru 146L-L-017 southwestwardly and southeastwardly to intersection of the east line of the 2900 block of Birds Mill Road with the west line of the unit block of North Crest Road, thence continuing southwest along North Crest Road to the northeast corner of Tax Map 146M-D-002, thence northwest along the north line of said parcel to its northwest corner, thence following the western property lines of Tax Maps 146M-D-002 thru 146M-D-009, 146M-D-010.02, 146M-D-011 thru 146M-D-014, 156D-C-002, 156D-C-003, 156D-C-007 thru 156D-C-011, and 156D-C-013 thru 156D-C-019 southwestwardly to the west line of South Crest Road, thence southwest along the west line of said road to the northwest corner of Tax Map 156F-P-009, thence following the western property lines of Tax Maps 156F-P-001 thru 156F-P-009, 156K-H-001, 156K-H-002, 156K-H-003.01, 156K-H-004.01, 156K-H-005 thru 156K-H-007.01, 156K-H-010 thru 156K-H-012, 156K-H-013.01, 156K-H-014.01, 156K-H-015, and 156K-H-016 southwestwardly to the east line of the 2100 block of Old Ringgold Road, thence southwest across said road to the northeast corner of Tax Map 156K-G-011, thence following the eastern property lines of Tax Maps 156K-G-011 thru 13 southwestwardly to the southwest corner of Tax Map 156N-D-001.02, thence southeast along the south line of parcel 001.02 to the northwest corner of 156N-D-002, thence following the eastern property lines of Tax Maps 156N-D-008 thru 156N D 015.01 to the east line of the 2900 block of Westside Drive, thence southeast along said drive to the north corner of Tax Map 168C-C-001, thence southwest following the eastern property lines of Tax Maps 168C C 001, 168C C 001.01, and 168C C 014 thru 168C C 022, thence northeast along the south line

of Tax Map 168C-C-014 to the east line of the 3100 block of Westside Drive, thence southwest across said drive to the northeast corner of Tax Map 168C-B-016, thence following the western property lines of Tax Maps 168C-B-016 thru 019 southwestwardly to the northwest corner of Tax Map 168C-B-020, thence southeast to the west line of the 500 block of West Shadowlawn Drive, thence southeast across said drive to the northwest corner of Tax Map 168J-T-014.01, thence southeast to the northwest corner of Tax Map 168J-T-014, thence southwest following the western property lines of Tax Maps 168J-T-014 thru 168J-T-018, 168J-T-020 thru 168J-T-027, and 168J-T-029 to the north line of Tax Map 168J-T-001, thence southeast along the north line of parcel 001 to the northwest corner of Tax Map 168J-T-032, thence southwest following the western property lines of Tax Maps 168J-T-032, 168J-T-034, 168O-N-001 thru 168O-N-005, 168O-N-016 and 168O-N-017, thence southeast to the Tennessee/Georgia State Line, thence following said line southeast to the southeast corner of Tax Map 154-015, being The Chickamauga National Military Park, the point of BEGINNING.



(Code 1995, Appendix B, Art. III; Ord. No. 11458, 09-16-03)

Sec. 38-12. Property line measurements.

For purposes of this ordinance and any location restrictions set forth herein, unless otherwise specified to the contrary, all measurements shall be made from the property line of any property desiring a particular use to the nearest property lines of any properties within a distance restriction.(Ord. No. 11838, § 1, 6-20-06)

Secs. 38-13 – 38-20. Reserved.

ARTICLE IV. GENERAL REGULATIONS

Sec. 38-21. Exclusions.

Except as hereinafter provided, 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 unless in conformity with all the regulations herein specified for the zone in which it is located. See also Article VII.
(Code 1995, Appendix B, Art. IV, §101)

Sec. 38-22. Conformity with regulations required.

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

(1) To have greater height;
(2) To accommodate or house a greater number of families or lodgers;
(3) To have narrower or smaller rear yards, front yards, side yards or other open spaces.

(Code 1995, Appendix B, Art. IV, § 102; Ord. No. 11459, § 1, 09-16-03)

Sec. 38-23. Lot size not to be reduced; exception.

No yard or lot existing at the time of passage of the ordinance comprising this chapter shall be reduced in size or area below the minimum requirements set forth herein. Yard or lots created after the effective date of the ordinance comprising this chapter shall meet at least the minimum requirements established by this chapter, except that lot(s) may be created that do not meet the minimum requirements established by this chapter when they are the result of the resubdivision of lot(s) of record and the newly created lot(s) are as large or larger than the previous lot(s).
(Ord. No. 6938, 9/2/75; Code 1995, Appendix B, Art. IV, § 103; Ord. No. 11459, § 1, 09-16-03)

Sec. 38-24. Regulations to be minimum required and apply uniformly.

Within each zone, the regulations set by this chapter shall be the minimum regulations and shall apply uniformly to each class or kind of structure or land.
(Code 1995, Appendix B, Art IV, § 104; Ord. No. 11459, § 1, 09-16-03)

Sec. 38-25. Lots to front street; exceptions

Every residential building hereafter erected, reconstructed or structurally altered shall be located on a lot fronting a street. Every non-residential building and/or structure hereafter erected, reconstructed or structurally altered shall be located on a lot fronting a street or a permanent recorded easement which conforms to the City of Chattanooga Subdivision Regulations for easements.
(Code 1995, Appendix B, Art IV, § 105; Ord. No. 10908, 09/21/99; Ord. No. 11112, 1/16/01; Ord. No. 11459, § 1, 09-16-03)

Sec. 38-26. Residential buildings per lot in certain zones.

There shall be no more than one (1) principal building per lot used for residential purposes in the R-1, R-2, R-5, and A-1 zones.

(Code 1995, Appendix B, Art IV, § 106; Ord. No. 11107, 12/12/00; Ord. No. 11459, § 1, 09-16-03)

Sec. 38-27 Required screening.

Any required screening must be in place prior to any building construction.
(Code 1995, Appendix B, Art IV, § 107; Ord. No. 11459, § 1, 09-16-03)

Sec. 38-28. Building official to interpret intent.

For purposes of enforcement the building official has the discretion to interpret the intent of any zoning condition imposed by the governing body of the City.
(Code 1995, Appendix B, Art IV, § 108; Ord. No. 11067, 09/19/00; Ord. No. 11459, § 1, 09-16-03)

Sec. 38-29. Setbacks.

Setbacks from alleys, for buildings, or structures, shall be the same as the zone side and rear yard requirements.
(Code 1995, Appendix B, Art IV, § 109; Ord. No. 9815, 12/15/92, Ord. No. 11459, § 1, 09-16-03)

Sec. 38-30. Errors caused by mistake of governmental agency.

When it has been determined that an error in zoning has occurred which was caused by a mistake by the staff of any governmental agency, the Director of Codes Administration may have the authority to issue temporary building or other permits subject to the following conditions:

(1) The applicant shall furnish a Bond in an amount satisfactory to the Director of Codes Administration; and
(2) The applicant shall sign a document to be prepared by the Director of Codes Administration which states that the applicant will be able to proceed with the building, for which review has been approved; and
(3) That the document shall contain a statement that the applicant shall be permitted to proceed with any building or other construction at their own peril; and
(4) That the applicant agrees to remove any improvements to the site at the applicant's expense within a time specified by the Director of Codes Administration in order to fully comply with the requirements of the Zoning Ordinance.

(Code 1995, Appendix B, Art IV, § 110; Ord. No. 11067, 09/19/00; Ord. No. 11459, § 1, 09-16-03)

Sec. 38-31. Traffic signals on private property.

Owners of private property used by the public shall install and maintain signs, signals, markings or other devices intended to regulate, warn or guide traffic in accordance with the standards as specified in the Manual on Uniform Traffic Control Devices. Businesses having fewer than twenty-five (25) parking spaces shall be exempt from the provisions of this section. The enforcement of these standards shall be the responsibility of the City Traffic Engineer.
(Code 1995, Appendix B, Art IV, § 111; Ord. No. 11403, 03/18/03; Ord. No. 11459, § 1, 09-16-03)

Sec. 38-32. Lot Size, Lot Frontage. Setback not to be reduced; exception

Lot size, lot frontage, or existing structure setback for new lots as part of a new subdivision shall not have less than the required minimum lot standard as specified in this zoning ordinance, unless approval for such variance is obtained by the Chattanooga-Hamilton County Regional Planning Commission or if the Urban Infill Compatibility Option is used. A variance request of this nature is submitted to the Planning Commission Staff per Section 111 of the Subdivision Regulations.
(Ord. No. 12277, §2, 8-18-09; Ord. No. 12395, 5-18-10)

Sec. 38-33. General Regulations.

Exterior spot lighting or other illumination of non-residential uses or structures shall be directed away from any residential zones or uses.
(Ord. No. 12380, § 1, 4-20-10)

Sec. 38-34 Inoperable Vehicles.

Three (3) or more inoperable vehicles is PROHIBITED in all residential zones as defined In Article II, Section 38-2, Definitions: Vehicle, Inoperable.
(Ord. No. 12407, §2, 6-15-10)

Secs. 38-35 - 38-40. Reserved.

ARTICLE V. ZONE REGULATIONS

DIVISION 1. R-1 RESIDENTIAL ZONE

Section 38-41. Permitted uses.

(1) Single-family dwellings, excluding factory manufactured homes constructed as a single self-contained unit and mounted on a single chassis.
(Ord. No. 9661, 01/21/92)
(2) Schools.
(3) Parks, play grounds and community-owned not-for-profit buildings.
(4) Golf courses, except driving ranges, miniature courses and other similar commercial operations.
(5) Fire stations and other publicly-owned buildings.
(6) Churches and including a columbarium and/or mausoleum as an accessory use.
(Ord. No. 12241, § 2, 5/19/09).
(7) Home occupations.
(8) Kindergartens operated by governmental units or religious organizations.
(9) Day care homes.
(10) Accessory uses and buildings customarily incidental and subordinate to the above.

(Code 1995, Appendix B, Art V, § 101; Ord. No. 12241, § 2, 5/19/09)

Sec. 38-42. Uses permitted as special exceptions by the board of appeals.

The following uses and structures with their customary accessory buildings may be permitted as special exceptions by the Board of Appeals, subject to the requirements and restrictions as specified in Article VIII:

(1) Day care centers:
Such uses shall require a Special Permit under the terms of Article VIII of this chapter.
(2) Kindergartens:
Kindergartens not operated by governmental units or religious organizations shall require a Special Permit under the terms of Article VIII of this chapter.
(3) Assisted Living Facilities:
The Board of Appeals may issue a Special Permit for an Assisted Living Facility under the terms specified in Article VIII of this chapter, provided that the facility shall contain no more than eight (8) residents. This facility may include two (2) additional persons (plus their dependants) acting as houseparents or guardians, who need not be related to the persons residing in the house.
(Ord. No. 10447, 07-16-96)
(4) Communication Towers:
The Board of Appeals for Variances and Special Permits may issue a Special Permit for Communications Towers on publicly owned property under the terms specified in Article VIII.

(5) Special Permit for Equine for Personal Use. (Ord. No. 12508, §2, 5/24/11)

(Code 1995, Appendix B, Art V, § 102; Ord. No. 10705, 06/02/98; Ord. No. 11082, 10/17/00)

Sec. 38-43. Uses permitted as special exceptions by the city council.

The following uses may be permitted as special exceptions by the City Council, subject to the requirements and restrictions as specified in Article VI:

(1) Cemeteries:
The City Council may permit the development of cemeteries (excluding crematoriums, embalming facilities or other such preparatory functions) within any R-1 Residential Zone, as a special exception under terms specified in Article VI of this chapter.

(2) Residential Homes for Handicapped and/or Aged Persons Operated on a Commercial Basis:
The City Council may issue a Special Permit for a Residential Home for Handicapped and/or Aged Persons under the terms specified in Article VI of this chapter, provided that the Home shall not contain more than (8) handicapped and/or aged persons.

(3) Planned Unit Development:
Flexibility in the arrangement of residential uses may be permitted by the City Council as special exceptions in any R-1 Residential Zone, provided that the minimum size of any tract of land sought to be used for the planned unit shall be two (2) acres and that a desirable environment through the use of good design procedures is assured, allowing flexibility in individual yard requirements to provide for multiple dwelling units, townhouses, and two-family units, except that such use or uses shall require a Special Permit under the terms of Article VI of this chapter.

(4) The City Council may issue a Special Exceptions Permit for a Two-Family Dwelling in the R-1 Residential Zone under the terms specified in Article VI of this chapter.

(5) Non-Profit Heritage Educational Facility under the terms specified in Article VI, Section 38-525.

(Ord. No. 12232, § 1, 4-21-09)

(Code 1995, Appendix B, Art V, § 103; Ord. No. 11597, § 1, 08-17-04; Ord. No. 12046, § 1, 11-20-07; Ord. No. 12232, § 1, 4-21-09)

Sec. 38-44. Height and area regulations.

(1) Height: No building shall exceed two and one-half stories or 35 feet in height except that a building may exceed these height regulations provided that for every one (1) foot of additional height over thirty-five (35) feet the building shall be set back one (1) additional foot from all property lines.

(2) Front Setbacks: There shall be a front yard of not less than twenty-five (25) feet. For minimum Suburban Infill Lot Setback, see item (7)(f) of this section. For the Urban Infill Lot Compatibility Option, see Article V, Division 30.

(Ord. No. 11997, § 1, 8-21-07; Ord. No. 12277, §2, 8-18-09)

(3) Side Setback: There shall be a side yard on each side of the building of not less than ten (10) feet. For corner lot side yard requirements, see Article VI, Section 38-509.

(4) Rear Setback: There shall be a rear yard of not less than twenty-five (25) feet.

(5) Minimum Lot Area: The only minimum lot area requirement is twenty-five thousand (25,000) square feet for single-family lots on individual wells and septic tanks and seven thousand five hundred (7,500) square feet for single-family lots on sanitary sewers. In all other instances, a residential lot shall be

large enough to construct the original subsurface sewage disposal system as required by the Health Department and to provide an area for one hundred percent (100%) duplication of that system. The area(s) for both original and duplicate systems shall meet the provision of the State Rules and Regulations to Govern Subsurface Sewage Disposal. The Health Department may limit the number of bedrooms and whirlpool tubs on the basis of effective capacity of the proposed sewage disposal facilities. The Health Department may require larger lots when septic tanks are used due to soil conditions, topography, drainage, presence of swimming pools, etc.

(6) Minimum Lot Frontage: The minimum lot frontage shall be sixty (60) feet on sewers and seventy-five (75) feet on septic tanks. For Suburban Infill Lot minimum frontage, see subsection (7). For Urban Infill Lot minimum frontage alternative, see Division 30, Urban Infill Lot Compatibility Option.

(Ord. No. 12277, § 2, 8/18/09)

(7) Minimum Suburban Infill Lot Frontage and Setback: The minimum frontage and front yard setback for Suburban Infill Lots shall be determined as follows:

(a) Applicability. The Minimum Suburban Infill Lot Frontage Regulations shall apply only to:

i. Proposed or existing lots *outside* of the Urban Overlay Zone
ii. Lots zoned R-1 Residential.
iii. Proposed lot frontage less than one hundred twenty (120) feet.
iv. Lots fronting an existing public street.
v. Lots served by sewers.

(b) Exceptions. This rule shall not apply to:

i. Planned Unit Developments (PUDs).
ii. Lots created on a new street.
iii. The consolidation of lots.
iv. Lots at the terminus of permanent dead end streets with thirty-five (35) feet of street frontage or more.
v. Lots that are a combination of existing lots where all of the lots are as large or larger than the previous lots and have equal or greater frontage than the previous lots.
vi. Lots, if, in the opinion of the Regional Planning Agency Staff, a smaller lot frontage is consistent with the Comprehensive Plan and the intent and purposes of these regulations.

(c) Compatible Lots. The following properties shall be used to determine the block character for purposes of establishing lot compatibility:

i. Lots with on the same and opposing block faced within three hundred (300) feet of the boundary of the boundary of the property proposed to be subdivided.
ii. Lots abutting each quadrant of an intersection when the proposal involves a corner lot; and
iii. Lots that abut or are directly across a public way, but not to the rear of the property, from the property proposed to be subdivided.

(d) Excluded Lots. The following properties shall not be used to determine the block character for purposes of establishing lot compatibility:

i. Properties zoned non-residential or multi-family.
ii. Properties zoned from single-family, but used for legal non-residential uses or other legal non-conforming uses.

iii. Properties where development continuity cannot be provided due to a natural or man-made barrier, including but not limited to, arterial or collector streets, public land, railroad right-of-way, waterways, or

iv. Properties that face a block face within a non-residential zoning district.

v. Interior lots located to the rear of another lot but with a narrow portion extending to the street when that narrow portion is less than the frontage required by the Chattanooga Zoning Ordinance.

(e) Lot Frontage Compatibility Calculation. New residential infill lots shall have a minimum lot frontage that is no smaller than the smallest frontage on the same and opposing block face within three hundred (300) feet of the lot to be subdivided.

i. The new infill lot frontage is not required to exceed one hundred twenty (120) feet.

ii. The new infill lot frontage shall not be less than the minimum allowed by the R-1 Residential zone.

iii. If, in the opinion of the Regional Planning Agency Staff, a smaller lot frontage is not consistent with other lot frontages on the same and opposing block face or the intent and purposes of these regulations, a larger frontage may be required.

iv. Each lot frontage shall be the actual access to the property as well as the legal access (e.g. – no sole access via common easement).

(f) Front Setback. For Suburban Infill Lots recorded after July 9, 2007, the minimum front yard setback shall be the average of the two (2) front yard setbacks of existing dwellings on the abutting lots fronting on the same street if both abutting lots have dwellings within one hundred fifty (150) feet of the area to be subdivided. The Suburban Infill setback is not required to exceed fifty (50) feet, but shall not be less than the twenty-five (25) foot minimum front yard. This requirement does not apply to Planned Unit Development (PUDs).

(Ord. No. 11977, § 2, 6-19-07; Ord. No. 12277, § 2, 8-18-09)

(Ord. No. 8527, 9/10/85; Code 1995, Appendix B, Art V, § 104; Ord. No. 11977, § 2, 6-19-07; Ord. No. 11997, § 1, 8-21-07; Ord. No. 12277, § 2, 8-18-09)

Cross reference--Off-street parking requirements, Article V, Section 38-471, *et seq*., Ord. No. 11459, § 2, 09-16-03.

Secs. 38-45 - 38-50. Reserved.

DIVISION 2. R-1 OPEN SPACE SUBDIVISION DESIGN OPTION

Sec. 38-51. Statement of intent.

It is the intent of this section to provide an alternative standard for development of single-family residential neighborhoods in the R-1 Residential Zone. This development standard is designed to encourage open space design combined with a traditional or connected street network. In addition to a subdivision plat, all developments proposed under these standards require site plan review in order to determine their appropriateness in each instance. These standards are considered minimum standards and do not prevent the development from exceeding these requirements in terms of open space, landscaping, and lot and frontage standards.
(Code 1995, Appendix B, Art. V, § III)

Sec. 38-52. Site design principles.

(1) Development should be encouraged where adequate services are available.
(2) Site design and intensity should be sensitive to environmental constraints resulting from the existing land features and strive to preserve and maintain deciduous woodlands, floodplains, wetlands and steep slopes from clearing, grading, filling or unwarranted construction.
(3) The development should provide open space that is reasonably contiguous, and whose configuration does not fragment the open space into remnant parcels which are not usable for social activity and recreation. Where applicable, the open space should be connected to similar facilities off site.
(4) The development should provide quality public spaces such as streets, sidewalks, parks and squares where citizens come to know each other and promote collective security.
(5) House lots should be grouped closely together in order to reduce road lengths and to preserve open space.
(6) Roads should be designed as networks, with interconnecting links and with minimal use of cul-de-sacs or dead ends. Road systems should be designed to connect with adjacent development or provide for the possible connection to abutting property if development occurs. In a like manner, trails and sidewalks should interconnect with existing or proposed facilities.
(7) Access should be provided from individual house lots to open space areas to the maximum extent possible.

(Code 1995, Appendix B, Art. V, § 112)

Sec. 38-53. Site design process.

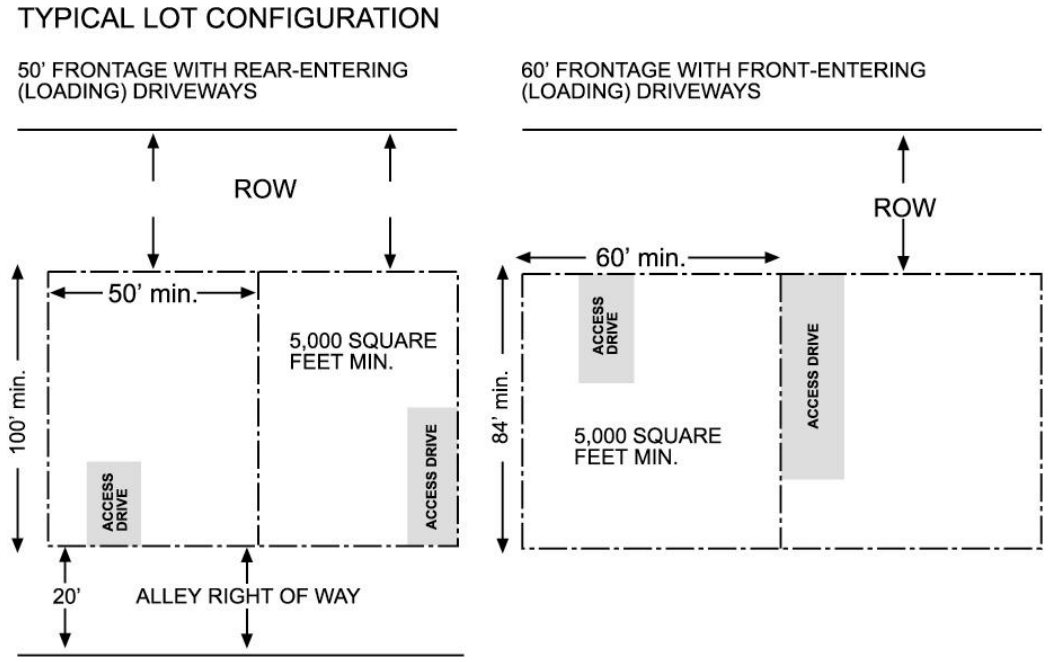
The site designer should design the open space subdivision utilizing the following suggested process. First, the site should be examined for special features and natural characteristics or resources. This entails mapping environmental elements of the site including the slopes, floodplains, sinkholes, utility recharge areas, historic features, streams, watercourses, and deciduous woodlands. Second, the designer should locate open spaces, meadows, shoreline borders and special scenic vistas and add these features to the site elements previously mapped. Third, select house sites which in large measure avoid the identified limitations and take advantage of the site's special characteristics. Fourth, based on these house site locations, configure the road alignments and pedestrian connections. Finally, add lot lines based on the required road frontage and lot square footage standards.
(Code 1995, Appendix B, Art. V, § 113)

Sec. 38-54. Permitted uses.

All uses permitted in the R-1 Residential Zone as specified by Article V, Sections 38-41(1) - (10) and 38-42(1) - (2).
(Code 1995, Appendix B, Art. V, § 114)

Sec. 38-55. Height and area regulations.

(1) The minimum development site area for a project developed under these standards is ten (10) acres.
(2) All property developed under these standards must be served by public sanitary sewers.
(3) No building shall exceed two and one-half (2½) stories or thirty-five (35) feet in height, except that a building may exceed these height regulations provided that for every one (1) foot of additional height over thirty-five (35) feet the building shall be set back one (1) additional foot from all property lines.
(4) The minimum building site area shall be five thousand (5,000) square feet.
(5) The minimum lot frontage with front-entering (loading) driveways and garages is sixty (60) feet. For rear loading driveways and garages, the minimum lot frontage is fifty (50) feet.

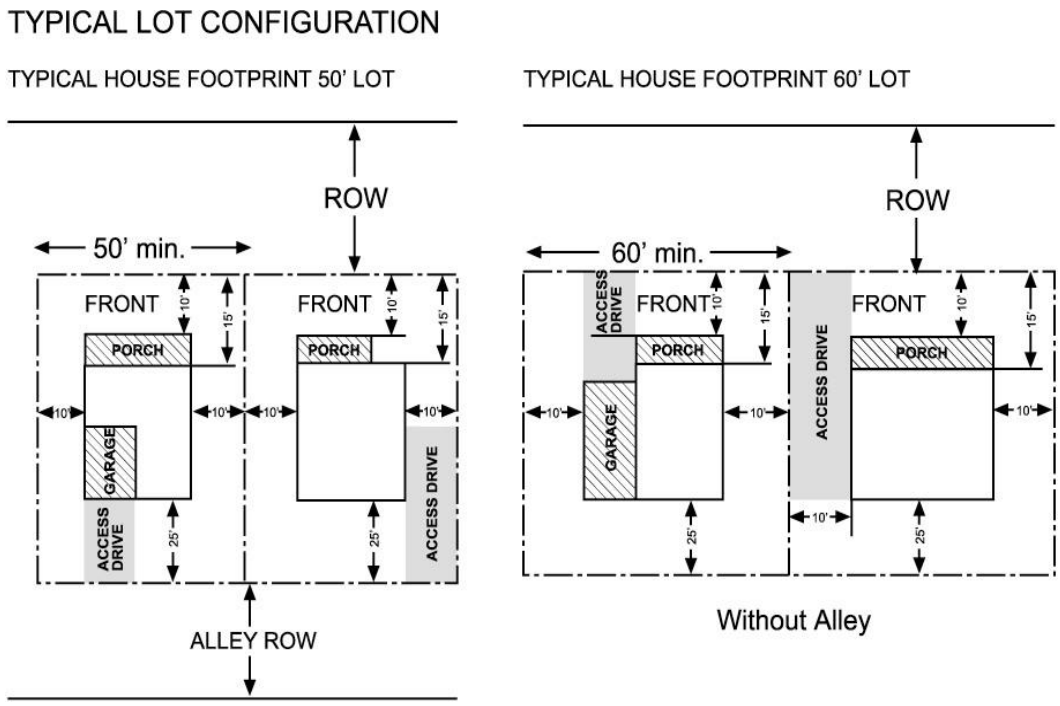


(6) There shall be a front yard of not less than fifteen (15) feet except that a permanently unenclosed porch, portico, entry landing or similar structure may extend into the required front yard setback area no more than five (5) feet.
(7) There shall be a side yard on each side of the building of not less than ten (10) feet except that a bay window, entry landing, portico or chimney may extend into the required side yard no more than five (5) feet.
As an alternative to the ten (10) foot side yard requirement, a five (5) foot side yard may be utilized under the condition that no permitted element of the

building structure other than the allowable eaves overhang is permitted in the five (5) foot yard setback, including but not limited to, heating, ventilation and air conditioning systems (HVAC), porches, decks, porticoes, entry landings or similar structures. For corner lot side yard requirements, see Article VI, Section 38-509.

(8) There shall be a rear yard of not less than twenty-five (25) feet for lots with front-entering driveways, except that permanently unenclosed porch, portico, entry landing or similar structure five (5) feet in width may extend into the required rear yard no more than five (5) feet. For lots with rear entering driveways and using alleys for access, there shall be a rear yard of not less than eighteen (18) feet except that a permanently unenclosed porch, portico, entry landing or similar structure five (5) feet in width may extend into the required rear yard no more than five (5) feet.

(9) For residential structures with front-entering (loading) driveways and garages, the garage door must be set back from the front fact of the structure eight (8) feet or more. [See Typical House Configuration below.]



(10) Sidewalks are to be constructed on both sides of any new rights-of-way which are shown on the required subdivision plat/site development plan or along any existing streets which provide direct access to houses built under the terms and standards of these regulations. These sidewalks are to be built to standards as specified in the jurisdictional Subdivision Regulations.

(Ord. No. 10641, 11/18/97)

(11) Street trees are to be incorporated along all public streets on lots developed under these provisions at a maximum planting interval of twenty-five (25) feet or located according to a Street Tree Plan approved by the Municipal Forester of the City of Chattanooga. These trees should have an expected mature height of at least thirty-five (35) feet and are to be installed at a minimum height of twelve (12) feet. All plantings must be trees. Plants which are commonly identified as a

shrub are not acceptable. In planting the street trees, it is preferable to plant any required tree behind the outside edge of the sidewalk if the planting strip between the sidewalk and the curb is less than six (6) feet wide.

(Ord. No. 10824, 02/09/99)

(12) Detached accessory buildings are permitted subject to Article VI, Section 38-503 of this chapter.

(13) A minimum of thirty percent (30%) of the gross site area must be set aside as open space (as shown on the site plan). This open space set aside is in addition to areas which are in a designated Floodway zone. Fragmentation of open space should be minimized and therefore no parcel of open space should be less than one (1) acre in size, except for areas specifically designed as village greens, ball fields, buffers, and trail links. The open space should be immediately accessible to the maximum number of house lots on adjacent parcels or through pedestrian linkages to these open areas. The open space shall remain undivided and may be owned and managed by a homeowners' association, the City of Chattanooga, or a recognized land trust or conservancy. The ownership will be specified on the Subdivision Plat.

(14) Where required, public or private alley rights-of-way or easements shall be a minimum of twenty (20) feet in width. These alleys are to be built according to specifications of the City Engineer.

(15) Rights-of-way shall be designed to maximize the connections between streets. The use of cul-de-sacs should be minimized and are only allowed where there are topographic or environmental constraints on the land. Future connections to abutting land will be required as deemed necessary or where future development is anticipated.

(Code 1995, Appendix B, Art. V, § 115)

Sec. 38-56. Site Plan Requirements and Review Process.

The developer utilizing an Open Space Subdivision Option shall adhere to the following steps in processing a design: first, the developer shall review the Conceptual Layout Plan and the Existing Site Conditions Map with the Regional Planning Agency; second, based on approved design, the developer shall submit a preliminary plat for review and consideration by the Planning Commission; third, following approval by the Planning Commission, the developer shall submit a final subdivision plat and a final site plan for review and approval by the staff and the Planning Commission; and fourth, the approved subdivision plat and final site plan is recorded in the Registrar's Office of Hamilton County.

(1) Existing Site Conditions Map and Conceptual Layout Plan Review Process. The developer shall review the proposed site development plan with the Regional Planning Agency staff prior to the submittal of the Preliminary Plat. The purpose of this review is to evaluate existing site characteristics and to review the proposed design of the subdivision. At this mandatory review meeting, the developer is required to furnish the Regional Agency staff with an existing conditions map and a scaled conceptual layout plan of the proposed development. Although not mandatory, an on-site visit should be held in conjunction with this initial site design review. The Regional Planning Agency review staff shall consist of a representative of the Operations Office, the Planning Design Center and the Comprehensive Planning Division. The conceptual layout plan and the existing Site Conditions Map shall be submitted to the Operations Office of the Regional Planning Agency. As required, staff members of other public agencies

will be consulted prior to conceptual layout plan approval. The submittal of this plan shall not be construed to be submission of a subdivision plat.

(a) Existing Site Conditions Map.

The following are the required elements which must be portrayed on the Existing Site Conditions Map:

(i) Minimum scale of one inch equals fifty feet (1" = 50'), with Graphic Scale and North Arrow;

(ii) Topographic features depicted at a maximum five (5) foot contour interval;

(iii) Historic features (i.e. structures or sites listed or eligible for inclusion on the National Register of Historic Places, State recognized historic structures or sites);

(iv) Areas of flood hazard, including designated Flood Hazard District and Floodways;

(v) Generalized type and location of existing vegetation;

(vi) Existing utility easements; and

(vii) Property lines.

(b) Conceptual Layout Plan.

The following are required elements which must be portrayed on the Conceptual Layout Plan:

(i) Minimum scale: One inch equals fifty feet (1" = 50');

(ii) Depict vehicular access including proposed rights-of-ways, alleys, common drives and easements;

(iii) Depict any pedestrian circulation, easements or trails other than those sidewalks required by these regulations;

(iv) Depict or list the lots which are permitted to have front parking access;

(v) Depict common open space(s) and by note on the final plat, show proposed ownership of the common open space;

(vi) Depict recreation facilities or other similar community design features, such as gazebos.

(vii) Depict Street and landscaping design features.

(viii) Depict the lot layout showing the proposed lot scheme. This layout is designed to display the general lot configuration and does not require surveyed dimensional data.

(2) Subdivision Plat/Development Plan Review Process.

(a) Based on evaluation and approval by the Regional Planning Agency review staff, the developer must submit a preliminary plat for review. The preliminary plat must conform to the requirements of the jurisdictional subdivision regulations and the design and layout of the approved Conceptual Layout Plan. After submission to and approval of the Preliminary Plat by the Chattanooga-Hamilton County Regional Planning Commission, the Final Plat must be submitted, reviewed and approved by the Regional Planning Agency staff.

(b) In addition, the site developer shall prepare a scaled final site plan for attachment to the Final Plat. If the desired design elements can be depicted on the Final Subdivision Plat, a separate site plan is not required. If a separate document is attached to the subdivision plat as an addendum, its format will conform to subdivision plat standards and it will be referenced on the subdivision plat as an addendum or attachment.

(3) Final Site Plan

The Final Site Plan shall depict the final subdivision design and include the following elements:

(a) Minimum scale: one inch equals fifty feet (1" = 50');
(b) Proposed building and accessory structures;
(c) Required landscaping, including streetscape details;
(d) Location of open space, public parks and recreation facilities;
(e) Street and alley layout;
(f) Pedestrian circulation system; and
(g) Additional details and design features which are required by ordinance or as required by the Planning Agency review staff.

(4) Recordation of the Final Plat and Site Plan

Following review and approval by the Chattanooga-Hamilton County Regional Planning Commission, the Final Plat and Site Plan shall be recorded by the developer.

(Code 1995, Appendix B, Art. V, §116; Ord. No. 10641, 11/18/97)

Secs. 38-57 - 38-60. Reserved.

DIVISION 3. RT-1 RESIDENTIAL TOWNHOUSE ZONE

Sec. 38-61. Statement of intent.

It is the intent of this section to provide regulations for the development of townhouses (also called rowhouses and "attached" homes) in a manner which is attractive, efficient, and compatible with surrounding development. It is also the intent of these regulations that the underlying real estate may be divided into small lots so that each unit can, along with the underlying property, be individually sold and owned on a "fee simple" basis, although said units may also be sold as condominiums. It is further intended as a policy that any townhouse development of more than 8 units should be located within five hundred feet (500') of a major arterial or collector as shown on the General Plan most recently adopted by the Planning Commission.
(Code 1995, Appendix B, Art. V, § 120)

Sec. 38-62. Permitted uses.

(1) Single-family detached dwellings (excluding factory manufactured homes constructed as a single self-contained unit and mounted on a single chassis)
(2) Townhouses. (See definition, Section 38-2.)
(Ord. No.12215, § 2, 2-24-09; Ord. No.12396, §2, 5-18-10; Ord. No. 12415, §2, 7-20-10)
(3) Parks, playgrounds, schools, churches, and community-owned not-for-profit buildings which are complimentary to the immediate neighborhood.
(4) Golf courses except driving ranges, miniature courses and other similar commercial operations.
(5) Accessory uses and buildings.
(6) Home occupations.
(7) Kindergartens operated by governmental units or religious organizations.
(Code 1995, Appendix B, Art V, § 122; Ord. No. 12206, § 1, 1-20-09; Ord. No. 12215, § 2, 2-24-09; Ord. No. 12396, § 2, 5-18-10, Ord. No.12415, § 2, 7-20-10)

Sec. 38-63. Uses permitted as special exceptions by the board of appeals.

The following uses and structures with their customary accessory buildings may be permitted as special exceptions by the Board of Appeals, subject to the requirements and restrictions as specified in Article VIII:

(1) Kindergartens:
Kindergartens not operated by governmental units or religious organizations shall require a Special Permit under the terms of article VIII of this chapter.
(2) Day care centers:
Such uses shall require a Special Permit from the Board of Appeals under the terms of article VIII of this chapter.
(3) Communication Towers:
The Board of Appeals for Variances and Special Permits may issue a Special Permit for Communications Towers on publicly owned property under the terms specified in Article VIII.
(Code 1995, Appendix B, Art. V, § 123; Ord. No. 10705, 06/02/98; Ord. No. 11082, 10/17/00)

Sec. 38-64. Height and area regulations.

(1) No building shall exceed thirty-five (35) feet in height, except that a building may exceed those height regulations provided that for every one (1) foot of additional height over thirty five (35) feet, the building shall be set back one (1) additional foot from all non-zero lot line property lines.

(2) The minimum building site area for each single-family detached dwelling shall be two thousand six hundred twenty-five (2,625) square feet and the minimum building site area for each townhouse unit shall be one thousand three hundred fifty (1,350) square feet.

(3) The minimum building site width for each single-family detached dwelling shall be thirty-five (35) feet and the minimum building site width for each townhouse unit shall be eighteen (18) feet.

(4) All buildings except detached single-family houses must be set back at least forty (40) feet from any exterior dedicated public street. The setback may be reduced to twenty-five (25) feet if Type C Landscaping or equivalent (refer to Landscaping Provisions) is provided along the exterior street(s). Detached single-family houses must be set back at least twenty-five (25) feet from any exterior dedicated public street.

(Ord. 10507, 11/19/96; Ord. No. 12206, § 2, 1-20-09)

(5) No building shall be located less than twenty-five (25) feet from any boundary of the RT-1 zone, except on side yards where an RT-1 zone abuts RZ-1, R-T/Z, R-3, R-4, O-1 or any commercial or industrial zone.

(6) Front setback from any interior street shall be minimum twenty-five (25) feet or ten (10) feet if rear parking and loading is provided.

(7) Single-family detached dwellings shall be separated by not less than forty (40) feet except ten (10) feet from side to side.

(8) Townhouse buildings (a continuous row of townhouse units) shall be separated by not less than forty (40) feet except fifteen (15) end to end or end to the side of other permitted housing types.

(9) Except as provided above, there are no minimum front, side, or rear yard setback requirements.

(10) Frontage on a dedicated public street of the individual units shall be required only when the underlying properties are individually sold as lots along with the units on a fee simple basis.

(Code 1995, Appendix B, Art. V, § 124; Ord. No. 12206, § 2, 1-20-09)

Cross reference - Off-street parking requirements- see Article V, Section 38-471, *et seq.*
(Ord. No. 11459, § 2, 09-16-03)

Sec. 38-65. Provision for special access and utility easements.

Due to the special nature of residential townhouses and other types of "attached" housing allowed by these regulations, the Planning Commission may insist on special access easements and other arrangements to provide for adequate servicing of the structures even though such easements and provisions might not normally be specified in the Chattanooga Subdivision Ordinance. In addition, deed restrictions or other provisions may be required to assure that any remodeling or reconstruction of destroyed units will be accomplished in a fashion which will be compatible with the remaining units of the existing development, or for off-street parking of vehicles, and for any other reasonable design criteria deemed appropriate by the Planning Commission or the Chattanooga City Council.

(Code 1995, Appendix B, Art. V, § 126)

Sec. 38-66. Uses permitted as special exceptions by the city council.

(1) Planned Unit Development – Residential:
Flexibility in the arrangement of residential uses may be permitted by the City Council as special exceptions in any residential zone, provided that the minimum size of any tract of land sought to be used for the planned unit shall be two (2) acres and that a desirable environment through the use of good design procedures is assured, allowing flexibility in individual yard requirements to provide for multiple dwelling units, townhouses, and two family units, except that such use or uses shall require a Special Permit under the terms of Article V of this Ordinance.

(Ord. No. 11730, § 1, 08-16-05)

(2) Non-Profit Heritage Educational Facility under the terms specified in Article VI, Section 38-525.

(Ord. No. 12232, § 1, 4-21-09)

(Code 1995, Appendix B, Art. V, § 127; Ord. No. 11730, § 1, 08-16-05; Ord. No. 12232, § 1, 4-21-09)

Secs. 38-67 - 38-70. Reserved.

DIVISION 4. RZ-1 ZERO LOT LINE RESIDENTIAL ZONE

Sec. 38-71. Statement of intent.

It is the intent of this section to provide regulations for the development of single-family zero lot-line dwellings (also called patio homes) in a manner which is attractive, efficient, and compatible with surrounding development. It is also the intent of these regulations that the underlying real estate may be divided into small lots so that each unit can be individually sold and owned on a fee simple basis.
(Code 1995, Appendix B, Art. V, § 151)

Sec. 38-72. Permitted uses.

(1) Single-family detached dwellings (excluding factory manufactured homes constructed as a single, self-contained unit and mounted on a single chassis).
(2) Single-family zero lot line dwellings, excluding manufactured homes constructed as a single, self-contained unit and mounted on a single chassis.
(3) Parks, playgrounds, schools, churches, and community-owned not-for-profit buildings which are complimentary to the immediate neighborhood.
(4) Golf courses except driving ranges, miniature courses and other similar commercial operations.
(5) Accessory uses and buildings.
(6) Home occupations.
(7) Kindergartens, operated by governmental units or religious organizations.

(Code 1995, Appendix B, Art. V, § 152; Ord. No. 12206, § 3, 1-20-09)

Sec. 38-73. Uses permitted as special exceptions by the board of appeals.

The following uses and structures with their customary accessory buildings may be permitted as special exceptions by the Board of Appeals, subject to the requirements and restrictions as specified in Article VIII:

(1) Kindergartens:
Kindergartens not operated by governmental units or religious organizations shall require a Special Permit under the terms of Article VIII of this chapter.
(2) Day care centers:
Such uses shall require a Special Permit from the Board of Appeals under the terms of Article VIII of this chapter.

(Ord. No. 8397, 11/27/84; Code 1995, Appendix B, Art. V, § 153)

Sec. 38-74. Height, area and building regulations.

(1) No building shall exceed thirty-five (35) feet in height, except that a building may exceed those height regulations provided that for every one (1) foot of additional height over thirty-five (35) feet, the building shall be set back one additional foot from all exterior property lines of the RZ-1 Zone.
(2) The minimum building site area shall be two thousand six hundred twenty-five (2,625) square feet.
(Ord. No. 12206, § 4, 1-20-09)
(3) The minimum lot width shall be thirty-five (35) feet.
(4) All buildings must be set back at least twenty-five feet from any dedicated public streets.

(5) Side yard setback for zero lot line units must be from zero (0) to one and one-half (1½) feet or a minimum of ten (10) feet from the adjacent property line if buildings are to be separated over a tenth (1/10) of a foot. The eave overhang is the only permitted element of the building structure allowed in the one and one-half (1½) foot setback. The opposite side yard must be at least ten (10) feet and must be kept perpetually free of permanent obstructions (such as accessory buildings).

(Ord. No. 10560, 4/22/97)

(6) The opposite side yard setback of not less than ten (10) feet must be kept perpetually free of permanent obstructions (such as an accessory building).

(7) The wall on the zero-foot setback must be constructed of maintenance free, solid masonry and no portion can project over any property line. For the purpose of this regulation, acceptable building materials shall include brick, block or siding of a ceramic, glass or cementitious nature including prefabricated boards or stucco but not including vinyl, foam or cellulose fiber based siding.

(Ord. No. 11435, 07-15-03)

(8) Similar zero-line exceptions can be made for the rear yard but not for both the side and rear yards of the same lot.

(9) No building shall be located less than twenty-five (25) feet from any boundary of the RZ-1 zone, except on side yards where any RZ-1 zone abuts RT-1, R-T/Z, R-3, R-4, O-1 or any commercial or industrial zone.

(Ord. No. 12206, § 4, 1-20-09)

(10) Single family detached dwellings shall be separated by not less than forty (40) feet, except ten (10) feet from side to side.

(Ord. No. 12206, § 4, 1-20-09)

(11) To assure security with a development, no windows, doors or other openings are permitted on the zero-lot line of structures except that the use of translucent glass block shall be permitted to allow natural light to enter the building without significantly compromising privacy.

(Ord. No. 12206, § 4, 1-20-09)

(Code 1995, Appendix B, Art. V, § 155; Ord. No. 11435, 07-15-03; Ord. No. 12206, § 4, 1-20-09)

Cross reference - Off-street parking requirements - Article V, Section 38-471, *et seq*.

(Ord. No. 11459, § 2, 09-16-03)

Sec. 38-75. Provision for special access and utility easements.

Due to the special nature of these housing types, the Planning Commission may insist on special access easements and other arrangements to provide for adequate servicing and maintenance of the structures even though such easements and provisions might not normally be specified in the Chattanooga Subdivision Ordinance. These easements and special covenants are to be shown on the subdivision plat at the time of its recording. In addition, deed restrictions or other provisions may be required to assure that any remodeling or reconstruction of destroyed units will be accomplished in a fashion which will be compatible with the remaining units.

(Code 1995, Appendix B, Art. V, § 156)

Sec. 38-76. Uses Permitted as Special Exceptions by the City Council.

(1) Planned Unit Development – Residential:

Flexibility in the arrangement of residential uses may be permitted by the City Council as special exceptions in any residential zone, provided that the minimum

size of any tract of land sought to be used for the planned unit shall be two (2) acres and that a desirable environment through the use of good design procedures is assured, allowing flexibility in individual yard requirements to provide for multiple dwelling units, townhouses, and two family units, except that such use or uses shall require a Special Permit under the terms of Article V of this chapter.

(Ord. No. 11730, § 2, 8-16-05)

(2) Non-Profit Heritage Educational Facility under the terms specified in Article VI, Section 38-525.

(Ord. No. 12232, § 1, 4-21-09)

(Ord. No. 11730, § 2, 8-16-05; Ord. No. 12232, § 1, 4-21-09)

Secs. 38-77 - 38-80. Reserved.

DIVISION 5. R-T/Z RESIDENTIAL TOWNHOUSE/ZERO LOT LINE ZONE

Sec. 38-81. Statement of intent.

It is the intent of this section to provide regulations for the development of townhouses (also called rowhouses and attached homes), single-family zero lot line dwellings (also called patio homes), and/or mixed use moderate density residential development in a manner which is attractive, provides for efficient use of land, and is compatible with surrounding development. It is further intended that these regulations provide for standards which will foster compatibility between R-T/Z development and lower density, standard single-family uses. It is also intended that R-T/Z development be sold in "fee simple" to encourage owner occupancy. For purposes of the R-T/Z zone, the term "exterior street" refers to any public, dedicated and accepted street existing prior to the R-T/Z development, the term "interior street' refers to any street built as part of the R-T/Z development, both sides of which are zoned R-T/Z.
(Code 1995, Appendix B, Art. V, § 161)

Sec. 38-82. Permitted uses.

(1) Single-family detached dwellings (excluding factory manufactured homes constructed as a single, self-contained unit and mounted on a single chassis).
(2) Townhouses. (See definition, Section 38-2.)
(Ord. No.12215, § 3, 2-24-09: Ord. No. 12396, §3, 5-18-10; Ord. No.12415, §3, 7-20-10)
(3) Zero lot line single-family detached dwellings (excluding factory manufactured homes constructed as a single, self-contained unit and mounted on a single chassis).
(4) Parks, playgrounds, schools, churches, and community-owned not-for-profit buildings which are complimentary to the immediate neighborhood.
(5) Golf courses except driving ranges, miniature courses and other similar commercial operations.
(6) Accessory uses and buildings.
(7) Home occupations.
(8) Kindergartens, operated by governmental units or religious organizations.

(Code 1995, Appendix B, Art. V, § 162; Ord. No.12215, § 3, 2-24-09; Ord. No.12396, § 3, 5-18-10; Ord. No. 12415, § 3, 7-20-10)

Sec. 38-83. Uses permitted as special exceptions by the board of appeals.

The following uses and structures with their customary accessory buildings may be permitted as special exceptions by the Board of Appeals, subject to the requirements and restrictions as specified in Article VIII:

(1) Kindergartens:
Kindergartens not operated by governmental units or by religious organizations shall require a Special Permit under the terms of Article VIII of this chapter.
(2) Day care centers:
Such uses shall require a Special Permit from the Board of Appeals under the terms of Article VIII of this chapter.
(3) Communication Towers:
The Board of Appeals for Variances and Special Permits may issue a Special Permit for Communications Towers on publicly owned property under the terms specified in Article VIII.

(Code 1995, Appendix B, Art. V, § 163; Ord. No. 10705, 06/02/98; Ord. No. 11082, 10/17/00)

Sec. 38-84. Height, area and building regulations.

(1) Maximum density outside the Urban Overlay Zone shall not exceed eight (8) units per acre for attached or detached dwelling units. Maximum density within the Urban Overlay Zone shall not exceed twelve (12) units per acre for attached or detached dwellings.

(Ord. No. 12282, § 1, 9-15-09)

(2) The minimum lot width for zero lot line or single-family detached units outside the Urban Overlay Zone shall be thirty-five (35) feet and within the Urban Overlay Zone shall be twenty-five (25) feet. Minimum lot width for townhouse units outside the Urban Overlay Zone shall be twenty-four (24) feet and within the Urban Overlay Zone shall be sixteen (16) feet.

(Ord. No.12282, § 1, 9-15-09; Ord. No.12396, §4, 5-18-10; Ord. No.12415, § 4, 7-20-10)

(3) Outside the Urban Overlay Zone, all buildings except detached single-family houses may be set back at least forty (40) feet from any exterior dedicated public street. The setback may be reduced to twenty-five (25) feet if Type C Landscaping or equivalent (refer to Landscaping Provisions) is provided along the exterior street(s). Detached single-family houses must be set back at least twenty-five (25) feet from any exterior dedicated public street.

Within the Urban Overlay Zone, front yard setback requirements for detached single-family housing or townhomes from any exterior dedicated public street shall be equal to the average (mean) setback of existing residential structures located wholly or in part within three hundred (300) feet on each side of such lot within the same block face and fronting on the same side of the street, ± five (5) feet. Setbacks on corner lots of a greater distance may be required by the City Traffic Engineer prior to the issuance of any building permit to insure adequate sight triangle visibility.

(Ord. No. 12282, § 1, 9-15-09)

(4) Outside the Urban Overlay Zone, no building shall be located less than twenty-five (25) feet from any boundary of the R-T/Z zone except on side yards where an R-T/Z zone abuts RT-1, RZ-1, R-3, R-4, O-1 or any commercial or industrial zone.

(Ord. No. 12206, § 5, 1-20-09; Ord. No. 12282 § 1, 9-15-09)

(5) Front setback from any interior street shall be fifteen (15) feet, or ten (10) feet if rear parking and loading is provided.

(Ord. No. 10461, 08/20/96)

(6) Outside the Urban Overlay Zone, side yard setback for zero lot line units must be from zero (0) to one and one-half (1½) feet, or a minimum of ten (10) feet from the adjacent property line if buildings are to be separated over a tenth (1/10) of a foot. The eave overhang is the only permitted element of the building structure allowed in the one and one-half (1½) feet setback. The opposite side yard must be at least ten (10) feet and must be kept perpetually free of permanent obstructions (such as accessory buildings).

Within the Urban Overlay Zone, side yard setback for zero lot line units must be from zero (0) to one and one-half (1½) feet, or a minimum of six (6) feet from the adjacent property line if buildings are to be separated over a tenth of a foot. The eave overhang is the only permitted element of the building structure allowed in the one and one-half (1½) feet setback. The opposite side yard must be at least six (6) feet and must be kept perpetually free of permanent obstructions (such as accessory buildings).

(Ord. No. 10560, 04/22/97; Ord. No. 12282, § 1, 9-15-09)

(7) To assure security within a development, no windows, doors, or other openings are permitted on the zero lot line of structures except that the use of translucent glass block shall be permitted to allow natural light to enter the building without significantly compromising privacy.

(Ord. No. 11435, 07-15-03)

(8) Single-family detached dwellings shall be separated by not less than forty (40) feet except ten (10) feet from side to side outside the Urban Overlay Zone. Single-family detached dwellings shall be separated by not less than forty (40) feet except six (6) feet from side to side within the Urban Overlay Zone.

(Ord. No. 12206, § 5, 1-20-09; Ord. No. 12282, § 1, 9-15-09)

(9) Three or more unit town homes shall be separated by not less than forty (40) feet except fifteen (15) feet end to end or end to the side of other permitted housing types.

(10) Maximum height of buildings shall be thirty-five (35) feet or two and one-half (2½) stories.

(11) Sidewalks, if provided, are to be built according to jurisdictional standards.

(12) All property lines abutting R-1 zoned property must have Type C landscaping or equivalent (refer to Landscaping Provisions).

(13) Townhouse development which fronts on exterior public streets must have front yards which are at least sixty-five percent (65%) grass/landscaping with any driveway and/or sidewalk to be composed of concrete or pavers. Landscaping along all property lines fronting exterior streets must be provided subject to review and approval of a site-specific landscape plan.

(14) A site sketch plan shall be submitted with the rezoning application and shall show the following:

(a) Site access and preliminary street layout.
(b) Type of off-street parking.
(c) Preliminary lot design.
(d) Range of lot sizes.
(e) Number of lots.
(f) Acreage.
(g) Open space/recreation areas if provided.
(h) All buffer, landscape and screen areas including site specific landscape design.

(Code 1995, Appendix B, Art. V, § 164; Ord. No. 12206, § 5, 1-20-09; Ord. No. 12282, § 1, 9-15-09; Ord. No.12396, § 4, 5-18-10; Ord. No.12415, § 4, 7-20-10)

Cross reference - Off-street parking requirements - see Article V, Section 38-471, *et seq*.
(Ord. No. 11459, § 2, 09-16-03)

Sec. 38-85. Provision for special access and utility easements.

Due to the special nature of these housing types, the Planning Commission may insist on special access easements and other arrangements to provide for adequate servicing and maintenance of the structures even though such easements and provisions might not normally be specified in the Chattanooga Subdivision Ordinance. These easements and special covenants are to be shown on the subdivision plat at the time of its recording. In addition, deed restrictions or other provisions may be required to assure that any remodeling or reconstruction of destroyed units will be accomplished in a fashion which will be compatible with the remaining units.
(Code 1995, Appendix B, Art. V, § 166; Ord. No. 10705, 6/02/98)

Sec. 38-86. Uses Permitted as Special Exceptions by the City Council.

(1) Planned Unit Development – Residential:
Flexibility in the arrangement of residential uses may be permitted by the City Council as special exceptions in any residential zone, provided that the minimum size of any tract of land sought to be used for the planned unit shall be two (2) acres and that a desirable environment through the use of good design procedures is assured, allowing flexibility in individual yard requirements to provide for multiple dwelling units, townhouses, and two family units, except that such use or uses shall require a Special Permit under the terms of Article V of this chapter.

(Ord. No. 11730, § 3, 08-16-05)

(2) Non-Profit Heritage Educational Facility under the terms specified in Article VI, Section 38-525.

(Ord. No. 12232, § 1, 4-21-09)

(Code 1995, Appendix B, Art. V, § 167; Ord. No. 11730, § 3, 08-16-05; Ord. No. 12232, § 1, 4-21-09)

Secs. 38-87 – 38-90. Reserved.

DIVISION 6. R-2 RESIDENTIAL ZONE

Sec. 38-91. Permitted uses.

(1) Single-family dwellings, excluding factory manufactured homes constructed as a single self-contained unit and mounted on a single chassis.
(2) Two-family dwellings.
(3) Schools.
(4) Parks, playgrounds, and community-owned not-for-profit buildings.
(5) Golf courses, except driving ranges, miniature courses and other similar commercial operations.
(6) Fire stations and other publicly-owned buildings.
(7) Churches and including a columbarium and/or mausoleum as an accessory use.
(Ord. No. 12241, § 2, 5/19/09).
(8) Accessory uses and buildings.
(9) Home occupations.
(10) Day care homes.
(11) Kindergartens operated by governmental units or by religious organizations.
(Code 1995, Appendix B, Art. V, § 201; Ord. No. 12241, § 2, 5/19/09)

Sec. 38-92. Uses permitted as special exceptions by the board of appeals.

The following uses and structures with their customary accessory buildings may be permitted as special exceptions by the Board of Appeals, subject to the requirements and restrictions as specified in Article VIII:

(1) Day care centers:
Such uses shall require a Special Permit under the terms of Article VIII of this chapter.
(2) Kindergartens:
Kindergartens not operated by governmental units or religious organizations shall require a Special Permit under the terms of Article VIII of this chapter.
(3) Assisted Living Facilities:
The Board of Appeals may issue a Special Permit for an Assisted Living Facility under the terms specified in Article VIII of this chapter, provided that the Facility shall contain no more than eight (8) residents. This facility may include two (2) additional persons (plus their dependents) acting as houseparents or guardians, who need not be related to the persons residing in the home.
(Ord. No. 10447, 07/16/96)
(4) Communication Towers:
The Board of Appeals for Variances and Special Permits may issue a Special Permit for Communications Towers on publicly owned property under the terms specified in Article VIII.
(Code 1995, Appendix B, Art. V, § 202; Ord. No. 10447, 07/16/96; Ord. No. 10705, 6/02/98; Ord. No. 11082, 10/17/00)

Sec. 38-93. Uses permitted as special exceptions by the city council.

The following uses may be permitted as special exceptions by the City Council, subject to the requirements and restrictions as specified in Article VI:

(1) Cemeteries:
The City Council may permit the development of cemeteries (excluding crematoriums, embalming facilities or other such preparatory functions) within any R-2 Residential Zone as a special exception under the terms specified in Article VI of this chapter.

(2) Residential Homes for Handicapped and/or Aged Persons Operated on a Commercial Basis:
The City Council may issue a Special Permit for a Residential Home for Handicapped and/or Aged Persons under the terms specified in Article VI of this chapter, provided that the Home shall not contain more than eight (8) handicapped and/or aged persons.

(3) Planned Unit Development:
Flexibility in the arrangement of residential uses may be permitted by the City Council as special exceptions in any R-2 Residential Zone, provided that the minimum size of any tract of land sought to be used for the planned unit shall be two (2) acres and that a desirable environment through the use of good design procedures is assured, allowing flexibility in individual yard requirements to provide for multiple dwelling units, townhouses, and two family units, except that such use or uses shall require a Special Permit under the terms of Article V of this chapter.

(4) Non-Profit Heritage Educational Facility under the terms specified in Article VI, Section 38-525.

(Ord. No. 12232, § 1, 4-21-09)

(Ord. No. 6075, 7/15/69; Ord. No. 6590, 7/27/73; Code 1995, Appendix B, Art. V, § 203; Ord. No. 11597, § 1, 08-17-04; Ord. No. 12232, § 1, 4-21-09)

Sec. 38-94. Height and area regulations.

(1) No buildings shall exceed two and one-half stories or thirty-five (35) feet in height, except that a building may exceed these requirements provided that for every foot of additional height over thirty-five (35) feet the building shall be set back one (1) additional foot from all property lines.

(2) Minimum Lot Area
- (a) Twenty-five thousand (25,000) square feet for single-family lots on individual wells and septic tanks;
- (b) Seven thousand five hundred (7,500) square feet for single-family lots on sanitary sewers;
- (c) Nine thousand five hundred (9,500) square feet for two-family dwelling units on sewers. The Health Department may require larger lots when septic tanks are used due to soil conditions, topography, drainage, presence of swimming pools, etc.
- (d) For those lots where septic tanks are used, all residential lots shall be large enough to construct the original subsurface sewage disposal system and to provide an area for one hundred percent (100%) duplication of that system; and
  - (i) The area(s) for both original and duplicate systems shall meet the provision of the State Rules and Regulations to Govern Subsurface Sewage Disposal.
  - (ii) The Health Department may limit the number of bedrooms and whirlpool tubs on the basis of effective capacity of the proposed sewage disposal facilities.

(iii) The Health Department may require larger lots when septic tanks are used due to soil conditions, topography, drainage, presence of swimming pools, etc.

(e) Residential lot area shall be in addition to any other lot area for other permitted uses;

(f) All other uses shall have a minimum lot area of ten thousand (10,000) square feet.

(Ord. No. 11267, 4/16/02)

(3) Minimum Frontage

Minimum lot frontage shall be sixty (60) feet on sewers and seventy-five (75) feet on septic tanks.

(4) There shall be a front yard of not less than twenty-five (25) feet.

(5) There shall be a side yard on each side of the building of not less than ten (10) feet. For corner lot side yard requirements, see Article VI, Section 38-509.

(6) There shall be a rear yard of not less than twenty-five (25) feet.

(Code 1995, Appendix B, Art. V, § 204)

Cross reference - Off-street parking requirements - Article V, Section 38-471, *et seq*.
(Ord. No. 11459, § 2, 09-16-03)

Secs. 38-95 - 38-100. Reserved.

DIVISION 7. R-3MD MODERATE DENSITY ZONE

Sec. 38-101. Permitted uses.

(1) Single-family dwellings, excluding factory manufactured homes constructed as a single self-contained unit and mounted on a single chassis.
(2) Two-family, three-family, and four-family dwellings.
(3) Schools.
(4) Parks, playgrounds, and community-owned not-for-profit buildings.
(5) Golf courses, except driving ranges, miniature courses and other similar commercial operations.
(6) Fire stations and other publicly-owned buildings.
(7) Churches and including a columbarium and/or mausoleum as an accessory use.
(Ord. No. 12241, § 2, 5/19/09).
(8) Accessory uses and buildings.
(9) Home occupations.
(10) Day care homes.
(11) Kindergartens operated by governmental units or by religious organizations.
(Code 1995, Appendix B, Art. V, § 251; Ord. No. 12241, § 2, 5/19/09)

Sec. 38-102. Uses permitted as special exceptions by the board of appeals.

The following uses and structures with their customary accessory buildings may be permitted as special exceptions by the Board of Appeals, subject to the requirements and restrictions as specified in Article VIII:

(1) Day care centers:
Such uses shall require a Special Permit under the terms of Article VIII of this chapter.
(2) Kindergartens:
Kindergartens not operated by governmental units or religious organizations shall require a Special Permit under the terms of Article VIII of this chapter.
(3) Communications Towers:
The Board of Appeals for Variances and Special Permits may issue a Special Permit for Communications Towers on publicly owned property under the terms specified in Article VIII.
(Code 1995, Appendix B, Art. V, § 252; Ord. No. 10705, 06/02/98; Ord. No. 11082, 10/17/00)

Sec. 38-103. Uses permitted as special exceptions by the city council.

The following uses may be permitted as special exceptions by the City Council, subject to the requirements and restrictions as specified in Article VI:

(1) Cemeteries:
The City Council may permit the development of cemeteries (excluding crematoriums, embalming facilities, or other such preparatory functions) within any R-3 Moderate Density Zone as a special exception under the terms specified in Article VI of this chapter.
(2) Planned Unit Development – Residential:
Flexibility in the arrangement of residential uses may be permitted by the City Council as special exceptions in any residential zone, provided that the minimum size of any tract of land sought to be used for the planned unit shall be two (2) acres and that a desirable environment through the use of good design procedures

is assured, allowing flexibility in individual yard requirements to provide for multiple dwelling units, townhouses, and two family units, except that such use or uses shall require a Special Permit under the terms of Article V of this chapter.

(Ord. No. 11730, § 4, 08-16-05)

(3) Non-Profit Heritage Educational Facility under the terms specified in Article VI, Section 38-525.

(Ord. No. 12232, § 1, 4-21-09)

(Code 1995, Appendix B, Art. V, § 253; Ord. No. 11730, § 4, 08-16-05; Ord. No. 12232, § 1, 4-21-09)

Sec. 38-104. Height and area regulations.

(1) No buildings shall exceed thirty-five (35) feet in height except that a building may exceed these requirements provided that for every foot of additional height over thirty-five (35) feet the building shall be set back one (1) additional foot from all property lines.

(2) Minimum Lot Area and Frontage

	Minimum Area on Sewers	Public Water Supply & Septic Tanks
Single-family Dwellings	7,500 sq. feet	13,000 sq. feet
Two-family Dwellings	9,500 sq. feet	18,000 sq. feet
Three-family Dwellings	11,500 sq. feet	25,000 sq. feet
Four-family Dwellings	13,500 sq. feet	30,000 sq. feet

The Health Department may require larger lots when septic tanks are used due to soil conditions, topography, drainage, presence of swimming pools, etc. The minimum frontage shall be sixty (60) feet.

(3) There shall be a front yard of not less than twenty-five (25) feet.

(4) There shall be a side yard on each side of the building of not less than ten (10) feet. For corner lot side yard requirements, see Article VI, Section 38-509.

(5) There shall be a rear yard of not less than twenty-five (25) feet.

(Code 1995, Appendix B, Art. V, § 254)

Cross reference - Off-street parking requirements - Article V, Section 38-471, *et seq.*

(Ord. No. 11459, § 2, 09-16-03)

Secs. 38-105 - 38-110. Reserved.

DIVISION 8. R-3 RESIDENTIAL ZONE

Sec. 38-111. Permitted uses.

(1) Single-family dwellings, excluding factory manufactured homes constructed as a single self-contained unit and mounted on a single chassis, except as provided for in Section 38-112.
(2) Two-family dwellings.
(3) Boarding Houses, Lodging Houses and Bed and Breakfast.
(4) Multiple family dwellings.
(5) Schools.
(6) Parks, playgrounds and community-owned not-for-profit buildings.
(7) Golf courses, except driving ranges, miniature courses and other similar commercial operations.
(8) Fire stations and other publicly-owned buildings.
(9) Churches.
(10) Home Occupations.
(11) Accessory uses and buildings.
(12) Day care homes.
(13) Kindergartens operated by government units or by religious organizations.
(14) Short-Term Vacation Rental.
(Ord. No. 12231, § 2, 4-21-09)

(Code 1995, Appendix B, Art. V, § 301; Ord. No. 12231, § 2, 4-21-09)

Sec. 38-112. Uses permitted as special exceptions by the board of appeals.

The following uses and structures with their customary accessory buildings may be permitted as special exceptions by the Board of Appeals, subject to the requirements and restrictions as specified in Article VIII:

(1) Day care centers:
Such uses shall require a Special Permit under the terms of Article VIII of this chapter.
(2) Kindergartens:
Kindergartens not operated by governmental units or religious organizations shall require a Special Permit under the terms of Article VIII of this chapter.
(3) Assisted Living Facilities:
The Board of Appeals may issue a Special Permit for an Assisted Living Facility under the terms specified in Article VIII of this chapter.
(4) Medically Assisted Living Facilities:
The Board of Appeals may issue a Special Permit for a Medically Assisted Living Facility under the terms specified in Article VIII of this chapter.
(Ord. No. 10447, 7/16/96)
(5) Communication Towers:
The Board of Appeals may issue a Special Permit for Communications Towers under the terms specified in Article VIII.
(Ord. No. 10705, 06/02/98)
(6) Manufactured Home Parks:
Manufactured Home Parks may be permitted as special exceptions in any R-3 Zone, except that such use shall require a Special Permit under the terms of Article VIII, and further provided that:

(a) The applicant presents plans and specifications for the proposed park to the Board of Appeals in a form suitable for making the determinations required therein.

(b) The proposed site shall contain not less than twenty (20) acres total, and two thousand four hundred (2,400) square feet per manufactured home.

(c) Connections to a public or private sewage disposal system satisfactory to the City-County Health Department or the City Plumbing Inspector are provided for each manufactured home space.

(d) Connections to a public water supply system are provided for each manufactured home space.

(e) The demand for school, fire and police protection, and other public services and utilities created by the proposed park will not exceed the capacity of the agencies involved to provide such services.

(f) A greenbelt planting strip, not less than twenty (20) feet in width, is located around the perimeter of the park except in those parts of the perimeter where such planting would create a traffic hazard by impairing visibility. Such greenbelt shall be composed of one (1) row of deciduous and/or evergreen trees, spaced not more than forty (40) feet apart and which grow to a height of six (6) feet or more after two (2) full growing seasons.

(Code 1995, Appendix B, Art. V, § 302)

Sec. 38-113. Uses permitted as special exceptions by the city council.

The following uses may be permitted as special exceptions by the City Council, subject to the requirements and restrictions as specified in Article VI:

(1) Planned Unit Development:

Flexibility in the arrangement of residential uses may be permitted by the City Council as special exceptions in any R-3 Residential Zone, provided that the minimum size of any tract of land sought to be used for the planned unit shall be two (2) acres and that a desirable environment through the use of good design procedures is assured, allowing flexibility in individual yard requirements to provide for multiple dwelling units, townhouses, and two-family units, except that such use or uses shall require a Special Permit under the terms of Article V of this chapter.

(Ord. No. 11597, §1, 08-17-04)

(2) Residential Homes for Handicapped and/or Aged Persons Operated on a Commercial Basis:

The City Council may issue a Special Permit for a Residential Home for Handicapped and/or Aged Persons under the terms specified in Article VI of this chapter.

(3) Non-Profit Heritage Educational Facility under the terms specified in Article VI, Section 38-525.

(Ord. No. 12232, § 1, 4-21-09)

(Code 1995, Appendix B, Art. V, § 303; Ord. No. 11597, § 1, 08-17-04; Ord. No. 12232, § 1, 4-21-09)

Sec. 38-114. Height and area regulations.

(1) No building shall exceed two and one-half stories or thirty-five (35) feet in height, except that a building may exceed these height requirements provided that

for every one (1) foot of additional height over thirty-five (35) feet the building shall be set back one (1) additional foot from all property lines.

(2) Minimum Lot Area

(a) Twenty-five thousand (25,000) square feet for single-family lots on individual wells and septic tanks;

(b) Seven thousand five hundred (7,500) square feet for single-family lots on sanitary sewers;

(c) Seven thousand five hundred (7,500) square feet for the first unit of a multi-family lot with an additional two thousand (2,000) square feet of lot area for each additional unit;

(d) Seven thousand five hundred (7,500) square feet for the first two (2) lodgers or boarders of boarding houses, dormitories, fraternity and sorority houses, and bed and breakfasts with an additional five hundred (500) square feet of lot area for each additional lodger or boarder;

(Ord. No. 12230, § 2, 4-21-09)

(e) For those lots where septic tanks are used, all residential lots shall be large enough to construct the original subsurface sewage disposal system and to provide an area for one hundred percent (100%) duplication of that system; and

(i) The area(s) for both original and duplicate systems shall meet the provision of the State Rules and Regulations to Govern Subsurface Sewage Disposal.

(ii) The Health Department may limit the number of bedrooms and whirlpool tubs on the basis of effective capacity of the proposed sewage disposal facilities.

(iii) The Health Department may require larger lots when septic tanks are used due to soil conditions, topography, drainage, presence of swimming pools, etc.

(f) Residential lot area shall be in addition to any other lot area for other permitted uses;

(g) All other uses shall have a minimum lot area of ten thousand (10,000) square feet.

(Ord. No. 11267, 4/16/02)

(3) Minimum Frontage

Minimum lot frontage shall be sixty (60) feet on sewers and seventy-five (75) feet on septic tanks.

(4) There shall be a front yard of not less than twenty-five (25) feet.

(5) There shall be a side yard on each side of the building of not less than six (6) feet. For corner lot side yard requirements, see Article VI, Section 38-509.

(6) There shall be a rear yard of not less than twenty-five (25) feet.

(Code 1995, Appendix B, Art. V, § 304; Ord. No. 12230, § 2, 4-21-09)

Cross reference - Off-street parking requirements - see Article V, Section 38-471, *et seq*.
(Ord. No. 11459, § 2, 09-16-03)

Secs. 38-115 - 38-120. Reserved.

DIVISION 9. R-4 SPECIAL ZONE

Sec. 38-121. Permitted uses.

(1) Single-family, two-family, and multiple-family dwellings, excluding factory manufactured homes constructed as a single self-contained unit and mounted on a single chassis.
(2) Lodging Houses, Boarding Houses and Bed and Breakfast.
(3) Colleges, schools and libraries.
(4) Churches and including a columbarium and/or mausoleum as an accessory use.
(Ord. No. 12241, 5/19/09)
(5) Dormitories.
(6) Professional, medical or dental offices and clinics.
(7) Laboratories and research centers not objectionable because of odor, dust, noise, or vibration.
(8) Offices.
(9) Studios.
(10) Parks and Playgrounds.
(11) Home occupations.
(12) Banks and bank branches.
(13) Accessory uses and buildings.
(14) Day care homes.
(15) Kindergartens operated by governmental units or by religious organizations.
(16) Drug stores or restaurants in office buildings of four (4) or more stories.
(17) Museums and art galleries with retail sales as an accessory on-site use, except that such accessory use shall require a Special Permit under the terms of Article VIII.
(18) Identification signs for commercial uses, subject to the same regulations which govern size, appearance, location, etc., for signs identifying on premise office uses.
(Ord. No. 11215, 11/27/01)
(19) Radio, television and motion picture production studios, excluding transmission towers.
(Ord. No. 11254, 03/19/02)
(20) Parking lots and garages as an accessory to a permitted use when located on the same lot or an adjacent lot.
(21) Short-Term Vacation Rental.
(Ord. No. 12231, § 3, 4-21-09)

(Code 1995, Appendix B, Art. V, § 401; Ord. No. 12231, § 3, 4-21-09; Ord. No. 12241, § 2, 5/19/09)

Sec. 38-122. Uses permitted as special exceptions by the board of appeals.

The following uses and structures with their customary accessory buildings may be permitted as special exceptions by the Board of Appeals, subject to the requirements and restrictions as specified in Article VIII:

(1) Fraternal, professional or hobby clubs.
(2) Hospitals and nursing homes.
(3) Funeral homes, mortuaries, and undertaking establishments (and including cremation/crematory, when used in conjunction with such establishments).
(Ord. No. 10491, 10/15/96; Ord. No. 12241, § 2, 5/19/09)

(4) Day care centers.
(5) Kindergartens not operated by governmental units or by religious organizations
(6) Small animal hospitals.
(7) Radio, television and motion picture studios transmission towers shall require a Special Permit under the terms of Article VIII.
(Ord. No. 11254, 03/19/02)
(8) Drug and alcohol, penal or correctional halfway houses or rehabilitation centers and uses similar in character.
(9) Gift shops.
(10) Beauty shops, barber shops, and hair salons.
(Ord. No. 11003, 04/24/00)
(11) Assisted Living Facilities.
(12) Medically Assisted Living Facilities.
(Ord. No. 10447, 07/16/96)
(13) Communication Towers:
The Board of Appeals for Variances and Special Permits may issue a Special Permit for communications towers under the terms specified in Article VIII.
(Ord. No. 11253, 03/19/02)
(14) Social Service Agency.
(Code 1995, Appendix B, Art. V, § 402; Ord. No. 12241, § 2, 5/19/09)

Sec. 38-123. Uses permitted as special exceptions by the city council.

The following uses may be permitted as special exceptions by the City Council, subject to the requirements and restrictions as specified in Article VI:

(1) Institutional Planned Unit Development:
Flexibility in the arrangements of institutional and related uses may be permitted by the City Council as special exceptions in individual yard requirements to provide for college and university owned facilities, offices, professional and medical buildings, and other institutional structures, except that such use or uses shall require a Special Permit under the terms of Article VI of this chapter.
(2) Residential Homes for Handicapped and/or Aged Persons Operated on a Commercial Basis:
The City Council may issue a Special Permit for a Residential Home for the Handicapped and/or Aged Persons under the terms specified in Article VI of this chapter.
(3) Planned Unit Development – Residential:
Flexibility in the arrangement of residential uses may be permitted by the City Council as special exceptions in any residential zone, provided that the minimum size of any tract of land sought to be used for the planned unit shall be two (2) acres and that a desirable environment through the use of good design procedures is assured, allowing flexibility in individual yard requirements to provide for multiple dwelling units, townhouses, and two-family units, except that such use or uses shall require a Special Permit under the terms of Article V of this chapter.
(Ord. No. 11730, § 5, 08-16-05)
(4) Non-Profit Heritage Educational Facility under the terms specified in Article VI, Section 38-525.
(Ord. No. 12232, § 1, 4-21-09)
(Code 1995, Appendix B, Art. V, § 403; Ord. No. 11730, § 5, 08-16-05; Ord. No. 12232, § 1, 4-21-09)

Sec. 38-124. Height and area regulations.

(1) No building shall exceed two and one-half stories or 35 feet in height, except that a building may exceed these requirements provided that for every foot of additional height over 35 feet, the building shall be set back one (1) additional foot from all property lines.

(2) Minimum Lot Area:

(a) Twenty-five thousand (25,000) square feet for single-family lots on individual wells and septic tanks;

(b) Seven thousand five hundred (7,500) square feet for single-family lots on sanitary sewers;

(c) Seven thousand five hundred (7,500) square feet for the first unit of a multi-family lot with an additional two thousand (2,000) square feet of lot area for each additional unit;

(d) Seven thousand five hundred (7,500) square feet for the first two (2) lodgers or boarders of boarding houses, dormitories, fraternity and sorority houses, and bed and breakfasts with an additional five hundred (500) square feet of lot area for each additional lodger or boarder;

(Ord. No. 12230, § 3, 4-21-09)

(e) All residential lots shall be large enough to construct the original subsurface sewage disposal system and to provide an area for one hundred percent (100%) duplication of that system; and

(i) The area(s) for both original and duplicate systems shall meet the provision of the State Rules and Regulations to Govern Subsurface Sewage Disposal.

(ii) The Health Department may limit the number of bedrooms and whirlpool tubs on the basis of effective capacity of the proposed sewage disposal facilities.

(iii) The Health Department may require larger lots when septic tanks are used due to soil conditions, topography, drainage, presence of swimming pools, etc.

(f) Residential lot area shall be in addition to any other lot area for other permitted uses.

(Ord. No. 11267, 4/16/02)

(3) Minimum Frontage

Minimum residential lot frontage shall be sixty (60) feet on sewers and seventy-five (75) feet on septic tanks.

(Ord. No. 11267, 4/16/02; Ord. No. 11551, 05/18/04)

(4) There shall be a front yard of not less than twenty-five (25) feet.

(5) There shall be a side yard on each side of the building of not less than six (6) feet, except that for attached fee-simple offices there shall be no interior side yard requirement. For corner lot side yard requirements, see Article VI, section 38-509.

(Ord. No. 11551, 05/18/04)

(6) There shall be a rear yard of not less than twenty-five (25) feet.

(7) Communications towers shall be subject to the setback requirements set forth in Article VIII.

(Ord. No. 11253, 03/19/02)

(8) Repealed. (Ord. No. 11551, 05/18/04)

(Code 1995, Appendix B, Art. V, § 404; Ord. No. 11267, 4/16/02; Ord. No. 11551, 05/18/04; Ord. No. 12230, § 3, 4-21-09)

Editor's note--Section 38-124(8) dealt with interior side yard requirements for attached fee simple offices and was repealed by Ord. No. 11551, 05/18/04.

Cross reference - Off-street parking requirements - Article V, Section 38-471, *et seq*.
(Ord. No. 11459, § 2, 09-16-03)

Secs. 38-125 - 38-130. Reserved.

DIVISION 10. MXU - MIXED USE ZONE

Sec. 38-131. Intent.

The purpose of this zone is to allow medium intensity mixed-use suburban development that is compact, diverse, walkable, and urban in character and form. It encourages a market-driven alternative to conventional suburban development for sites that are neither appropriate for retail-only or residential-only use. The Mixed Use Zone introduces a focus on the form of development rather than just the uses. This makes it possible to create special destinations with a "sense of place".
(Ord. No. 11706, 7/19/05; Ord. No. 11799, 2/28/06)

Sec. 38-132. Location.

(1) The MXU shall be located so that its primary access is via a minor arterial or greater as defined by the Functional Classification of Streets and Roads in the City of Chattanooga Zoning Regulations.
(2) The MXU shall be located primarily in suburban or urbanized rural areas served by sewers.
(3) The MXU shall not to be used within the urban zone as described in Article III, Section 38-111 of the Chattanooga Zoning Regulations.

(Ord. No. 11706, 7/19/05; Ord. No. 11799, 2/28/06)

Sec. 38-133. Area Requirements.

(1) Minimum Land Area: The minimum development site size for a MXU shall be ten (10) acres.
(2) Maximum Land Area: There shall be no maximum development site size for a MXU.
(3) Minimum Lot Size: No minimum lot size required. (Ord. No. 12431, 9/21/10)
(4) Maximum Building Footprint: Within the MXU, the maximum building footprint for stand-alone restaurants or retail buildings shall be twenty-five thousand (25,000) square feet. This maximum building footprint also applies to a retail or restaurant portion of a mixed use building. Hotels, motels, and inns are excluded from the maximum building footprint requirement. (Ord. No. 12440, 11/16/10)
Smaller parcels of land may be considered when site adjoins an existing Mixed Use Zone (MXU) and such site uses will be incorporated into the adjoining plan.

(Ord. No. 11706, 7/19/05; Ord. No. 11799, 2/28/06; Ord. No. 11851, 2/28/06; Ord. No. 12431, § 1, 9/21/10; Ord. No. 12440, § 1, 11/16/10)

Sec. 38-134. General Function (Permitted Uses).

(1) Residential: A residential component shall be required in the MXU [see Section (5) for specific requirements]. The residential component may include, but is not limited to single-unit dwellings, duplexes, townhouses, condominiums, apartments. The number of dwelling units on each lot shall be limited by the minimum parking space requirements.
(2) Office: Office Building. The building area available for office use on each lot shall be limited by the minimum parking space requirements.
(3) Limited Retail: Restaurants, Retail Buildings. The building area available for retail use shall be limited by the minimum parking space requirements. Retail

shall be further limited to thirty-five percent (35%) of the total land area of the MXU site. Retail uses shall be sited away from existing off-site adjacent residential-zoned properties.

(4) Limited Lodging: Hotels, Motels, Inns. Lodging shall only be permitted if it is determined to be compatible with existing surrounding uses as part of the review process. The number of guest rooms available on each lot shall be limited by the minimum parking space requirements. Lodging shall be further limited to fifty percent (50%) of the total land area of the MXU site. The combined total land area of lodging and retail shall not exceed fifty percent (50%) of the total land area of the MXU site.

(5) Civic Spaces: Schools, Religious Facilities, Public Pavilions, Greens, Squares, Plazas, Parks, Playgrounds. A minimum of ten percent (10%) of the total land area of the MXU site shall be used for one or more of the public civic spaces as described in Section (6).

(6) Mixed Use Buildings: Retail, Office, and Residential uses may be included with the same structure.

(7) Prohibited Uses: Manufacturing Facilities, Warehouses and Mini-Warehouses, Adult-Oriented Establishments, Vehicle Sales or Vehicle Repair Facilities, Fuel Service Stations, Convenience Markets, Outdoor Commercial Storage, Outdoor Display or Sales. Signage- Signs not relating to identification of or direction to premises and occupants, or to products sold or services rendered on the premises are prohibited

(Ord. No. 11706, 7/19/05; Ord. No. 11799, 2/28/06)

Sec. 38-135. Residential.

(1) Required: A residential component shall be required in the MXU site. The residential component may include, but is not limited to single-unit dwellings, duplexes, townhouses, condominiums, apartments.

(2) Density: The residential density shall be a minimum of 0.75 units per acre.

(3) Unit Size: The residential unit size shall be a minimum of one thousand two hundred (1,200) square feet. Furthermore, every one thousand two hundred (1,200) square feet of residential square footage shall be considered as one (1) unit. For example, a two thousand four hundred (2,400) square foot dwelling would be considered as two (2) units.

(4) Placement: Not less than fifty percent (50%) of the residential units shall be located above non-residential uses within the same structure. A different placement and percentage may be permitted or required as part of the review process.

(Ord. No. 11706, 7/19/05; Ord. No. 11799, 2/28/06)

Sec. 38-136. Civic Spaces.

A minimum of ten percent (10%) of the total land area of the MXU site shall be used for one (1) or more of the following public civic space types:

(1) Green: An open space, available for unstructured recreation. It shall be centrally located so as to function as an easily accessible public open space. A green is spatially defined by landscaping rather than building frontages. Its landscape shall consist of lawn and trees, naturalistically disposed. It may also include a public pavilion. Easements for greenways and multi-use paths shall be credited

toward the ten percent (10%) civic space requirement. Parking landscape islands are not given civic space credit.

(2) Square: An open space available for unstructured recreation and civic purposes. A square is spatially defined by building frontages. Its landscape shall consist of paths, lawns, fountains, and trees, formally disposed. It may also include a public pavilion. Squares shall be located at the intersection of important thoroughfares.

(3) Plaza: An open space, available for civic purposes and commercial activities. A plaza shall be spatially defined by building frontages. Its landscape shall consist primarily of pavement. It may also include a public pavilion. Trees are optional. Plazas shall be located at the intersection of important streets.

(4) Playground: An open space designed and equipped for the recreation of children. A playground shall be fenced and may include an open shelter or public pavilion. Playgrounds may be included within parks and greens. There shall be no minimum or maximum size.

(5) Walkways: Walkways with a minimum width of five (5) feet are required that connects the civic spaces with a public right-of-way or other public access point if the civic space cannot be accessed from the required sidewalks.

(Ord. No. 11706, 7/19/05; Ord. No. 11799, 2/28/06)

Sec. 38-137. Environmental Requirements.

(1) The alteration of the natural environment shall be subject to local, state, and federal guidelines.

(2) Riparian: The riparian corridors of blue-line streams, as indicated on United States Geologic Survey (USGS) Quadrangle Maps, shall be a minimum of fifteen (15) feet in width on each side of the stream. The riparian corridors shall be maintained free of structures, except that thoroughfare crossings may be allowed. Streams may be moved only if approved by the Tennessee Department of Environment and Conservation.

(3) Storm Water: Regional storm water detention facilities may be utilized if approved by the Chattanooga Storm Water Division of Public Works. There shall be no retention or detention required on individual lots. Storm water retention and detention ponds and facilities may be placed within a “green” civic space and shall be credited toward the ten percent (10%) civic space requirement of the MXU if they are natural or constructed as Bioretention Cells, Grass Swales, or Filter Strips (see definition, Section 38-2) and approved by the City of Chattanooga Storm Water division of Public Works.

(4) Trees: The MXU site shall provide a minimum of fifteen percent (15%) tree canopy coverage with either existing or planted trees calculated as a percentage of the total land area (including streets, buildings, etc.) of the MXU site. Planted tree canopy coverage is determined by an estimate of the tree's coverage at maturity. Trees necessary to meet the MXU landscape requirements can be credited toward meeting the required fifteen percent (15%) tree canopy requirement.

(Ord. No. 11706, 7/19/05; Ord. No. 11799, 2/28/06)

Sec. 38-138. Parking Standards.

(1) Minimum Requirements: The standards for off-street parking and loading space requirements as described by the City of Chattanooga Zoning Ordinance, Article V, shall apply to the MXU.

(2) Reduced Parking: The minimum parking space requirements for non-residential uses may be reduced by as much as forty percent (40%) if approved by the City of Chattanooga Traffic Engineer.

(3) Shared Parking: Parking may be shared between differing uses if a suitable arrangement is approved by the City of Chattanooga Traffic Engineer.

(Ord. No. 11706, 7/19/05; Ord. No. 11799, 2/28/06)

Sec. 38-139. Public Frontages.

(1) The public frontage is the space between the edge of the right-of-way and the edge of the curb. It usually includes walkways, landscaping and lighting. This space shall be a minimum of twelve (12) feet from edge of the curb to the edge of the right-of-way.

(2) Sidewalks: Sidewalks with a minimum width of six (6) feet are required within the public right-of-ways. New sidewalks shall connect to any existing sidewalks.

(3) Trees: Trees shall be planted within the public right-of-way between the sidewalk and the curb either in a grass strip or in individual tree wells combined with pervious concrete or pavers with a minimum width of two (2) feet. The minimum planting ratio is one (1) tree per thirty-five (35) linear feet of right-of-way frontage. The minimum spacing between trees shall be fifteen (15) feet measured trunk to trunk. The maximum spacing is fifty (50) feet. This provision shall replace any street yard as required by the Chattanooga Landscape Ordinance unless otherwise specified. This provision only applies to new sidewalks constructed as part of the development unless permission is obtained from the proper authority to include trees within the right-of-way of an existing sidewalk.

(4) Bicycles: A Class II on-street bike lane or Class III on-street bike route shall be constructed on any street if deemed necessary by the Regional Planning Agency staff for the uninterrupted continuation of an existing or planned bike facility of the same type as identified by the Chattanooga-Hamilton County Bicycle Master Plan.

(Ord. No. 11706, 7/19/05; Ord. No. 11799, 2/28/06)

Sec. 38-140. Private Frontages.

(1) The private frontage is the space between the edge of the right-of-way and the principal building.

(2) Walkways: A pedestrian connection shall be provided to existing or planned sidewalks within a public right-of-way from buildings with a front set back twenty-five (25) feet or more.

(3) Trees: Trees shall be planted in a street yard, when feasible, as per the Landscape Ordinance if it is sufficiently demonstrated to the City Landscape Coordinator that trees cannot be planted within an existing or new public right-of-way between the sidewalk and travel lane. See Landscape Ordinance for applicability.

(4) The following items are provided as useful information. They may be used but are not requirements.

(a) Porch & Fence: a frontage wherein the façade is set back from the frontage line with an attached porch permitted to encroaching. A fence at the frontage line maintains the demarcation of the yard. The porches are usually no less than eight (8) feet deep.

(b) Terrace or Light Court: a frontage wherein the façade is set back from the frontage line by an elevated terrace or a sunken light court. This type buffers residential use from the urban sidewalks and removes the private yard from public encroachment. The terrace is suitable for conversion to outdoor cafes.

(c) Forecourt: a frontage wherein a portion of the façade is close to the frontage line and the central portion is set back. The forecourt created is suitable for vehicular drop-offs. This type should be allocated in conjunction with other frontage types. Large trees within the forecourts may overhand the sidewalks.

(d) Stoop: a frontage wherein the façade is aligned close to the frontage line with the first story elevated from the sidewalk sufficiently to secure privacy for the windows. The entrance is usually and exterior stair and landing. This type is recommended for ground-floor residential use.

(e) Shopfront and Awning: a frontage wherein the façade is aligned close to the frontage line with the building entrance at sidewalk grade. This type is conventional for retail use. It has a substantial glazing on the sidewalk level and an awning that may overlap the sidewalk to the maximum extent possible.

(f) Gallery: a frontage wherein the façade is aligned close to the frontage line with an attached cantilevered shed or a lightweight colonnade overlapping the sidewalk. This type is conventional for retail use. The gallery should be no less than ten (10) feet wide and may overlap the whole width of the sidewalk to within two (2) feet of the curb.

(g) Arcade: a frontage wherein the façade is a colonnade that overlaps the sidewalk, while the façade at sidewalk level remains at the frontage line. This type is conventional for retail use. The arcade should be no less than twelve (12) feet wide and may overlap the whole width of the sidewalk to within two (2) feet of the curb.

(Ord. No. 11706, 7/19/05; Ord. No. 11799, 2/28/06)

Sec. 38-141. Vehicular Lanes.

(1) Public Streets - All public streets shall be constructed in accordance with plans and specifications furnished by the City Traffic Engineer on a dedicated right-of-way having a minimum width of forty (40) feet.

(2) Projected design speeds can determine the dimensions of the vehicular lanes and turning radii assembled to create thoroughfares. Special requirements for truck and transit bus routes and truck loading shall be determined. The following items in the table below are provided as useful information. They may be used with approval from the City of Chattanooga Traffic Engineer, but are not requirements.

DESIGN SPEED	TRAVEL LANE WIDTH
20-25 mph	9 feet
25-35 mph	10-11 feet
Above 35 mph	12 feet

DESIGN SPEED	PARKING LANE WIDTH
20-25 mph	(Angle) 18 feet
20-25 mph	(Parallel) 7 feet
25-35 mph	(Parallel) 8 feet
Above 35 mph	(Parallel) 9 feet

DESIGN SPEED	EFFECTIVE TURNING RADIUS
Below 20 mph	5-10 feet
20-25 mph	10-15 feet
25-35 mph	15-20 feet
Above 35 mph	20-30 feet

(Ord. No. 11706, 7/19/05; Ord. No. 11799, 2/28/06)

Sec. 38-142. Building Setback.

(1) Building setback is measured from the property line.

(2) Front: No minimum, twenty-five (25) feet maximum. However, if the building setback is twenty-five (25) feet or greater, the frontage line shall be defined with trees spaced no farther than twenty (20) feet apart or a low fence or wall with a minimum height of thirty-six (36) inches. Chain link fencing is not permitted along the frontage line. This provision shall supercede any street yard as required by the Chattanooga Landscape Ordinance.

(3) Side: No minimum, except as determined necessary by Fire Code and Building Inspection Official.

(4) Rear: No minimum, except as determined necessary by Fire Code and Building Inspection Official.

(5) Perimeter: The perimeter setback shall be no less than twenty-five (25) feet, except that a lesser setback is approved by the Building Inspection Official.

(6) Attached Buildings: For attached fee-simple buildings there shall be no interior side yard requirement. Such buildings must meet all building code requirements for zero lot line construction.

(Ord. No. 11706, 7/19/05; Ord. No. 11799, 2/28/06)

Sec. 38-143. Building Height.

(1) Maximum: Five (5) stories or seventy (70) feet, including parapets. A building may exceed these requirements provided that any facade fronting an existing or planned public maintained street shall be set back a minimum of ten (10) feet for every grouping of one (1) to five (5) stories above the first five (5) stories; or for every foot of additional heights over seventy (70) feet, the building shall be set back one (l) additional foot from the front property line.

(2) Minimum: Two (2) stories or twenty (20) feet, including parapets.

(Ord. No. 11706, 7/19/05; Ord. No. 11799, 2/28/06; Ord. No. 12159, 9/16/08)

Sec. 38-144. Landscaping Requirements.

(1) Perimeter Boundary

(a) The requirements of the Chattanooga Landscape Ordinance shall apply to the perimeter boundary and used to determine the type of screening and width of landscape yard.

(b) Evergreen trees shall be planted within the perimeter boundary for screening adjacent to residential-zoned lot lines and spaced a maximum of eight (8) feet on-center. This is in addition to any shade trees as required by the Chattanooga Landscape Ordinance.

(c) All plantings shall meet the installation and planting size requirements specified in the Plant Installation Specifications section of the Chattanooga Landscape Ordinance.

(d) A sight-obscuring screen, excluding chain link, with a row of bushes facing off-site and spaced six (6) feet on center may be permitted in lieu of a landscape-only screen if agreed to by adjacent property owners and approved by the Chattanooga Landscape Coordinator.

(e) Parking Areas: The parking lot requirements of the Chattanooga Landscape Ordinance shall apply to the MXU parking areas.

(f) Loading and Service Areas: Loading and service areas adjacent to the periphery boundary shall be screened with evergreen planting that will obtain a minimum height of eight (8) feet within a one (1) year period.

(Ord. No. 11706, 7/19/05; Ord. No. 11799, 2/28/06)

Sec. 38-145. General.

(1) Underground Utilities: Utility transmission lines within the development shall be placed underground.

(2) Signage: Signs not relating to identification of or direction to premises and occupants, or to products sold or services rendered on the premises are prohibited.

(3) Lighting: Lighting shall be at an appropriate height, appropriate lumens, and directed away from any residential structure within or adjacent to the MXU site so as not to be intrusive or disruptive.

(4) Dumpsters: Dumpsters shall be located away from residential areas and shall limit the hours of pickup service from 8 a.m. to 6 p.m.

(5) A bond, the amount to be determined by the City Engineer, may be required of the applicant to ensure the construction of all planned site improvements.

(Ord. No. 11706, 7/19/05; Ord. No. 11799, 2/28/06)

Sec. 38-146. Development Plan.

(1) A development plan shall be prepared by a licensed architect, landscape architect, or civil engineer.

(2) A vicinity map showing the location, existing zoning, and location of the perimeter boundaries of the land areas included in the application shall accompany the development plan.

(3) The development plan shall be drawn at a minimum scale of one inch equals fifty feet (50’) and shall graphically show the following:

(a) Existing surrounding development and land uses.

(b) Boundaries, dimensions, square footage, densities and locations of proposed buildings, parking areas and other improvements and facilities to be constructed within the development along with such other pertinent information.

(c) Proposed Uses: Each land use category (Open Residential, Limited Lodging, Open Office, Limited Retail, Civic Space) along with the percentage amount of the MXU site that each category covers.

(d) Location of street trees, landscaped buffers and other known tree areas with percentage of mature tree canopy coverage.

(e) Existing and proposed streets, thoroughfares, access drives, service drives, parking arrangements, pedestrian walks, cycle paths, intersections, safety areas.

(f) Retention ponds, detention ponds, and other storm water drainage facilities.

(g) Key environmental features such as topography, wetland, drainage pattern, any 100-year flood levels, streams and vegetation.

(4) Protective Covenants: All development plans shall include protective covenants for the planned development. These covenants shall indicate the use and design of structures in the planned complex as well as establishing measures to protect occupants of the development from incompatible uses and structures and be recorded as part of the MXU.

(5) The requirements of the MXU development plan shall apply to the development site and shall not be nullified by transfer of land ownership.

(6) A traffic study may be required by the City Traffic Engineer. If necessary, it shall be submitted with the MXU Development Plan.

(Ord. No. 11706, 7/19/05; Ord. No. 11799, 2/28/06)

Sec. 38-147. Process.

(1) The applicant and/or developer shall schedule and attend a meeting with the Planning Agency to review the site plan before submitting the plan for approval.

(2) Mixed Use Zone Application and complete Development Plan shall be submitted at time of application to the Chattanooga-Hamilton County Regional Planning Agency for its review and recommendations to the Planning Commission and Chattanooga City Council.

(3) The Mixed Use Zone shall be approved subject to approval of the Mixed Use Zone Development Plan.

(4) The Mixed Use Zone Development Plan becomes a legal enforceable document after it is approved by the City Council.

(5) No Mixed Use Zone Development Plan shall be approved by the City Council unless it is first submitted to the Regional Planning Agency and the Planning Commission.

(6) Upon the recommendation for approval, approval with conditions, or disapproval by the Planning Commission, the Mixed Use Zone Development Plan shall be submitted to the City Council for consideration, public hearing and action. The recommendation of the Planning Commission shall be accompanied by a report stating the reasons for the approval or disapproval of the Mixed Use Zone Development Plan, with specific reference to, but not limited to, the following conditions:

(a) The property adjacent to the area included in the plan will not be adversely affected;

(b) The plan is consistent with the intent and purpose of this Ordinance to promote public health, safety, morals, and general welfare.

(c) There is a need for such development in the proposed location.

(d) There is a reasonable assurance that development will proceed according to the approved development plans.

(e) The resolution by the City Council approving the Mixed Use Zone Application shall have attached thereto, as an exhibit, the official Mixed Use Zone Development Plan.

(f) Approval of the Mixed Use Zone shall be conditioned to the approved Mixed Use Zone Development Plan.

(g) After notice and publication as provided in Article XI, Section 38-631, the City Council shall hold a public hearing to review the Mixed Use Zone Application & Development Plan and take legislative action.

(h) The City Council, by Resolution, may approve or approve with conditions, the Mixed Use Zone Development Plan. A copy of the Final Mixed Use Zone Development Plan drawing together with any conditions not shown on the drawing shall be attached to the resolution as exhibits.

(i) In addition to the development plan, the Planning Commission may require such other additional information as may be determined necessary to adequately review the proposed development.

(j) Any desire to change the Mixed Use Zone boundary line as shown on an approved Mixed Use Zone Development Plan shall be considered a "major change" to the site plan and shall require submittal of a new Mixed Use Zone Application and Development Plan.

(k) All other changes shall be considered "minor" and may be approved by the Chattanooga-Hamilton County Regional Planning Agency staff.

(l) A community or neighborhood public meeting organized by the applicant for the purpose of informing residents and property owners near the project site about the proposed development is encouraged.

(m) All traffic and road improvements as required by the City Traffic Engineer shall be complete before a certificate of occupancy is issued for the non-residential use structures.

(Ord. No. 11706, 7/19/05; Ord. No. 11799, 2/28/06; Ord. No. 11851, 2/28/06)

Sec. 38-148. Definitions.

(1) Bioretention Cells, Grass Swales, and Filter Strips. A bioretention cell is a multi-functional landscaped depression that uses plants and layers of soil, sand, and mulch to control runoff volume and timing, reduce the temperature of and remove pollutants from storm water before it enters local waterways. Bioretention cells can be incorporated into open space, roadway swales, and parking areas.

(a) Components of a Typical Bioretention Cell (Source: Low-Impact Development Center):

(i) Grass buffer strips – reduce runoff velocity and filter particulate matter.

(ii) Gravel/sand bed – provides aeration and drainage of planting soil and assists in the flushing of pollutants from soil materials.

(iii) Ponding area – provides storage of excess runoff and facilitates the settling of particulates.

(iv) Organic layer – filters pollutants and prevents soil erosion.

(v) Planting soil – provides area for storm water storage and nutrient uptake by plants.

(vi) Vegetation – removes water through evapotranspiration and pollutants through nutrient cycling.

(2) Class II On-Street Bike Lane: Class II facilities include bicycle lanes and shouldered bikeways. A bicycle lane is a portion of the roadway separated from conventional travel lanes with a stripe, and designated for exclusive or preferential use by bicyclists. They are one-way facilities placed on both sides of a street in order to carry bicyclists in the same direction as motor vehicle traffic.

(3) Class III On-Street Bike Route: Class III facilities include bicycle routes. On a bike route, bicyclists and motorists share the same travel lanes. Motorists will typically have to move into the adjacent lane in order to safely pass a bicyclist.

(4) Filter Strip: A narrow band of vegetation used to filter storm water runoff either before it enters a storm water management device or another body of water. Filter strips can be incorporated into parking lots or along the edge of other paved surfaces and are most effective when used in combination with other storm water management techniques.

(5) Grass Swales: Can be used as an alternative to curb and gutter systems and can often be effectively combined with bioretention cells.

(6) Greenway: Simply stated, a greenway is a corridor of protected open space managed for conservation, recreation and non-motorized transportation. Greenways are corridors of land recognized for their ability to connect people and places together. These ribbons of open space are located within linear corridors that are either natural, such as rivers and streams, or manmade, such as abandoned railroad beds and utility corridors. Greenways as vegetated buffers protect natural habitats, improve water quality and reduce the impacts of flooding in floodplain areas. Most greenways contain trails, which enhance existing recreational opportunities, provide routes for alternative transportation, and improve the overall quality of life in an area.

(7) Land Area: Ground surface necessary for buildings, required parking, service drives and landscaped areas.

(8) Multi-Use Path: The constructed path within a greenway. They do not allow motor vehicle traffic, but they do permit a range of non-motorized travel including bicycling, walking, running and in-line skating.

(9) Pervious Surface: A surface that permits full or partial absorption of water into the ground.

(10) Tree Canopy: The effective radial circumference area of a mature tree's vegetative cover, including all branches and leaves. The canopy can be conveyed in values of percentage area of total land space being assessed or by numerical measurement.

(Ord. No. 11706, § 1, 7-19-05; Ord. No. 11799, § 1, 2-28-06; Ord. No. 11851, §§ 1 and 2, 7-18-06)

Secs. 38-149 - 38-160. Reserved.

DIVISION 11. R-5 RESIDENTIAL ZONE

Sec. 38-161. Permitted uses.

(1) Single family dwellings, including manufactured homes and modular homes.
(2) Two family dwellings.
(3) Schools.
(4) Parks, playgrounds, and community-owned not-for-profit buildings.
(5) Golf courses, except driving ranges, miniature courses, and other similar commercial operations.
(6) Fire stations and other publicly-owned buildings.
(7) Churches.
(8) Accessory uses and buildings.
(9) Home Occupations.
(10) Day care homes.
(11) Kindergartens operated by governmental units or religious organizations.

(Code 1995, Appendix B, Art. V, § 411)

Sec. 38-162. Uses permitted as special exceptions by the board of appeals.

The following uses and structures with their customary accessory buildings may be permitted as special exceptions by the Board of Appeals, subject to the requirements and restrictions as specified in Article VIII:

(1) Day care centers:
Such uses shall require a Special Permit under the terms of Article VIII of this chapter.
(2) Kindergartens:
Kindergartens not operated by governmental units or religious organizations shall require a Special Permit under the terms of Article VIII of this chapter.
(3) Communications Towers:
The Board of Appeals for Variances and Special Permits may issue a Special Permit for Communications Towers under the terms specified in Article VIII.

(Code 1995, Appendix B, Art. V, § 412; Ord. No. 10705, 06/02/98)

Sec. 38-163. Height and area regulations.

(1) No buildings shall exceed two and one-half stories or thirty-five (35) feet in height, except that a building may exceed these requirements provided that for every foot of additional height over thirty-five (35) feet the building shall be set back one (1) additional foot from all property lines.
(2) Minimum Lot Area and Frontage
The only minimum lot area requirement is twenty-five thousand (25,000) square feet for single-family lots on individual wells and septic tanks and seven thousand five hundred (7,500) square feet for single-family lots on sanitary sewers. In all other instances, a residential lot shall be large enough to construct the original subsurface sewage disposal system as required by the Health Department and to provide an area for one hundred percent (100%) duplication of that system. The area(s) for both original and duplicate systems shall meet the provision of the State Rules and Regulations to Govern Subsurface Sewage Disposal. The Health Department may limit the number of bedrooms and whirlpool tubs on the basis of effective capacity of the proposed sewage disposal

facilities. Minimum lot frontage shall be 60 feet on sewers and seventy-five (75) feet on septic tanks. The Health Department may require larger lots when septic tanks are used due to soil conditions, topography, drainage, presence of swimming pools, etc.

(3) There shall be a front yard of not less than twenty-five (25) feet.

(4) There shall be a side yard on each side of the building of not less than ten (10) feet. For corner lot side yard requirements, see Article VI, Sec. 38-509.

(5) There shall be a rear yard of not less than twenty-five (25) feet.

(Code 1995, Appendix B, Art. V, § 413)

Cross reference - Off-street parking requirements, Article V, section 38-471, *et seq*.
(Ord. No. 11459, § 2, 09-16-03)

Sec. 38-164. General provisions.

(1) All manufactured homes shall be tied down in a manner meeting safety and performance requirements of any governmental regulations covering tie-down and anchoring devices, as specified by the Building Inspector.

(2) All accessory buildings to the principal building (whether attached or detached) shall be subject to the same permit procedures and other regulations pertaining to dwelling units.

(Code 1995, Appendix B, Art. V, § 415)

Sec. 38-165. Uses Permitted as Special Exceptions by the City Council.

(1) Planned Unit Development – Residential:
Flexibility in the arrangement of residential uses may be permitted by the City Council as special exceptions in any residential zone, provided that the minimum size of any tract of land sought to be used for the planned unit shall be two (2) acres and that a desirable environment through the use of good design procedures is assured, allowing flexibility in individual yard requirements to provide for multiple dwelling units, townhouses, and two family units, except that such use or uses shall require a Special Permit under the terms of Article V of this Ordinance.

(Ord. No. 11730, § 6, 08-16-05)

(2) Non-Profit Heritage Educational Facility under the terms specified in Article VI, Section 38-525.

(Code 1995, Appendix B, Art. V, § 416; Ord. No. 11730, § 6, 08-16-05; Ord. No. 12232, § 1, 4-21-09)

Secs. 38-166 – 38-170. Reserved.

DIVISION 12. O-1 OFFICE ZONE

Sec. 38-171. Permitted uses.

(1) Offices.
(2) Single-Family Dwellings.
(Ord. No. 12242, 5/19/09; Ord. No. 12381, § 1, 4/20/10)
(3) Colleges, schools, and libraries.
(4) Churches.
(5) Professional, medical or dental offices and clinics.
(6) Laboratories and research centers not objectionable because of odor, dust, noise or vibration.
(7) Fire stations and other publicly-owned buildings.
(8) Accessory uses and buildings.
(9) Signs incident to the permitted uses, except that only one (1) sign shall be permitted for each structure, which sign shall be set back ten (10) feet from any property line. The sign shall not exceed forty-eight (48) square feet in area. If illuminated, the sign shall be indirectly lit in such a way that the light source cannot be seen from any public way or adjoining property. The lighting intensity shall not exceed twenty-five (25) foot-candles at the face of the sign. No flashing or intermittent lights will be permitted.
(10) Parks.
(11) Radio, television and motion picture production studios and other broadcasting facilities, excluding transmission towers.
(12) Identification signs for commercial uses, subject to the same regulations which govern size, appearance, location, etc., for signs identifying on premise office uses.

(Code 1995, Appendix B, Art. V, § 421; Ord. No. 11215, 11/27/01; Ord. No. 12242, 5/19/09; Ord. No. 12381, § 1, 4/20/10)

Sec. 38-172. Uses permitted as special exceptions by the board of appeals.

The following uses and structures with their customary accessory buildings may be permitted as special exceptions by the Board of Appeals, subject to the requirements and restrictions as specified in article VIII:

(1) Day care centers:
Such uses shall require a Special Permit from the Board of Appeals under the terms of Article VIII of this chapter.
(2) Fraternal, professional or hobby organizations and clubs:
Such uses shall require a Special Permit under the terms of Article VIII.
(3) Transmission towers:
Such uses shall require a Special Permit under the terms of Article VIII.
(4) Commercial parking lots in conjunction with permitted uses:
Such uses shall require a Special Permit under the terms of Article VIII.
(5) Communications Towers:
The Board of Appeals for Variances and Special Permits may issue a Special Permit for Communications Towers under the terms specified in Article VIII.

(Code 1995, Appendix B, Art. V, § 422; Ord. No. 10705, 06/02/98)

Sec. 38-173. Height and area regulations.

(1) No building shall exceed two and one-half stories or 35 feet in height except that a building may exceed these requirements provided that for every foot of additional height over thirty-five (35) feet, the building shall be set back one (1) additional foot from all property lines.
(2) There is no minimum building site area.
(3) The minimum frontage shall be sixty (60) feet.
(4) There shall be a front yard of not less than twenty-five (25) feet.
(5) There shall be a side yard not less than ten (10) feet when a permitted use adjoins a residential zone. For corner lot side yard requirements, see Article VI, Section 38-509.
(6) There shall be a rear yard of not less than twenty-five (25) feet when permitted use adjoins a residential zone.
(7) Other than as provided above, no other front, rear or side yards are required, except where buildings are separated, the distance between them shall be at least ten (10) feet.

(Code 1995, Appendix B, Art. V, § 423)

Cross reference - Off-street parking requirements, Article V, Section 38-471, *et seq*.
(Ord. No. 11459, § 2, 09-16-03)
Editor's note - C-1 Highway Commercial Zone deleted per Ord. No. 11364, 01/24/03

Secs. 38-174 - 38-180. Reserved.

DIVISION 13. C-2 CONVENIENCE COMMERCIAL ZONE

Sec. 38-181. Intent.

It is the intent of the C-2 Convenience Commercial Zone to promote, where need exists, the clustering and development of businesses, offices, and service facilities to serve the demand for goods and services generated both by area residents and by transients traveling to or from other neighborhoods or places of employment.
(Code 1995, Appendix B, Art. V, § 601)

Sec. 38-182. Location

C-2 Convenience Commercial Zones shall be located so as to primarily serve traffic on arterial or collector streets (see definition "Functional Classification of Streets"), and all businesses developed within such zones shall be situated on site so as to offer convenient ingress and egress to such streets.
(Code 1995, Appendix B, Art. V, § 602)

Sec. 38-183. Principal uses permitted.

The following principal uses and structures may be permitted in any C-2 Convenience Commercial Zone:
(Ord. No. 10205, 04/18/95)

(1) Retail Sales and Service Establishments
(2) Bakeries, delicatessens, meat and fish markets whose products are sold only at retail and on the premises,
(3) Banks, savings and loan institutions, finance companies and credit unions
(4) Bowling alleys, billiard rooms, theaters, or other indoor amusement establishments,
(5) Vehicular repair facilities, washes, new and used dealerships and repair facilities, provided that the area being used for outside storage of any vehicles must be screened by a sight-obscuring fence a minimum of eight feet (8 ft.) high. This does not include sales display areas at automobile dealerships.
(6) Office buildings,
(7) Restaurants and other establishments serving prepared food and beverages,
(8) Hospitals,
(9) Commercial signs and billboards,
(10) Schools, churches, and other public and semi-public buildings,
(11) Provided that not more than five (5) persons are employed therein, the following uses may be permitted:
-Plumbing shops
-Electrical shops
-Radio and TV shops
-Appliance repair shops
-Small print shops
-Photocopying services
-Similar workshop type uses
(12) In general, all stores, shops, or services similar in character, type and effect to the above unless otherwise controlled or provided by law.
(13) Dwellings, excluding factory manufactured homes constructed as a single self-contained unit and mounted on a single chassis

(14) Wholesaling with accessory warehousing and related office space provided that said use shall not exceed five thousand (5,000) square feet in total usable floor area.
(15) Motels and Hotels
(16) Furniture and Appliance Sales
(17) Mini-warehouses, provided that said use does not allow outdoor storage, subject to provision of a natural sign obscuring, landscaped screen on all sides, including in the front, in accordance with the planting standards of Article V, Section 38-333(7)(a) of the Chattanooga Zoning Ordinance, except where a property line abuts an M-1, M-2 or M-3 zone.

(Code 1995, Appendix B, Art. V, § 603)

Sec. 38-184. Uses permitted as special exceptions by the board of appeals.

The following uses and structures with their customary accessory buildings may be permitted as special exceptions by the Board of Appeals, subject to the requirements and restrictions as specified in Article VIII:

(1) Funeral homes, mortuaries, and undertaking establishments (and including cremation/crematory, when used in conjunction with such establishments),

(Ord. No. 12241, § 2, 5/19/09)

(2) Small animal hospitals and veterinary offices,
(3) Open-air markets,
(4) Miniature golf courses and similar outdoor amusement facilities,
(5) Adult-oriented establishments,
(6) Day care centers,
(7) Kennels, boarding, grooming, training and similar uses for small animals,

(Ord. No. 10326, 11/14/95)

(8) Communications Towers:
The Board of Appeals for Variances and Special Permits may issue a Special Permit for communications towers under the terms specified in Article VIII.

(Ord. No. 11253, 03/19/02)

(9) Travel Trailer Camps and other camping facilities subject to the requirements and restrictions specified in Article VIII, Section 38-568(15).
(10) Display and Sale of Manufactured Homes under the terms specified in Article VIII, Section 38-568.

(Code 1995, Appendix B, Art. V, § 604; Ord. No. 12241, § 2, 5/19/09)

Sec. 38-185. Uses permitted as special exceptions by the city council.

(1) The following uses may be permitted as special exceptions by the City Council as authorized by Tennessee Code Annotated, 57-3-208 and Chattanooga City Code, Part II, Sections 5-101 through 5-126:
(a) Liquor stores,
(b) Wineries, including vineyards, processing, bottling and sales facilities.
(2) Non-Profit Heritage Educational Facility under the terms specified in Article VI, Section 38-525.

(Ord. No. 12232, § 1, 4-21-09)

(3) Late Night Entertainment/Event Facility and/or Nightclub or similar uses under the terms specified in Article VI, Section 38-527. (See Article II, Section 38-2 for definition of a Late Night Entertainment/Event Facility and/or Nightclub)

(Ord. No. 12280, 8-25-09; Ord. No. 12529, § 2, 7-19-11)

(Code 1995, Appendix B, Art. V, § 605; Ord. No. 12232, §1, 4-21-09; Ord. No. 12280, §2, 8-25-09; Ord. No. 12529, § 2, 7-19-11)

Sec. 38-186. Permitted accessory uses and structures.

The following accessory uses and structures may be permitted in any approved C-2 Convenience Commercial Zone:

(1) Uses and structures which are customarily incidental and subordinate to permitted principal uses and structures, as stated and restricted above, and which do not involve operations or structures not in keeping with the intent of this section or with the character of the zone, or likely (as constructed, operated, or maintained) to have an adverse effect on the character of areas surrounding the zone.

(Code 1995, Appendix B, Art. V, § 606)

Sec. 38-187. Prohibited uses and structures.

(1) In general, any uses or structures not of a nature permitted under "Principal Uses Permitted" and "Permitted Accessory Uses and Structures" or any use or structure that is otherwise found to be not in keeping with the stated intent of these zoning regulations is prohibited within the C-2 Convenience Commercial Zone.

(2) Any outdoor storage of equipment or merchandise shall be limited to twenty percent (20%) of the lot square footage, excluding the area where buildings are located; such area shall be contained by fence, a minimum of six (6) feet high, and shall not encroach upon the required parking area. Additional parking requirements shall be required for the outdoor use. (Building/Structure Base square footage and outdoor use = Total square footage for Parking Requirement.)

(3) In the case of commercial nurseries, commercial greenhouses, and garden centers, outdoor storage shall be permitted and screened by a sight obscuring fence, a minimum of six (6) feet high. Parking shall be subject to the requirements of the Traffic Engineer.
(Ord. No. 12253, § 2, 6/16/09)

(Code 1995, Appendix B, Art. V, § 607; Ord. No. 12253, § 2, 6/16/09)

Sec. 38-188. Minimum yard and landscaping requirements; maintenance of visibility at access points; relations of yards to turnout and merging lanes.

(1) Yards with a minimum depth of twenty-five (25) feet shall be provided along any public street or right-of-way.
Side yards with a minimum width of ten (10) feet and rear yards of not less than twenty-five (25) feet depth shall be required where permitted use adjoins any Residential Zone.

(2) The minimum lot area for dwellings shall be seven thousand five hundred (7,500) square feet, plus two-thousand (2,000) square feet for each dwelling unit over one (1). This minimum lot area shall be in addition to the area required for the commercial use and its parking and loading area.

(3) Other than as provided above, no other front, rear, or side yards are required, but where buildings are separated, the distance between them shall be at least ten (10) feet.

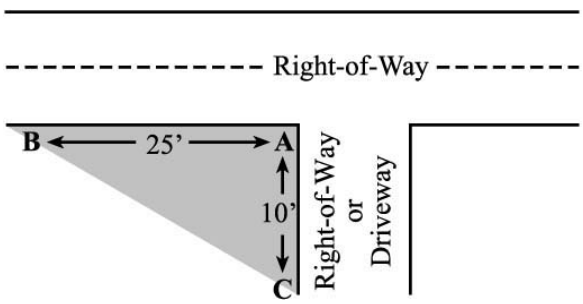
(4) No structure, landscaping, fences, terraces, or other natural or artificial features adjacent to any street shall be of a nature impairing visibility from or of approaching vehicular traffic where such visibility is important to safety, nor shall such features in any way create potential hazards to pedestrians. In particular, at vehicular entrances and exits, no off-street parking, landscaping, or other material impediment to visibility between the heights of three (3) feet and eight (8) feet shall be permitted within a triangular area bounded by imaginary lines connecting three (3) points as described and illustrated below:

Point A At the intersection of any public right-of-way with another right-of-way, either public or private drive, the point of intersection nearest approaching traffic.

Point B Beginning at Point A, proceeding along the boundary line of the public right-of-way toward the direction of oncoming traffic for a distance of twenty-five (25) feet to a second point: Point B.

Point C Beginning at Point A, proceeding along a line perpendicular to the public right-of-way and generally along the edge of the private driveway (or public right-of-way) toward the interior of the lot for a distance of ten (10) feet to a third point: Point C.

Example:



(5) Along major public streets, turn-out lanes, and merging lanes may be required to be constructed on the lot, with length and width as appropriate to the flow of traffic, and traffic separation devices may be required at such entrances and exits and along such merging lanes. Whether required by the Traffic Engineer or provided voluntarily, such turn-out and merging lanes may be included as part of the required setback adjacent to the public collector or arterial street. Any disagreement regarding requirements for turn-out and merging lanes may be appealed to the Board of Appeals.

(Code 1995, Appendix B, Art. V, § 608)

Sec. 38-189. Maximum height of structure.

No building or structure except radio, television, telephone and microwave towers (See Article VIII, Section 38-568) shall exceed two and one-half (2½) stories or thirty-five (35) feet in height, except that a building or structure may exceed these height requirements provided that for every one (1) foot of additional height over thirty-five (35) feet the building or structures shall be set back one (1) additional foot from all property lines. Communications towers shall be subject to the setback requirements set forth in Article VIII.

(Code 1995, Appendix B, Art. V, § 609; Ord. No. 11253, 3/19/02)

Cross reference - Off-street parking requirements, see Article V, Section 38-471, *et seq*.

(Ord. No. 11459, § 2, 09-16-03)

Secs. 38-190 - 38-200. Reserved.

DIVISION 14. UGC URBAN GENERAL COMMERCIAL ZONE

Sec. 38-201. Intent.

(1) It is the intent of the Urban General Commercial Zone to promote traditional urban development with multi-story buildings built close to the sidewalk and a mix of uses within each site and within individual buildings. For instance, residences can be integrated with non-residential development in the form of condos, townhouses, or loft apartments. Such urban places are intended to provide a concentration of goods and services that attract commerce – all within a walkable environment.

(2) The Urban General Commercial Zone is intended for Urban Infill areas as described in the Comprehensive Plan 2030 and in the Urban Overlay Zone (Article III, Section 38-11). The UGC zone may be appropriate in other locations outside the urban area if the existing development patterns are urban or if a more traditional urban form is recommended in the adopted plan for that area.

(3) As supported in the Comprehensive Plan, the Urban General Commercial Zone is also intended to promote higher density development that supports transit and multimodal transportation including automobile, bicycle, and pedestrian traffic. The intent is to reduce the need for parking as these urban areas are generally serviced by a well-connected street grid and transit system. Pedestrian and bicycle facilities also play an important role in reducing parking needs by reducing the number of vehicular trips. Parking reductions may also be used in conjunction will all shared parking options to further reduce the number of spaced required.

(4) Definitions for use in this zone only:

Auto-Oriented Uses – A use heavily influenced by and primarily dependant on the automobile for its viability, including but not limited to the following examples, or other similar uses as determined by the Chief City Zoning Official. Examples are:

(A) Gas Stations
(B) Service Stations
(C) Convenience Stores
(D) Drive-throughs
(E) Drive-in's
(F) Auto Dealerships
(G) Auto Repair/Detailing Shops
(H) Car Washes

(Ord. No. 12382, § 1, 4/20/10)

Building – Any walled and roofed structure used or built for the shelter or enclosure of persons, animals or chattels.

Canopy – Any architectural projection that provides weather protection, identity or decoration and is supported by the building to which it is attached or by support extending to the ground directly under the canopy and at the outer end by not less than one stanchion. A canopy is comprised of a rigid structure over which a covering is attached.

Parapet - The extension of the main wall(s) of a building above the roof line.

(Ord. No. 12371, § 1, 3-10-10)

Self-service storage facility - A building divided into separate compartments used to meet the temporary storage needs of individuals, organizations, or businesses

for self-service storage of personal property. No access to individual compartments is provided from the exterior and there shall be no outdoor storage. (Ord. No. 12371, § 1, 3-10-10)

(Ord. No. 11924, 1-16-07; Ord. No. 11968, § 1, 5-15-07; Ord. No. 12302, §1, 10-20-09; Ord. No. 12371, §§ 1 & 2, 3/10/10; Ord. No. 12382, § 1, 4/20/10; Ord. No. 12382, § 1, 4/20/10))

Sec. 38-202. Location.

The Urban General Commercial Zone shall be located so as to primarily serve traffic on arterial or collector streets (see definition "Functional Classification of Streets"), and all businesses developed within such zones shall be situated on site so as to offer convenient ingress and egress to such streets.
(Ord. No. 11924, 1-16-07)

Sec. 38-203. Principal Uses Permitted.

The following principal uses and structures may be permitted in any Urban General Commercial Zone:

(1) Retail Sales and Service Establishments
(2) Bakeries, delicatessens, meat and fish markets whose products are sold only at retail and on the premises,
(3) Banks, savings and loan institutions, finance companies and credit unions
(4) Bowling alleys, billiard rooms, theaters, or other indoor amusement establishments,
(5) Office buildings,
(6) Restaurants and other establishments serving prepared food and beverages,
(7) Hospitals,
(8) Commercial signs,
(Ord. No. 12302, §2, 10/20/09)
(9) Schools, churches, and other public and semi-public buildings,
(10) The following uses may be permitted, provided that employee parking and company use vehicles are provided on-premises parking. Parking of said vehicles shall not be within the public right-of way or block visibility to traffic:
    (a) Plumbing shops
    (b) Electrical shops
    (c) Radio and TV shops
    (d) Appliance repair shops
    (e) Small print shops
    (f) Photocopying services
    (g) Similar workshop type uses
(11) In general, all stores, shops, or services similar in character, type and effect to the above unless otherwise controlled or provided by law.
(12) Residential dwelling units, excluding single-family detached and two-family residences and factory manufactured homes constructed as a single self-contained unit and mounted on a single chassis.
(13) Wholesaling with accessory warehousing and related office space provided that said use shall not exceed 5,000 sq. ft. in total usable floor area.
(14) Motels and Hotels
(15) Furniture and Appliance Sales
(16) Self-service storage facility
(17) Auto-oriented uses as defined in Section 38-201.

(Ord. No. 11924, 1-16-07; Ord. No. 12302, §2, 10-20-09; Ord. No. 12382, § 2, 4-20-10)

Sec. 38-204. Uses Permitted as Special Exceptions by the Board of Appeals.

The following uses and structures with their customary accessory buildings may be permitted as special exceptions by the Board of Appeals, subject to the requirements and restrictions as specified in Article VIII:

(1) Funeral homes, mortuaries, and undertaking establishments (and including cremation/crematory, when used in conjunction with such establishments),

(Ord. No. 12241, § 2, 5/19/09)

(2) Small animal hospitals and veterinary offices,

(3) Open-air markets,

(4) Miniature golf courses and similar outdoor amusement facilities,

(5) Adult-oriented establishments,

(6) Day care centers,

(7) Kennels, boarding, grooming, training and similar uses for small animals,

(8) Communications Towers:

(9) The Board of Appeals for Variances and Special Permits may issue a Special Permit for communications towers under the terms specified in Article VIII.

(Ord. No. 11924, 1-16-07; Ord. No. 12241, § 2, 5/19/09)

Sec. 38-205. Uses Permitted as Special Exceptions by the City Council.

The following uses may be permitted as special exceptions by the City Council as authorized by T.C.A. 57-3-208 and Chattanooga City Code, Part II, Sections 5-101 through 5-126.

(1) Liquor stores,

(2) Wineries, including vineyards, processing, bottling and sales facilities.

(Ord. No. 11924, 1-16-07; Ord. No. 12302, §3, 10-20-09; Ord. No. 12382, § 3, 4-20-10)

Sec. 38-206. Permitted Accessory Uses and Structures.

The following accessory uses and structures may be permitted in any approved Urban General Commercial Zone:

(1) Uses and structures which are customarily incidental and subordinate to permitted principal uses and structures, as stated and restricted above, and which do not involve operations or structures not in keeping with the intent of this section or with the character of the zone, or likely (as constructed, operated, or maintained: to have an adverse effect on the character of areas surrounding the zone.

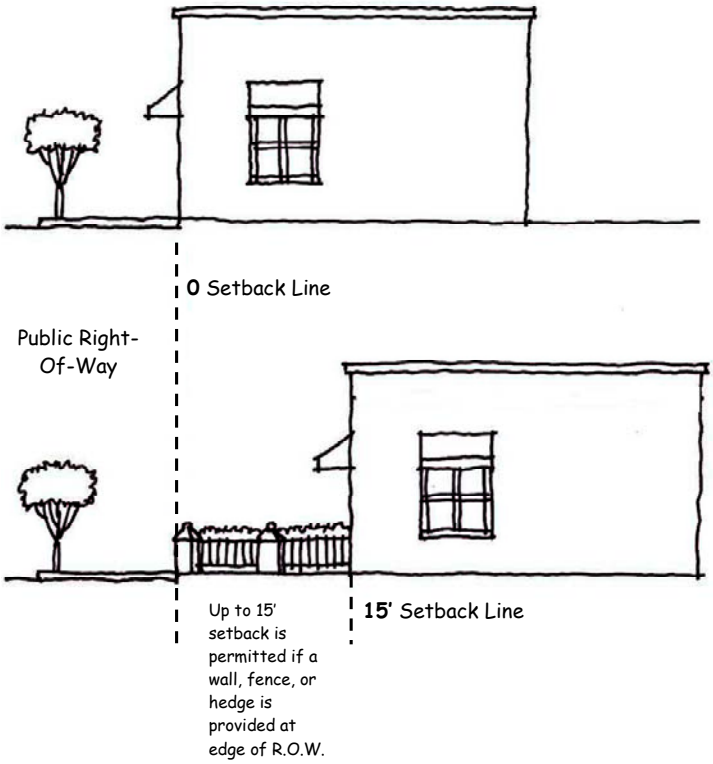
(2) Any outdoor storage of equipment or merchandise shall be limited to 20% of the lot square footage, excluding the area where buildings are located; such area shall be contained by fence, a minimum of six (6) feet high, and shall not encroach upon the required parking area. In the case of commercial nurseries, commercial greenhouses, and garden centers, outdoor storage shall be permitted and screened by a sight obscuring fence, a minimum of six (6) feet high. (Ord. No. 12253, § 3, 6/16/09)

(Ord. No. 11924, 1-16-07; Ord. No. 11968, § 1, 5-15-07; Ord. No. 12253, § 3, 6/16/09)

Sec. 38-207. Repealed. (Ord. No. 11968, § 1, 5-15-07)

Sec. 38-208. Minimum Yard and Landscaping Requirements.

(1) The minimum building setback from the street (s) right- of- way is zero (0) feet: however, a maximum building setback of 15 feet may be permitted if landscaping or pedestrian activity is provided between the building and right-of-way such as a park, plaza, outdoor dining, or sculpture garden and a wall, hedge or fence. For setbacks greater than zero (0) feet, a street edge treatment shall also be provided at the right-of-way (street). For the purposes of this zone, a street edge or "street edge treatment" requires the following:



(a) Shall consist of brick, stucco, or stone walls (concrete block can only be used when faced with said materials), decorative metal fences, (cast iron, or composite material,) and

(b) shall have a minimum height of three (3) feet and a maximum height of four (4) feet above grade provided at the right-of-way to maintain the street edge at the right-of-way line.

(c) When fences are used, landscape materials such as hedges must also be included to provide a near opaque screen similar in height stated in previous paragraph. Highway-style guardrails or contemporary security fencing (e.g. chain link, barbwire and razor wire) shall not be permitted.

Auto-oriented Uses are exempt from the minimum setback requirements, but must follow the requirements of Sec. 38-212.

(2) First floor minimum setbacks and screening on corner lots shall be reviewed and approved on a case-by-case basis by the City Traffic Engineer prior to the issuance of any building permit to insure adequate sight triangle visibility.

(3) Side yards with a minimum width of ten (10) feet and rear yards of not less than twenty-five (25) feet depth shall be required where permitted use adjoins any Residential Zone.

(4) For the purposes of this zone, canopies, whether attached or detached:

(a) are not considered part of the "building" or eligible as part of the calculations for setback requirements. "Setback" is defined as the distance between the primary (principle use) building and any lot line.

Front setbacks are measured from the right-of-way on the primary street with the most vehicular traffic.

(b) require a street edge delineating the public and private space at the right-of-way. The street edge shall be as described by Sec 38-208, (1).

(5) The maximum residential density shall be 24 dwelling units per acre. The residential parking requirements are in addition to the area required for the commercial use and its parking and loading area. See Section 38-473 (12) for parking requirements. (Ord. No. 12549, §5, 10/18/11)

(6) Other than as provided above, no other front, rear, or side yards are required, but where buildings are separated, the distance between them shall be at least ten (10) feet.

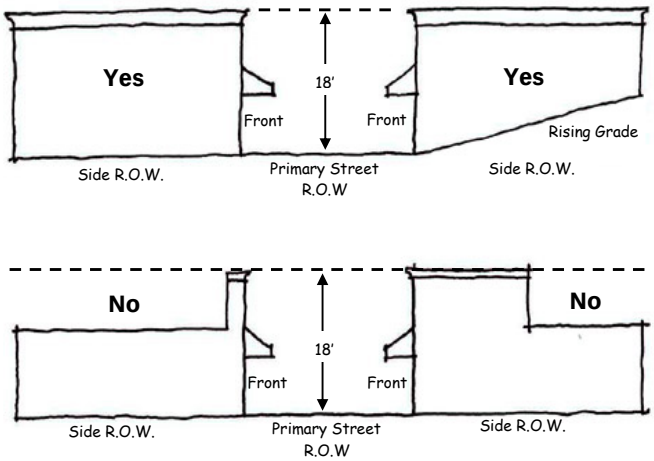
(7) Environmentally sustainable practices suggest that landscaping is adequately provided throughout the site.

(a) Due to the urban character of the zone and the urban setback requirements, property within the Urban General Commercial Zone is exempt from the street yard requirements of the Chattanooga Landscape Ordinance when a 0' to 15' setback is proposed. Instead of a street yard, street trees shall be planted along the sidewalk. When a setback deeper than 15' is proposed, in addition to requiring street trees planted along a sidewalk, the City's Landscape Inspector may require a street yard, buffer plantings or other landscape treatments as outlined in the Chattanooga Landscape Ordinance.

(b) To achieve the city's goal of a 15% tree canopy in urban areas, surface parking lots shall be landscaped with a minimum of one (1) tree for every five (5) parking spaces. Type I shade trees shall be used unless overhead utility lines necessitate smaller trees.

(Ord. No. 11924, 1-16-07; Ord. No. 12302, § 4, 10/20/09 Ord. No. 12382, § 4, 4/20/10)

Sec. 38-209. Minimum Building Height.



(1) A minimum building height of eighteen (18) feet should be maintained along all street rights-of-way, except if the street grade along the side of the building rises from the front of the building to the rear of the building creating the appearance of a shorter height.

(2) The approval of the Regional Planning Agency is required if minimum building height is proposed to be less than eighteen (18) feet. Appeals of the Regional Planning Agency staff decision shall be heard as a design review decision by the Chattanooga-Hamilton County Regional Planning Commission. A deviation from the specific height requirement will be considered under the following conditions:

(a) The applicant presents an alternative that complies with the stated intent, goals and general standards of the Zone.

(b) The deviation from the standard is consistent with adopted plans and principles for the area.

(c) The deviation is compatible with the character of the Zone where it is proposed, and with the size and location of the buildings in the vicinity.

(d) The physical conditions of the property, such as steep slopes, drainage, easements, or small or irregular lot shape make compliance to this specific requirement impossible.

(4) A continuous parapet may be included in the minimum building height calculation.

(Ord. No. 11924, 1-16-07)

Sec. 38-210. Maximum Building Height.

(1) Maximum building height should not exceed forty (40) feet.

(2) Maximum building height measurements shall not include chimneys, water tanks or towers, elevator bulkheads, ornamental towers or spires, stair enclosures, monuments, cupolas, domes, similar structures and necessary mechanical appurtenance.

(3) Maximum building height measurements shall include parapet walls if included.

(4) The approval of the Regional Planning Agency is required if maximum building height is proposed to be higher than forty (40) feet. Appeals of the Regional Planning Agency staff decision shall be heard as a design review decision by the Chattanooga-Hamilton County Regional Planning Commission. A deviation from the specific height requirement will be considered under the following conditions:

(a) The applicant presents an alternative that complies with the stated intent, goals and general standards of the Zone.

(b) The deviation from the standard is consistent with adopted plans and principles for the area.

(c) The deviation is compatible with the character of the Zone where it is proposed, and with the size and location of the buildings in the vicinity.

(d) The physical conditions of the property, such as steep slopes, drainage, easements, or small or irregular lot shape make compliance to this specific requirement impossible.

(e) Communications towers shall be subject to the setback requirements set forth in Article VIII.

(Ord. No. 11924, 1-16-07)

Sec. 38-211. Additional Standards.

(1) There shall be provided at least one (1) primary pedestrian entrance (door) from the primary street.

(2) Additional curb-cuts shall not be incorporated on major streets. Side streets and alleys are preferred to be used for access. If it is physically impossible or unsafe to locate vehicular access anywhere but a major street, the City Traffic Engineer and the Regional Planning Agency may approve a curb-cut onto a major street.

(3) Placement of all dumpsters to the rear of the property or away from residential areas is preferred. In all cases, dumpsters shall be screened from any public right-of-way.

(4) There shall be a percentage of openings (doors and windows) on the ground floor primary street facade of no less than 30%.

(5) No security-type roll up metal doors shall be permitted on the primary street.

(6) Applicants seeking rezoning to this zone or individuals considering development or redevelopment of properties zoned Urban General Commercial Zone shall attend the City of Chattanooga's Pre-submittal meeting to gather important guidance and feedback on the technical issues of the project and should consider using the Regional Planning Agency's Planning and Design Studio for project consultation.

(7) Off-street parking should not be located between the building and the primary street. Parking should be located to the rear of the building. If it is physically impossible to locate parking to the rear of the building, parking may be located to the side of the building. If parking or driveways front any street, a street edge that includes a decorative fence, wall and/or hedge shall be provided along the street (excluding alleys) to screen the parking. This street edge shall meet the requirements of "street edge treatment" and landscaping as described in Sec 38-208 (1).

(Ord. No. 12382, § 5, 4-20-10)

(8) For off-street parking requirements, see Article V, Section 38-471, *et seq.*

(9) Highway-style guardrails, stockades, or contemporary security fencing (e.g. chain link and/or razor wire) shall not be visible from the public right-of-way.

(Ord. No. 12382, § 6, 4/20/10)

(10) On corner lots, screening shall be reviewed and approved on a case-by-case basis by the City Traffic Engineer prior to the issuance of any building permit to insure adequate sight triangle visibility.

(Ord. No. 11924, 1-16-07; Ord. No. 11968, § 1, 5-15-07; Ord. No. 12302, §§ 5 & 6, 10-20-09; Ord. No. 12382, §§ 5 & 6, 4/20/10)

Sec. 38-212. Auto-Oriented uses.

(1) Auto-oriented Uses are exempt from the setback requirements stated in Section 38-208 Minimum Yard and Landscaping, but will require a street edge treatment that is the equivalent to or greater than the required zone standards as described in Sec 38-208 (1) and applicable landscape regulations. Furthermore;

The applicant must demonstrate that the project meets the general intent of the Urban General Commercial Zone. Deviation from the specific requirements of the Urban General Commercial Zone may be granted under the following conditions:

(a) The applicant presents an alternative that complies with the stated intent, goals and general standards of the Zone.

(b) The deviation from the standards is consistent with adopted plans and principles for the area.

(c) The deviation is compatible with the character of the Zone where it is proposed, and with the size and location of the buildings in the vicinity; or

(d) The physical conditions of the property, such as steep slopes, drainage, easements, or small, irregular lot shape make compliance to specific requirements impossible.

(2) General Restrictions:

(a) The only off-street parking allowed between the primary building frontage and the primary street is for temporary parking (for drop-offs, etc.) and/or handicapped spaces.

(b) Small scaled, stand alone drive-throughs or “drive-ups” are not allowed.

(c) Canopies should be designed as secondary (in size, scope and use) to the primary building.

(d) Roof signs, billboards and/or other off premise signs are not permitted. The sides and tops of canopies cannot be illuminated or include additional signage. Lighting must be directed downwards to reduce excessive glare and light pollution.

(e) All mechanical equipment, whether on the ground or rooftop, shall be screened from all public rights-of-way.

(f) The display and/or sale of vehicles (excluding scooters, bicycles and other non-motorized craft) requires a street edge treatment at the public right-of-way as described in Sec 38-208 (1). The following shall be screened from view from all public rights-of-way: the outdoor storage of equipment and products, other apparatus related to vehicular sales and/or repairs; and loading and parking areas for large, heavy-use vehicles, dump trucks, repair vans and/or fleets.

(g) Garage doors and loading docks shall not front or be visible from the primary street.

(Ord. No. 12382, § 7, 4/20/10)

Section 213. Appeals

For the Urban General Commercial Zone, except as specified in Building Height Sections 38-209(2) and 38-210(4), appeals to the decisions of the Chattanooga City Council may be directed to a court of competent jurisdiction.

(Ord. No. 12382, § 8, 4/20/10)

Secs. 38-214 - 38-220. Reserved.

DIVISION 15. C-3 CENTRAL BUSINESS ZONE

Sec. 38-221. Intent.

It is the intent of the C-3 Central Business Zone to promote and sustain the development of a maximum efficient density and diversity of commercial, governmental, and service enterprises to serve as a center for the business and cultural interests of the greater Chattanooga area.
(Code 1995, Appendix B, Art. V, § 701)

Sec. 38-222. Principal uses permitted.

The following uses and structures shall be permitted in the C-3 Central Business Zone:

(1) Any commercial use;
(2) Governmental agencies and buildings;
(3) Offices;
(4) Dwelling units, multifamily units and townhouses only, excluding factory manufactured homes constructed as a single self-contained unit and mounted on a single chassis.

In general, any lawful use except as otherwise limited or prohibited in these regulations.
(Ord. No. 9492, 11/20/90; Ord. No. 9661, 01/21/92; Code 1995, Appendix B, Art. V, § 702)

Sec. 38-223. Uses permitted as special exceptions by the board of appeals.

The following uses and structures with their customary accessory buildings may be permitted as special exceptions by the Board of Appeals, subject to the requirements and restrictions as specified in article VIII. Communications towers shall be subject to the setback requirements set forth in article VIII:
(Ord. No. 11253, 3/19/02)

(1) Adult-oriented establishments as defined and restricted in article VIII of these regulations.
(2) Day care centers.
(3) Monopole communication towers, providing the applicant can demonstrate that it is impractical to locate the antenna on existing structures, and subject to the other terms specified in article VIII.

(Code 1995, Appendix B, Art. V, § 703; Ord. No. 10705, 6/02//98)

Sec. 38-224. Uses permitted as special exceptions by the city council.

(1) The following uses may be permitted as special exceptions by the City Council as authorized by Tennessee Code Annotated, 57-3-208 and Chattanooga City Code, Part II, sections 5-101 through 5-126:
    (a) Liquor stores,
    (b) Wineries, including vineyards, processing, bottling and sales facilities.
(2) Non-Profit Heritage Educational Facility under the terms specified in Article VI, Section 38-525.

(Ord. No. 12232, § 1, 4-21-09)
(Code 1995, Appendix B, Art. V, § 704; Ord. No. 12232, § 1, 4-21-09)

Sec. 38-225. Permitted accessory uses and structures.

(1) The following accessory uses and structures may be permitted in any approved C-3 Central Business Zone:

(a) Uses and structures which are customarily incidental and subordinate to permitted principal uses and structures, as stated and restricted above, and which do not involve operations or structures not in keeping with the intent of this section or with the character of the zone, or likely (as constructed, operated, or maintained) to have an adverse effect on the character of areas surrounding the zone.

(2) A permitted accessory use or structure to a dwelling unit is a one or two story detached garage or other building smaller in size and scale than the principal building and may contain habitable space.

(Code 1995, Appendix B, Art. V, § 705; Ord. No. 11184, 10/02/2001)

Sec. 38-226. Prohibited uses and structures.

The following uses and structures are found to be not in keeping with the intent of the C-3 Central Business Zone and are therefore specifically prohibited within any approved C-3 Central Business Zone:

(1) Cemeteries,
(2) Blast furnaces
(3) Boiler works
(4) Coal screening and sieving plants
(5) Contractor plants and storage yards
(6) Forge plants
(7) Foundries
(8) Junk yard
(9) Machine shops
(10) Ore reduction
(11) Planing mills
(12) Rock crushers
(13) Sawmills
(14) Smelting
(15) Stockyard
(16) Stone mills
(17) Quarries
(18) Chemical and allied products manufacture
(19) Coal screening and sieving plants
(20) Commercial excavation of construction materials
(21) Distillation of bones and/or fat rendering
(22) Dumping and disposal of garbage, sewage, or refuse
(23) Fabricated metal products manufacture
(24) Ferrous and non-ferrous metal foundries
(25) Ferrous and non-ferrous metal rolling and finishing mills
(26) Mining and related activities
(27) Ore reduction; including rock, sand and gravel
(28) Paper and allied products manufacture
(29) Plastic, synthetic resins, synthetic rubbers and other man-made fiber production
(30) Refining of petroleum and/or its products

(31) Slaughterhouses
(32) Tank farms for petroleum and related products
(33) Factory manufactured homes constructed as a single self-contained unit and mounted on a single chassis.

(Code 1995, Appendix B, Art. V, § 706)

Sec. 38-227. Access to sites and buildings.

Vehicular access to sites and buildings within the C-3 Central Business Zone may be permitted from any public street or alleyway after review and approval by the Traffic Engineer. Pedestrian access may be permitted at any location at the discretion of the property holder.
(Code 1995, Appendix B, Art. V, § 707)

Sec. 38-228. Minimum yard and landscaping requirements; maintenance of visibility at access points; relation of yards to turnout and merging lane.

(1) There are no minimum front yard requirements except that service station buildings shall have a front yard of not less than thirty (30) feet.
A side yard of not less than ten (10) feet shall be provided where a non-residential permitted use adjoins a residential zone. A side yard of not less than ten (10) feet shall be provided only where a permitted residential use adjoins an R-1 residential zone or other residential zone that is developed with single family detached residences.
There shall be a rear yard of not less than twenty-five (25) feet where a non-residential use adjoins a residential zone. There shall be a rear yard of not less than twenty-five (25) feet provided only where a permitted residential use adjoins an R-1 residential zone or other residential zone that is developed with single family detached residences.
Other than as provided above, no additional front, rear or side yards are required, but where buildings are separated, the distance between them shall be at least ten (10) feet.

(Ord. No. 11952, § 1, 4-17-07)

(2) No structure, landscaping, fences, terraces, or other natural or artificial features adjacent to any street shall be of a nature impairing visibility from or of approaching vehicular traffic where such visibility is important to safety, nor shall such feature in any way create potential hazards to pedestrians. For the purpose of this section, the building commission shall request the review and approval by the traffic engineer of any plan for construction before the issuance of a building permit.

(3) Along major public streets, turn-out lanes and merging lanes may be required to be constructed on the lot with length and width as appropriate to the flow of traffic, and traffic separation devices may be required at such entrances and exits along such merging lanes. Whether required by the traffic engineer or provided voluntarily, such turn-out and merging lanes may be included as part of any required yard adjacent to the public major street or collector. Disagreements concerning required turn-out and merging lanes may be appealed to the Board of Appeals.

(Code 1995, Appendix B, Art. V, § 708; Ord. No. 11952, § 1, 4-17-07; Ord. No. 12264, 7-21-09)

Sec. 38-229. Minimum height of structure.

In no case shall the height of any building or structure except radio, television, telephone and microwave towers (see article VIII, section 38-568), exceed the shortest distance from such structure to the nearest boundary of any Residential or R-4 Zone.
(Code 1995, Appendix B, Art. V, § 709)

Cross reference - Off-street parking requirements, article V, section 38-471, et seq.
(Ord. No. 11459, § 2, 09-16-03)

Secs. 38-230 - 38-240. Reserved.

DIVISION 16. C-4 PLANNED COMMERCE CENTER ZONE

Sec. 38-241. Definition.

Planned Commerce Center -- A development intended to serve the diverse needs of an entire community or region which is generally planned and constructed as a unit and providing a variety of goods and services in stores and offices conveniently arranged with respect to one another and to off-street parking facilities provided with safe access to and from appropriate public streets.
(Code 1995, Appendix B, Art. V, § 801)

Sec. 38-242. Intent

It is the intent of this section to promote flexibility and diversity in the development and maintenance of planned commerce centers which are complementary and appropriate to the surrounding neighborhood and in keeping with the General Plan of the community, and subject to such other conditions and safeguards as may be established to assure, insofar as possible, that the development will protect and enhance the value of surrounding property in addition to fulfilling a public need of the community or region.
(Code 1995, Appendix B, Art. V, § 802)

Sec. 38-243. Location.

C-4 Planned Commerce Center Zones shall be permitted only where adequate frontage is available for ingress and egress utilizing arterial streets (see definition "Functional Classification of Streets").
(Code 1995, Appendix B, Art. V, § 803)

Sec. 38-244. Principal uses permitted.

The following principal uses and structures may be permitted in any C-4 Planned Commerce Center Zone:

(l) Department stores; supermarkets; drug stores; bakeries; meat markets; delicatessens; hardware; paint; and wallpaper stores; camera shops; florist shops; gift shops; hobby shops; stationery stores; apparel stores; shoe stores; variety stores; jewelry stores; stores for sale of gardening supplies and equipment; radio and TV stores; music stores; pet stores subject to all health and humane regulations of the government;

(2) Eating and drinking establishments;

(3) Barber shops; beauty shops; cleaning and laundry services without major processing on the premises and establishments with coin-operated equipment for laundry and dry cleaning; shoe repair shops; repair establishments for household articles and appliances; and service stations.

(4) Offices, studios, medical and dental clinics, banking facilities;

(5) Hotels, motels; and other transient accommodations;

(6) Multifamily dwellings and townhouses, excluding factory manufactured homes constructed as a single self-contained unit and mounted on a single chassis; provided, however, that all permanent residential uses shall be located on upper floors or otherwise separated from areas of principal commercial activity; that separate and exclusive pedestrian entrances and exits for permanent residents shall be provided other than those (or in addition to those) used for access to the

principal commercial area, and provided that separate and exclusive parking areas for use by permanent residents shall be maintained as outlined in section 38-471, et seq., of this article V.

(7) Home Occupations.

(8) Theaters, bowling alleys, and other indoor entertainment and cultural facilities.

(9) Warehousing and wholesaling operations, provided that such uses shall be ancillary to permitted retail sales and service operations within the Planned Commerce Center and provided that space devoted to such warehousing and wholesaling uses shall not comprise more than twenty-five (25) percent of total space within the center.

(10) In general, all stores or shops for the conduct of a retail business are permitted unless otherwise prohibited by these regulations or other laws and ordinances.

(11) Vehicular repair facilities, washes, new and used dealerships and repair facilities, provided that the area being used for outside storage of any vehicles must be screened by a sight-obscuring fence a minimum of eight (8 ft.) high. This does not include sales display areas at automobile dealerships.

(Code 1995, Appendix B, Art. V, § 804)

Sec. 38-245. Uses permitted as special exceptions by the board of appeals.

The following uses and structures with their customary accessory buildings may be permitted as special exceptions by the Board of Appeals, subject to the requirements and restrictions as specified in article VIII:

(1) Day care centers:
Such uses shall require a Special Permit from the Board of Appeals under the terms of article VIII of this chapter.

(2) Miniature golf courses and similar outdoor amusement facilities:
Such shall require a Special Permit from the Board of Appeals as specified in article VIII of these regulations.

(Ord. No. 10705, 06/02/98)

(3) Communications Towers:
The Board of Appeals for Variances and Special Permits may issue a Special Permit for communications towers under the terms specified in article VIII.

(Code 1995, Appendix B, Art. V, § 805; Ord. No. 11253, 03/19/02)

Sec. 38-246. Uses permitted as special exceptions by the city council.

(1) The following uses may be permitted as special exceptions by the City Council as authorized Tennessee Code Annotated, 57-3-208 and Chattanooga City Code, Part II, sections 5-101 through 5-126.

(a) Liquor stores, subject to the approval of the City Council for each proposed liquor store as authorized by Tennessee Code Annotated, 57-3-208 and sections 5-101 through 5-109, Part II, Chattanooga City Code.

(2) Non-Profit Heritage Educational Facility under the terms specified in Article VI, Section 38-525.

(Ord. No. 12232, § 1, 4-21-09)

(Code 1995, Appendix B, Art. V, § 806; Ord. No. 12232, § 1, 4-21-09)

Sec. 38-247. Permitted accessory uses and structures.

The following accessory uses and structures may be permitted in any approved C-4 Planned Commerce Center Zone:

(1) Uses and structures which are customarily accessory and clearly incidental and subordinate to permitted principal uses and structures, as stated and restricted above, and which do not involve operations or structures not in keeping with the character of the planned commerce center, or likely (as located, constructed, operated, or maintained) to have an adverse effect on the character of areas surrounding the shopping center. It is specifically provided that garbage and trash, unless kept in principal buildings, shall be kept in accessory structures, and that neither the containers nor loose garbage or trash shall be visible from residential areas, from portions of the premises customarily open to customer parking or customer, pedestrian or automotive traffic, or from public ways.

(Code 1995, Appendix B, Art. V, § 807)

Sec. 38-248. Prohibited uses and structures.

The following uses and structures are specifically prohibited in any C-4 Planned Commerce Center Zone:

(1) The production or manufacture of goods other than those intended for sale at retail on the premises.

(2) In general, any use or structure not of a nature permitted under "Principal Uses Permitted" and "Permitted Accessory Uses and Structures" above.

(Code 1995, Appendix B, Art. V, § 808)

Sec. 38-249. Special sign limitations.

Signs not relating to identification of premises and occupants, or to products sold or services rendered on the premises are prohibited.

(Code 1995, Appendix B, Art. V, § 809)

Sec. 38-250. Minimum zone dimensions.

The zone shall be of such size, shape, and location as to enable development of well-organized commercial and residential facilities with proper access, ingress, egress, off-street parking and loading space, and other requirements.

(Code 1995, Appendix B, Art. V, § 810)

Sec. 38-251. Minimum yard and landscaping requirements; maintenance of visibility at access points; relations of yards to turnout and merging lanes.

(1) Yards with a minimum depth of twenty-five (25) feet shall be provided along any public street or right-of-way.

Side yards with a minimum width of ten (10) feet and rear yards of not less than twenty-five (25) feet depth shall be required where permitted use adjoins any Residential Zone.

(2) Other than as provided above, no other front, rear, or side yards are required, but where buildings are separated, the distance between them shall be at least ten (10) feet.

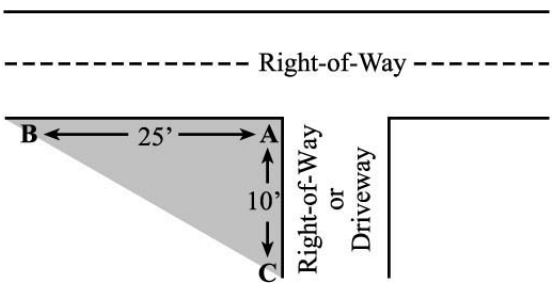
(3) No structure, landscaping, fences, terraces, or other natural or artificial features adjacent to any street shall be of a nature impairing visibility from or of approaching vehicular traffic where such visibility is important to safety, nor shall such features in any way create potential hazards to pedestrians. In particular, at vehicular entrances and exits, no off-street parking, landscaping, or other material impediment to visibility between the heights of three (3) feet and eight (8) feet shall be permitted within a triangular area bounded by imaginary lines connecting three (3) points as described and illustrated below:

Point A At the intersection of any public right-of-way with another right-of-way, either public or private drive, the point of intersection nearest approaching traffic.

Point B Beginning at Point A, proceeding along the boundary line of the public right-of-way toward the direction of oncoming traffic for a distance of twenty-five (25) feet to a second point: Point B.

Point C Beginning at Point A, proceeding along a line perpendicular to the public right-of-way and generally along the edge of the private driveway (or public right-of-way) toward the interior of the lot for a distance of ten (10) feet to a third point: Point C.

Example:



(4) Along major public streets, turn-out lanes and merging lanes may be required to be constructed on the lot, with length and width as appropriate to the flow of traffic, and traffic separation devices may be required at such entrances and exits and along such merging lanes. Whether required by the traffic engineer or provided voluntarily, such turn-out and merging lanes may be appealed to the Board of Appeals.

(Code 1995, Appendix B, Art. V, § 811)

Sec. 38-252. Maximum height of structure.

No building or structure except radio, television, telephone and microwave towers (See article VIII, section 38-568), shall exceed two and one-half stories or 35 feet in height, except that a building or structure may exceed these height requirements provided that for every one (1) foot of additional height over 35 feet the building or structures shall be set back one (1) additional foot from all property lines. Communications towers shall be subject to the setback requirements set forth in article VIII.

(Code 1995, Appendix B, Art. V, § 812; Ord. No. 9999, 2/25/94; Ord. No. 10705, 06/02/98; Ord. No. 11253, 3/19/02)

Cross reference - Off-street parking requirements, article V, section 38-471, et seq.

(Ord. No. 11459, § 2, 09-16-03)

Secs. 38-253 - 38-260. Reserved.

DIVISION 17. C-5 NEIGHBORHOOD COMMERCIAL ZONE

Sec. 38-261. Intent.

It is the intent of the C-5 Neighborhood Commercial Zone to promote, protect, and sustain the vitality of a neighborhood by allowing the development and maintenance of small commercial and service enterprises which are both compatible with and complementary to residential properties within the immediate vicinity. Furthermore, it is the intent of the section that all businesses located within a C-5 Neighborhood Commercial Zone shall be for retail sales, services, or otherwise of such nature as to be a benefit or convenience to a majority of neighborhood residents.
(Code 1995, Appendix B, Art. V, § 901)

Sec. 38-262. Location.

Neighborhood Commercial Zones shall be located so as to primarily serve traffic on arterial or collector streets (see definition "Functional Classification of Streets"), and all businesses developed within such zones shall be situated on site so as to offer convenient ingress and egress to such streets.
(Code 1995, Appendix B, Art. V, § 902)

Sec. 38-263. Principal uses permitted.

The following principal uses and structures may be permitted in any C-5 Neighborhood Commercial Zone subject to the building being limited to a maximum of 5,000 gross square feet of total floor area.

(l) Grocery stores, provided that no gasoline pumps and/or car washes shall be permitted as either a principal use or an accessory use, drug stores, bakeries, meat and fish markets, hardware, stationery stores, shoe stores, florists, and music stores.

(Ord. No. 10880, 7/27/99)

(2) Barber shops, beauty shops, cleaning and laundry establishments (including coin operations), shoe repair shops, repair establishments for household articles and appliances.

(3) Offices, studios, medical and dental clinics, banking facilities.

(4) Dwellings, excluding factory manufactured homes constructed as a self-contained unit and mounted on a single chassis, when these dwelling units are located within the same building as the principal permitted use.

(Code 1995, Appendix B, Art. V, § 903; Ord. No. 10879, 07/27/99)

Sec. 38-264. Uses permitted as special exceptions by the board of appeals.

The following uses and structures with their customary accessory buildings may be permitted as special exceptions by the Board of Appeals, subject to the requirements and restrictions as specified in article VIII.

(1) Day care centers:
Such uses shall require a Special Permit from the Board of Appeals under the terms of article VIII of this chapter.

(2) Communications Towers:
The Board of Appeals for Variances and Special Permits may issue a Special Permit for communications towers under the terms specified in article VIII.

(Ord. No. 11253, 3/19/02)

(3) Restaurants with fewer than fifty (50) seats and no drive-thru or drive-in trade or curb service.

The Board of Appeals for Variances and Special Permits may issue a Special Permit for restaurants under the terms specified in article VIII.

(Code 1995, Appendix B, Art. V, § 904; Ord. No. 11474, § 1, 10-21-03)

Sec. 38-265. Permitted accessory uses and structures.

The following accessory uses and structures may be permitted in any approved C-5 Neighborhood Commercial Zone:

(1) Uses and structures which are customarily accessory and clearly incidental and subordinate to permitted principal uses and structures, as stated and restricted above, and which do not involve operations or structures not in keeping with the intent of this section or with the character of the zone, or likely (as constructed, operated, or maintained) to have an adverse effect on the character of area surrounding the zone.

(Code 1995, Appendix B, Art. V, § 905)

Sec. 38-266. Prohibited uses and structures.

The following uses and structures are found to be not in keeping with the intent of the Neighborhood Commercial Zone and are therefore specifically prohibited within any approved C-5 Neighborhood Commercial Zone:

(1) Outdoor sales, service or display, except for outdoor seating at restaurants as permitted in article V, section 38-264(3);

(Ord. No. 11474, § 2, 10-21-03)

(2) The playing of music or making of announcements directly or through mechanical or electronic devices in a manner audible at any residential lot line;

(3) The sale or consumption of beer, wine, and similar alcoholic beverages on the premises;

(Ord. No. 11474, § 2, 10-21-03)

(4) Adult-oriented establishments;

(5) Theaters, skating rinks, dance halls, billiard rooms, or other businesses, or uses devoted primarily to entertainment;

(6) Liquor stores;

(7) New and used vehicular repair facilities;

(8) On-premise signs with flashing, strobe or blinking lights or lights which vary in color or intensity which are visible from outside the building.

(9) In general, any use or structure not of a nature permitted under "Principal Uses Permitted" and "Permitted Accessory Uses and Structures" above.

(Code 1995, Appendix B, Art. V, § 906)

Sec. 38-267. Minimum yard requirements; maintenance of visibility at access points; relation of yards to turnout and merging lanes.

(l) Yards with a minimum depth of twenty-five (25) feet shall be provided along any public street or right-of-way and along any property line abutting developed residential property or an established residential zone.

Other than as provided above, no other front, rear, or side yards are required, but where buildings are separated, the distance between them shall be at least ten (10) feet.

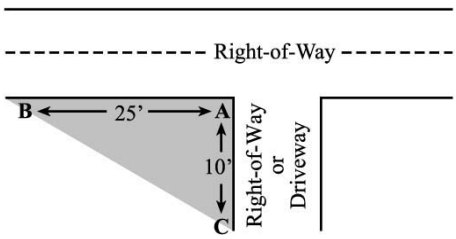
(2) No structure, landscaping, fences, terraces, or other natural or artificial features adjacent to any street shall be of a nature impairing visibility from or of approaching vehicular traffic where such visibility is important to safety, nor shall such features in any way create potential hazards to pedestrians. In particular, at vehicular entrances and exits, no off-street parking, landscaping, or other material impediment to visibility between the heights of three (3) feet and eight (8) feet shall be permitted within a triangular area bounded by imaginary lines connecting three (3) points as described and illustrated below:

Point A At the intersection of any public right-of-way with another right-of-way, either public or private drive, the point of intersection nearest approaching traffic.

Point B Beginning at Point A, proceeding along the boundary line of the public right-of-way toward the direction of oncoming traffic for a distance of twenty-five (25) feet to a second point: Point B.

Point C Beginning at Point A, proceeding along a line perpendicular to the public right-of-way and generally along the edge of the private driveway (or public right-of-way) toward the interior of the lot for a distance of ten (10) feet to a third point: Point C.

Example:



(3) Along collector and arterial public streets, turn-out lanes and merging lanes may be required to be constructed on the lot, with length and width as appropriate to the flow of traffic and traffic separation devices may be required at such entrances and exits and along merging lanes. Whether required or provided voluntarily, such turn-out merging lanes may be included as part of the required setback adjacent to the public collector or arterial street. Disagreement regarding required turnout or merging lanes can be appealed to the Board of Appeals.

(Code 1995, Appendix B, Art. V, § 907)

Sec. 38-268. Maximum height of structures.

No structure shall exceed two and one-half (2 l/2) stories or thirty-five (35) feet in height. Communications towers shall be subject to the setback requirements set forth in article VIII.
(Code 1995, Appendix B, Art. V, § 908; Ord. No. 11253, 3/19/02)

Cross reference - Off-street parking requirements, article V, section 38-471, et seq.
(Ord. No. 11459, § 2, 09-16-03)

Editor's note - C-6 Commercial Zone deleted per Ord. No. 11364, 01/24/03.

Secs. 38-269 - 38-280. Reserved.

DIVISION 18. C-7 NORTH SHORE COMMERCIAL/MIXED USE ZONE

Sec. 38-281. Intent.

The North Shore Commercial Mixed Use Zone is intended to promote development that is consistent with the adopted North Shore Plan. The plan envisions development that:

(1) Maximizes the riverfront as a public resource and a catalyst for private development;
(2) Balances developed areas with land preservation;
(3) Accommodates a mixture of uses;
(4) Creates an appealing pedestrian environment;
(5) Preserves and extends the urban architectural character and neighborhood scale of the Frazier Avenue commercial Zone to other areas of the North Shore; and
(6) Promotes a distinctive image and identity for the North Shore.

(Code 1995, Appendix B, Art. V, § 951; Ord. No. 11945, § 1, 3-20-07)

Sec. 38-282. Goals.

(1) Promote a mix of uses within the North Shore Commercial Zone.
(2) Allow greater latitude in design than what is provided for by existing zoning requirements.
(3) Encourage investment in the Zone.
(4) Bring most daily activities within walking distance, giving the elderly and the young increased independence of movement.
(5) Reduce the number and length of automobile trips, to minimize traffic congestion, road construction and air pollution.
(6) Establish building densities that support the use of transit.
(7) Provide quality public spaces such as streets, sidewalks, parks and squares.
(8) Provide a full range of housing types and workplaces that will integrate age and economic class.
(9) Maximize the use of all existing resources including land, buildings, parking, and infrastructure.
(10) Maintain the physical continuity of the street edge created by multi-story buildings built to the sidewalk.
(11) Protect the viewshed and scenic vistas both from the North Shore and of the North Shore from other areas.
(12) Promote pedestrian activity and safety over convenience for the motorist.

(Code 1995, Appendix B, Art. V, § 952; Ord. No. 11945, § 1, 3-20-07)

Sec. 38-283. General standards.

The North Shore Review Committee, created by the City Council, shall review site and building proposals within the designated Zone. The Review Committee shall be guided by all adopted plans and policies including the North Shore Plan and the Downtown Plan and by the following general standards and considerations. The proposed development shall:

(1) Be consistent with the North Shore Plan and the Downtown Plan;
(2) Be in keeping with the general purpose and intent of the zoning ordinance;
(3) Be compatible with the character of the Zone where it is proposed, and with the size and location of the buildings in the vicinity;
(4) Not negatively impact or injure the value of adjacent properties by noise, lights, traffic or otherwise detract from the immediate environment; and

(5) Not be of such a nature so as to pose a potential hazard to the proposed use or create an undesirable environment.

(Code 1995, Appendix B, Art. V, § 953; Ord. No. 11945, § 1, 3-20-07)

Sec. 38-284. Review committee.

(1) Membership: The North Shore Design Review Committee shall be recommended by the City Council representatives of the Zone, appointed by the Mayor, and approved by a majority of the City Council. The Review Committee shall review development within the designated North Shore Zone. The Review Committee shall be composed of seven (7) rotating members set forth as follows:

(a) Architect (recommended by AIA Chattanooga)
(b) Landscape Architect /Interior Designer/Urban Designer/Architect
(c) Landscape Architect /Interior Designer/Urban Designer /Architect
(d) Contractor/Developer
(e) Realtor/Engineer

Although the following members may not be design or development professionals, they should have a basic knowledge of development and be able to read architectural plans:

(f) Business representative (recommended by the North Chattanooga Chamber Council)
(g) Property owner, resident, or business operator from within the Zone (recommended by the City Council representatives of the Zone)

(2) Membership Terms:

(a) Members serve 3-year terms, staggered. (Initial terms will be one (1), two (2) and three (3) years as determined by the appointing body.)
(b) Members may remain on the Review Committee after their term has expired until a new appointment is made to fill their position.
(c) The chair and vice-chair shall be elected annually by the Review Committee members.

(3) Membership Requirements:

(a) Any member who is absent from three (3) or more regularly scheduled committee meetings in a year may be removed from the Review Committee.
(b) All Review Committee members are required to attend at least two (2) continuing education sessions each year, to be scheduled by the Staff.
(c) Review Committee members should not discuss cases with applicants prior to the meeting to avoid creating a potential conflict of interest.

(4) Meeting Format:

(a) A majority of Review Committee members must be present to constitute a quorum.
(b) A majority vote of those in attendance is required for approval.
(c) Meetings shall be held once a month (if cases are pending) at a day and time to be determined by the Review Committee.
(d) No person who has a potential conflict of interest shall serve on any case where a potential conflict is known to exist. Any Review Committee member with a potential conflict of interest shall disqualify themselves from voting on that case, leave the dais, and refrain from any discussion of that case. Failure to do so may result in that member being removed from the Review Committee.

(5) City Technical Advisors: City of Chattanooga staff may be present during Review Committee meetings to offer technical advice. These City technical advisors may include:
- (a) Regional Planning Agency
- (b) Planning and Design Studio
- (c) Land Development Office (LDO)
- (d) Stormwater
- (e) Traffic
- (f) Landscape
- (g) Historic Preservation
- (h) Signs
- (i) Chattanooga Area Regional Transit Authority (CARTA)

(Code 1995, Appendix B, Art. V, § 954; Ord. No. 11945, § 1, 3-20-07)

Sec. 38-285. Application and review procedure.

(1) Prior to Plans Submittal: Before making formal application, the developer is strongly encouraged (but not required) to consult with the Staff regarding conceptual designs of the proposed project.

(2) Applications: To make a formal application, the applicant shall complete an application form (available at the Development Resource Center or at www.chattanooga.gov under the Public Works Department page) so that the Staff can classify the project and determine the appropriate submittal requirements.

(3) Classification of Projects: Upon receipt of the application, the Staff shall classify the proposed development as follows:
- (a) Exempt:
  - 1. Interior alterations/renovations which do not alter the footprint, height, or exterior of a structure;2. Routine maintenance - minor repairs and maintenance (such as painting, replacing roof shingles/lining to match existing, replacement of gutters to match existing) to any part of a building when there is no change in appearance.
- (b) Committee Review: The Committee must review all applications for:
  - 1. New construction of primary structures, outbuildings, or garages;
  - 2. Additions (including drive through windows);
  - 3. Demolitions;
  - 4. Parking lots or parking structures;
  - 5. Any applications referred by Staff that do not clearly meet the guidelines.
- (c) Staff Review: Staff approval may be provided for all other work that meets the Design Guidelines.

(4) Submittal Requirements: The following information shall be submitted along with the application form. Projects will not be reviewed by the Staff or placed on the Review Committee agenda until all required drawings have been submitted. All submitted drawings should be no larger than 11 x 17 inches.
- (a) Vicinity Plan - shows the project in relation to the surrounding blocks within 300 feet of the site. Include building footprints, streets, access points, and parking areas.
- (b) Site Plan – drawings to scale showing vehicular access, parking (including the number of spaces), service areas and dumpsters, conceptual landscaping, property lines, building footprints, topography

lines at a minimum 10-foot contour interval for finished grade, and areas of cut/fill.

(c) Building Elevations - Drawings to scale of the sides, front, and rear of each building where construction activity will take place. Drawings should show all openings (windows and doors); texture, color and materials shown by illustrations or annotation; and any other architectural features.

Based on the scope of the proposed project, the Review Committee may also require all or some of the following information. Some of the following plans may be required for a follow-up review later in the design process.

(d) Site and Building Section - Drawings to scale illustrating how the proposed building, structure, or addition and site would appear in cross-section.

(e) Landscaping Plan – showing location, number and type of plant materials.

(f) Signage Plan – showing the location of all signs, dimensions, text and graphics. For commercial buildings with multiple tenants, a signage plan for the entire structure is required. This plan shall allocate signage for all potential tenant space.

(g) Lighting Plan - showing fixture locations, specifications and lighting levels.

(h) Physical samples of materials

(i) Floor plans, perspectives, and axonometrics are encouraged, but not required.

(5) Staff Review: Projects classified as "Staff Review" will be reviewed by the Staff and approved, approved with conditions, or denied within 10 working days of submittal (after all required information has been submitted.) Any applicant aggrieved with the decision of the Staff may appeal to the Review Committee within 30 days of the Staff's decision.

(6) Public Notice: Reasonable notice shall be given to the general public pursuant to the Open Meetings Act of all Review Committee meetings including the applications and property to be considered at such meetings which notice shall include, but not be limited to, posting of the property.

(7) Procedures to be followed for Committee Review:

(a) An application and all required information must be submitted to the Staff at least 15 days prior to the regularly scheduled monthly meeting of the Review Committee to be placed on the agenda. The Staff will present a written recommendation to the Review Committee.

(b) The Review Committee will consider each project at their regularly scheduled meeting, provided all the required information has been submitted on time.

(c) The applicant should attend the Review Committee meeting to present his/her project.

(d) The Review Committee will consider the issues presented to them in the Staff recommendations and will then approve the project, approve with conditions, or deny based upon the North Shore Design Guidelines of the (C-7) Zone adopted by the Chattanooga City Council on (date). These GUIDELINES are available at the Development Resource Center or at

www.chattanooga.gov under the Public Works Department page or at www.chcrpa.org.

(e) The Review Committee will consider variances for the applicant in the event that some deviation from the specific GUIDELINES is necessary, in the determination of the majority of the membership present at any meeting. If any variance is necessary, the Review Committee shall consider whether the general INTENT and PRINCIPLES have been met, based upon the conditions specified in Section 38-287. Guidelines that contain the word "shall" are mandatory.

(f) All conditions placed on the project, and how the project meets or fails to meet the guidelines, will be submitted, in writing, by the Staff to the applicant and the City Land Development Office for enforcement.

(8) Enforcement/Issuance of Permits:

(a) Upon approval of a project, with or without conditions by the Review Committee, building permits may be issued for development, including any required conditions imposed by the Review Committee and approval by the Land Development Office in accordance with all applicable construction codes.

(b) The applicant is encouraged, but not required, to schedule a Pre-submittal meeting through the Land Development Office. A committee of City staff will be present to review the project for other code requirements and advise the applicant. The City staff may include:

1. Regional Planning Agency
2. Planning and Design Studio
3. Land Development Office (LDO)
4. Stormwater
5. Traffic
6. Landscape
7. Historic Preservation
8. Signs
9. Fire

(c) The Director of the Land Development Office shall issue no Certificate of Occupancy until all requirements approved by the Review Committee have been accomplished and all applicable construction codes are met.

(d) Any changes to the approved plan, affecting the site or the building exterior, shall be resubmitted to the Staff for reconsideration. The Staff will send the project back to the Review Committee for further consideration if the changes:

1. Will noticeably alter the exterior of the building or the site;
2. Exclude elements specifically required by the Review Committee; or
3. Do not meet the guidelines.

(Code 1995, Appendix B, Art. V, § 955; Ord. No. 11945, § 1, 3-20-07)

Sec. 38-286. Appeal.

(1) As the requirements of this Zone are in the form of principles and guidelines rather than specific regulations, there should be little need for the usual appeals procedure. However, any applicant aggrieved with the decision of the Review Committee may appeal to the Chattanooga-Hamilton County Regional Planning

Commission for further consideration within 30 days of the Review Committee's decision.

(2) The Chattanooga-Hamilton County Regional Planning Commission will hear and decide appeals based on the following criteria:

(a) The physical conditions of the property, such as steep slopes, flood plain, drainage, or small or irregular lot shape, make compliance to the specific GUIDELINES physically impossible;

(b) The hardship is not created by the applicant;

(c) The applicant has presented an alternative means of compliance that meets the general intent of the applicable PRINCIPLE and complies with the stated intent, goals and general standards of the Zone;

(d) The hardship is relevant only to the property for which the appeal is being sought and would not be generally applicable to other properties within the Zone.

(3) The action of the Chattanooga-Hamilton County Regional Planning Commission shall be final, provided, an appeal from the action of the Commission may be taken to a court of competent jurisdiction by any aggrieved applicant.

(Code 1995, Appendix B, Art. V, § 956; Ord. No. 11945, § 1, 3-20-07)

Sec. 38-287. Design guidelines.

(1) The Chattanooga City Council shall adopt illustrated Design Guidelines for the Zone that shall be used by the North Shore Design Review Committee to guide their decisions. These Design Guidelines shall be applied to all development projects within the North Shore Zone. All Review Committee decisions will be based on these Design Guidelines.

(2) The Review Committee will consider a variance for the applicant in the event that some deviation from the specific GUIDELINES is necessary, in the determination of a majority of the members present at any meeting based on any of the following conditions:

(a) The applicant presents an alternative means of compliance that meets the general intent of the applicable PRINCIPLE and complies with the stated intent, goals and general review standards of the Zone;

(b) The physical conditions of the property, such as steep slopes, flood plain, drainage, or small or irregular lot shape, make compliance to the specific GUIDELINES physically impossible, and this hardship is not created by the applicant.

(3) The re-zoning of properties in the North Shore to C-7 Commercial/Mixed Use may be considered on a case-by-case basis based on the following parameters:

(a) The property is located within the boundary of the adopted 2007 North Shore Plan;

(b) The property is within a mixed use area;

(c) The property is not surrounded by single-family residential; and

(d) The proposed development is generally consistent with the Goals and Principles of the North Shore Design Guidelines.

(Ord. No. 12526, 7-12-11)

(Code 1995, Appendix B, Art. V, § 957; Ord. No. 0762, 09/15/98; Ord. No. 12526, 7-12-2011)

Sec. 38-288. Prohibited uses and structures

The following uses shall not be permitted within this zone:

(1) Any use that may create conflicts with pedestrian safety or become a nuisance shall not be included in this zone. Uses which shall not be permitted are:

(a) Adult Oriented Establishments;
(b) Commercial Hazardous or Medical Waste Facilities
(c) Commercial Radio, Television, Telephone or Microwave Towers
(d) Outdoor display ad-or storage of cars, other vehicles, travel trailers, boats or equipment
(e) Warehousing and commercial mini-warehouse storage
(f) Recycling Processing Centers
(g) Manufacturing and Food Processing with more than five (5) employees
(h) Single-wide manufactured homes.

(Ord. No. 12303, § 1, 10-20-09)

Sec. 38-289 Uses which require a special permit.

(1) **Board of Zoning Appeals.**

The following uses in this zone shall require a special permit from the Board of Zoning Appeals, subject to the requirements and restrictions as specified in Article VIII, before such use may occur in addition to the required review by the North Shore C-7 Review Committee.

(a) Day Care Centers and Kindergartens
(b) Animal Hospitals, Kennels, Pet Boarding, Pet Grooming, or Pet Training Facilities and Veterinary Offices
(c) Assisted Living Facilities, Hospitals, Medically Assisted Living Facilities, and/or Nursing Homes.

(2) **City Council.**

The following uses in this zone shall require a special permit from the City Council as authorized by Tennessee Code Annotated, 57-3-208 and Chattanooga City Code, Part II, Sections 5-101-126:

(a) Liquor Stores

(Ord. No. 12303, §2, 10/20/09)

Secs. 38-290 - 38-300. Reserved.

DIVISION 19. M-1 MANUFACTURING ZONE

Sec. 38-301. Use regulations.

(1) The following uses shall be PROHIBITED:
- (a) Dwellings, except watchman's house
- (b) Cemeteries

(2) The following uses shall be located at least 1000 feet from the nearest boundary of the R-4 Special Zone, if undeveloped or developed with residential uses, or any Residential Zone:
- (a) Blast furnace
- (b) Boiler works
- (c) Forge plants
- (d) Foundries
- (e) Planing mills
- (f) Processing of fish, poultry and meat
- (g) Rolling mills
- (h) Smelting

(Ord. No. 10811, 12/15/98; Ord. No. 12005, § 1, 9-18-07))

(3) Recycling Processing Centers for construction, demolition, or other materials to be recycled and used in new products shall be required to have an Industrial Conditional Permit unless the following provisions are met:
- (a) All processing such as compacting, shredding, or bailing shall be within an enclosed building;
- (b) All outdoor storage shall be concealed from view, beyond the limits of the property, by fencing or natural screening; or
- (c) Any other storage shall be within an enclosed building; and
- (d) No salvaging of parts or dismantling will be permitted.
- (e) If the provisions of Section 38-301(3)(a-d) are not met, any person desiring such a Conditional Permit shall apply to the Chattanooga-Hamilton County Regional Planning Commission, which shall hold a public hearing thereon. The Chattanooga-Hamilton County Regional Planning Agency shall provide notification by first class mail to the adjoining and other property owners within a radius of three hundred (300) feet of the property affected.
- (f) In order that the Planning Commission may evaluate the effect on nearby uses and on the community at large, the applicant for an Industrial Conditional Permit shall:
  - (i) Furnish complete plans and method of operation.
  - (ii) Have present at the hearing for said permit an Engineering Consultant in this particular phase of industry to fully evaluate all areas of control of vibration, dust, noxious odors fumes, nuisance factor, etc.

(Ord. No. 12079, 8/19/08)

- (g) An appeal to the decision of the Chattanooga-Hamilton County Regional Planning Commission may be made to the Chattanooga City Council. Notification of the decision to appeal shall be made to the Regional Planning Agency within ten (10) days after the decision of the Chattanooga-Hamilton County Regional Planning Commission. At the hearing before the Chattanooga City Council, the decision of the Chattanooga-Hamilton County Regional Planning Commission shall

constitute nothing more than a recommendation, and the Chattanooga City Council shall determine the appropriate action to be taken upon the request for a conditional permit de novo.

(4) Any other lawful use, other than those uses specified in section 38-341(1) of the M-4 Outdoor Industrial Use Zone, shall be permitted in this zone,

(Ord. No. 10811, 12/15/98)

(a) except that Commercial Hazardous Waste Management Facilities or Commercial Medical Waste Management Facilities shall also be subject to the provisions of article X of this chapter.

(5) Any use shall comply with all currently adopted codes of the City of Chattanooga (Federal, State, or local) with regard to fire and explosive hazards, smoke, dust, fly ash, fumes, or odor.

(Code 1995, Appendix B, Art. V, § 1001; Ord. No. 12005, § 1, 9-18-07)

(6) Tank farms for petroleum and relating products, including ethanol transfer facilities. (Ord. No. 12550, §2, 10/18/11)

Sec. 38-302. Uses permitted as special exceptions by the board of appeals.

The following uses and structures with their customary accessory buildings may be permitted as special exceptions by the Board of Appeals, subject to the requirements and restrictions as specified in article VIII:

(1) Open air markets:
Open air markets shall be permitted only subject to the approval of a Special Permit by the Board of Appeals under terms of article VIII and

(2) Day care centers:
Day care centers shall be permitted subject to issuance of a Special Permit by the Board of Appeals in accordance with the provisions of article VIII.

(Ord. No. 10881, 07/27/99)

(3) Adult-oriented establishments:
Adult-oriented establishments, as defined and restricted by article VIII, shall be subject to the issuance of a Special Permit by the Board of Appeals in accordance with the requirements of article VIII.

(4) Communications Towers:
The Board of Appeals for Variances and Special Permits may issue a Special Permit for communications towers under the terms specified in article VIII.

(5) Cremation/Crematory, upon issuance of a special permit from the Board of Zoning Appeals as provided in article VIII.

(Ord. No. 12241, § 2, 5/19/09)

(6) Boarding, grooming, training and similar uses for small animals. Such facilities shall be permitted only subject to the approval of a Special Permit by the Board of Zoning Appeals under term of Article VIII.

(Ord. No. 12378, § 1, 4/20/10)

(Code 1995, Appendix B, Art. V, § 1002; Ord. No. 11253, 3/19/02; Ord. No. 12241, § 2, 5/19/09; Ord. No. 12378, § 1, 4/20/10)

Sec. 38-303. Uses permitted as special exceptions by the city council.

The following uses may be permitted as special exceptions by the City Council, subject to the requirements and restrictions as specified in article VI:

(1) Wineries, including vineyards, processing, bottling and sales facilities shall be permitted only subject to approval of the City Council by Special Exceptions Permit.
(2) Liquor stores shall be permitted only subject to approval of the City Council for each proposed liquor store as authorized by Tennessee Code Annotated, 57-3-108 and sections 5-101 through 5-126, Part II, Chattanooga City Code.
(3) Non-Profit Heritage Educational Facility under the terms specified in Article VI, Section 38-525.

(Ord. No. 12232, § 1, 4-21-09)

(Code 1995, Appendix B, Art. V, § 1003; Ord. No. 12232, § 1, 4-21-09)

Sec. 38-304. Height and area regulations.

(1) No building shall exceed 35 feet in height except that a building may exceed 35 feet in height provided either that for every foot of additional height over 35 feet the building shall be set back one (1) additional foot from all property lines; or that if any point on the exterior surface of the building is above 35 feet in height, the vertical projection of such point upon the ground shall not be nearer to any property line than a horizontal distance equal to the height of such point above the ground.
(2) There is no minimum building site area.
(3) There shall be a front yard of not less than 25 feet.
(4) There shall be a side yard of not less than 25 feet when side yard adjoins residential zone.
(5) There shall be a rear yard of not less than 25 feet where the rear yard adjoins a residential zone.
(6) Other than as provided above, no other front, rear or side yards are required, but where buildings are separated, the distance between them shall be at least ten (10) feet.
(7) Communications towers shall be subject to the setback requirements set forth in article VIII.

(Code 1995, Appendix B, Art. V, § 1004; Ord. No. 11253, 3/19/02)

Cross reference - Off-street parking requirements, article V, section 38-471, et seq.
(Ord. No. 11459, §2, 09-16-03)

Sec. 38-305. Screening from residential zones.

Any industrial use shall be screened on all side yard and rear yard lot lines adjoining a residential use or zone by one (1) of the methods given below, as selected by the owner.
(Ord. No. 10383, 02/20/96; Ord. No. 10397, 04/02/96)

(1) A greenbelt planting strip, not less than fifteen (15) feet in width. Such greenbelt shall be composed of at least:
    i. One row of deciduous and evergreen trees, spaced not more than fifteen (15) feet apart, at least eight (8) feet tall, and with a minimum trunk diameter of one and one-half (1-1/2) inches at planting, and
    ii. One row of shrubs, with a ratio of two deciduous to one evergreen shrub, spaced an average of five (5) feet apart. Such shrubs shall be a minimum of thirty (30) inches in height at planting and expected to grow to a height of eight (8) feet in 3 or 4 full growing seasons; or

(2) Natural vegetation can be retained if it meets the intent of this section, or supplemented to meet the intent of this section; or

(3) A sight obscuring screen (either solid or veil block, or some form of fence that is at least 50% opaque (excluding material made of fabric or synthetic fabrics) and at least six (6) feet high).

(Ord. No. 9492, 11/20/90; Code 1995, Appendix B, Art. V, § 1006)

Sec. 38-306. Outdoor storage in the M-1 Manufacturing Zone.

Outdoor storage in the M-1 Manufacturing Zone shall have Type A Landscaping (see Landscaping Provisions). (Code 1995, Appendix B, Art. V, § 1007)

Secs. 38-307 - 38-320. Reserved.

DIVISION 20. M-2 LIGHT INDUSTRIAL ZONE

Sec. 38-321. Use regulations.

(1) The following uses are PERMITTED:

(a) Apparel and other finished fabric manufacturers
(b) Blueprint and related shops
(c) Cabinet making and woodworking shops
(d) Cold storage plants
(e) Communications towers providing they may be built only under the provisions specified in article VIII.
(Ord. No. 11253, 3/19/02)
(f) Contractor's offices and accessory storage uses
(g) Dwellings, if in combination or associated with any of the permitted uses in this zone, excluding factory manufactured homes constructed as a single self-contained unit and mounted on a single chassis.
(Ord. No. 12057, § 1, 12-18-07)
(h) Electrical machinery, tools, equipment, and supplies assembly
(i) Food and food products, packaging and distribution
(j) Furniture and household goods manufacture
(k) Gas metering and control stations
(l) Greenhouses, Commercial
(Ord. 12253,§ 4, 6/16/09)
(m) Jewelry, silverware, and plated ware manufacture
(n) Laboratories: research, testing and medical
(o) Lumber yards
(p) Microwave stations, including towers
(q) Musical instruments and parts manufacture
(r) Photographic and optical goods production
(s) Printing and publishing services, except small commercial photocopy shops and other similar operations
(t) Professional, scientific, and controlling instrument manufacturers
(u) Re-packaging
(v) Rug cleaning plants
(w) Steel and other fabrication and assembly, but not including the processing and/or refinement of elemental, raw materials into steel or other products
(Ord. No. 11286, (7/25/02)
(x) Textile production
(y) Utility and public service uses
(z) Warehousing
(aa) Wholesaling
(bb) Wholesale produce markets
(cc) Offices
(dd) No retail sales or other commercial use unless directly related to one of the permitted uses of this section.
(Ord. No. 10506, 11/19/96)
(ee) Except that day care centers shall be permitted subject to issuance of a Special Permit by the Board of Appeals in accordance with the provisions of article VIII.
(Ord. No. 10881, 07/27/99)

(ff) Any similar use comparable in character, type, or effect on the surrounding area to the above uses.

(2) The following uses are PROHIBITED:

(a) Blast furnaces
(b) Boiler works
(c) Chemical and allied products manufacture
(d) Coal screening and sieving plants
(e) Commercial excavation of construction materials
(f) Distillation of bones and/or fat rendering
(g) Dumping and disposal of garbage, sewage, or refuse
(h) Ferrous and non-ferrous metal foundries
(i) Ferrous and non-ferrous metal rolling and finishing mills
(j) Forge plants
(k) Junk yards
(l) Mining and related activities
(m) Ore reduction; including rock, sand and gravel
(n) Paper and allied products manufacture
(o) Planing mills
(p) Plastic, synthetic resins, synthetic rubbers and other man-made fiber production
(q) Refining of petroleum and/or its products
(r) Sawmills
(s) Smelting
(t) Stockyards or slaughter houses
(u) Tank farms for petroleum and related products
(v) Any similar use comparable in character, type or effect on the surrounding area to the above uses, except as permitted in Section 38-324.

(Ord. No. 12550, § 3, 10/18/11)

(3) Any use shall comply with all currently adopted codes of the City of Chattanooga (Federal, State, or local) with regard to fire and explosive hazards, smoke, dust, fly ash, fumes, or odor.

(Code 1995, Appendix B, Art. V, § 1011; Ord. No. 12057, §§ 1 & 2, 12-18-07; Ord. 12253,§ 4, 6/16/09)

Sec. 38-322. Height and area regulations.

(1) No building shall exceed 35 feet in height except that a building may exceed 35 feet in height provided either that for every foot of additional height over 35 feet the building shall be set back one (1) additional foot from all property lines; or that if any point on the exterior surface of the building is above 35 feet in height, the vertical projection of such point upon the ground shall not be nearer to any property line than a horizontal distance equal to the height of such point above the ground.

(2) There is no minimum building site area.

(3) There shall be a front yard of not less than 25 feet.

(4) There shall be a side yard of not less than 25 feet where the side yard adjoins a residential zone.

(5) There shall be a rear yard of not less than 25 feet where the rear yard adjoins a residential zone.

(6) No site shall be covered with building to an extent greater than 50 percent of the area of said site.

(7) Other than as provided above, no other front, rear or side yards are required, but where buildings are separated, the distance between them shall be at least 10 feet.

(8) Communications towers shall be subject to the special setback requirements set forth in article VIII.

(Code 1995, Appendix B, Art. V, § 1012; Ord. No. 11253, 3/19/02)

Cross reference - Off-street parking requirements, Article V, Section 38-471, et seq.
(Ord. No. 11459, § 2, 09-16-03)

Sec. 38-323. General provisions.

(1) No free-standing sign shall be permitted within 10 feet of a residential zone.

(2) Signs illuminated by exposed tubes, bulbs or similar exposed light sources shall be prohibited.

(3) Exterior spot lighting or other illumination of structures shall be directed away from adjoining residential zones.

(4) No storage shall be permitted in required front, side, or rear yards.

(5) Any industrial use shall be screened on all side yard and rear yard lot lines adjoining a residential use or zone by one (1) of the methods given below, as selected by the owner.

(Ord. No. 10383, 02/20/96; Ord. No. 10397, 04/02/96)

(a) A greenbelt planting strip, not less than fifteen (15) feet in width. Such greenbelt shall be composed of at least:

(i) One row of deciduous and evergreen trees, spaced not more than fifteen (15) feet apart, at least eight (8) feet tall, and with a minimum trunk diameter of one and one-half (1-1/2) inches at planting, and

(ii) One row of shrubs, with a ratio of two deciduous to one evergreen shrub, spaced an average of five (5) feet apart. Such shrubs shall be a minimum of thirty (30) inches in height at planting and expected to grow to a height of eight (8) feet in 3 or 4 full growing seasons; or

(b) Natural vegetation can be retained if it meets the intent of this section, or supplemented to meet the intent of this section; or

(c) A sight obscuring screen (either solid or veil block, or some form of fence that is at least 50% opaque and at least six (6) feet high).

(Ord. No. 6717, 01/29/74; Code 1995, Appendix B, Art. V, § 1014)

Sec. 38-324. Uses Permitted as a special exceptions by the City Council.

(1) *Ethanol Transfer Facility:*

Ethanol Transfer Facility shall be permitted subject to the approval of a Special Exceptions Permit issued by the Chattanooga City Council under the terms specified in Article VI. Section 38-528. (Ord. No. 12550, §4, 10/18/11)

Secs. 38-325 - 38-330. Reserved.

DIVISION 21. M-3 WAREHOUSE AND WHOLESALE ZONE

Sec. 38-331. Use regulations.

(1) The following uses shall be PERMITTED:
Warehousing
Mini-warehouses
Wholesaling
Offices
Retail sales when directly related to one of the permitted uses of this section
(Ord. No. 10506, 11/19/96]
Re-packaging
Communications towers providing they may be built only with a Special Permit under the terms specified in article VIII.

(Ord. No. 11253, 3/19/02)

(2) Any use shall comply with all currently adopted codes of the City of Chattanooga (Federal, State, or local) with regard to fire and explosive hazards, smoke, dust, fly ash, fumes, or odor.

(Ord. No. 9077, 11/22/88)

(3) Except that day care centers shall be permitted subject to issuance of a Special Permit by the Board of Appeals in accordance with the provisions of article VIII.

(Code 1995, Appendix B, Art. V, § 1021; Ord. No. 10881, 07/27/99)

Sec. 38-332. Height and area regulations.

(1) No building shall exceed 35 feet in height except that a building may exceed 35 feet in height provided either that for every foot of additional height over 35 feet the building shall be set back one (1) additional foot from all property lines; or that if any point on the exterior surface of the building is above 35 feet in height, the vertical projection of such point upon the ground shall not be nearer to any property line than a horizontal distance equal to the height of such point above the ground.

(2) There shall be a front yard of not less than 25 feet.

(Ord. No. 11459, § 2, 09-16-03)

(3) There shall be a side yard of not less than 25 feet where side yard adjoins a residential zone.

(Ord. No. 11459, § 2, 09-16-03)

(4) There shall be a rear yard of not less than 25 feet where the rear yard adjoins a residential zone.

(Ord. No. 11459, § 2, 09-16-03)

(5) No site shall be covered with building to an extent greater than 65 percent of the area of said site.

(Ord. No. 11459, § 2, 09-16-03)

(6) Other than as provided above, no other front, rear, or side yards are required, but where buildings are separated, the distance between them shall be at least 10 feet.

(Ord. No. 11459, § 2, 09-16-03)

(7) Communication towers shall be subject to the special setback requirements set forth in article VIII.

(Code 1995, Appendix B, Art. V, § 1022; Ord. No. 11253, 3/19/02; Ord. No. 11459, § 2, 09-16-03)

Cross reference - Off-street parking requirements, article V, section 38-471, et seq.

(Ord. 11459, § 2, 09-16-03)

Sec. 38-333. General provisions.

(1) No materials, supplies, or equipment excepting trucks and passenger autos shall be stored in any area on the lot, except inside a closed building.
(2) The total area of identifying signs shall not exceed 100 square feet.
(3) No free-standing sign shall be permitted within 10 feet of a residential zone.
(4) Directional signs shall be permitted for customer convenience, not exceeding two (2) square feet.
(5) Signs illuminated by exposed tubes, bulbs or similar exposed light sources shall be prohibited.
(6) Exterior spot lighting or other illumination of structures shall be directed away from adjoining residential zones.
(7) Any industrial use shall be screened on all side yard and rear yard lot lines adjoining a residential use or zone by one (1) of the methods given below, as selected by the owner.

(Ord. No. 10383, 02/20/96; Ord. No. 10397, 04/02/96)

(a) A greenbelt planting strip, not less than fifteen (15) feet in width. Such greenbelt shall be composed of at least:
(i) One row of deciduous and evergreen trees, spaced not more than fifteen (15) feet apart, at least eight (8) feet tall, and with a minimum trunk diameter of one and one-half (1-1/2) inches at planting, and
(ii) One row of shrubs, with a ratio of two deciduous to one evergreen shrub, spaced an average of five (5) feet apart. Such shrubs shall be a minimum of thirty (30) inches in height at planting and expected to grow to a height of (8) feet in 3 or 4 full growing seasons; or
(b) Natural vegetation can be retained if it meets the intent of this section, or supplemented to meet the intent of this section; or
(c) A sight obscuring screen (either solid or veil block, or some form of fence that is at least 50% opaque and at least six (6) feet high).

(Ord. No. 6717, 1/29/74; Code 1995, Appendix B, Art. V, § 1024)

Secs. 38-334 - 38-340. Reserved.

DIVISION 22. M-4 OUTDOOR INDUSTRIAL USE ZONE

Sec. 38-341. Use regulations.

(1) The following uses shall be permitted within this zone provided the property line of any such use shall be located more than one thousand (1,000) feet away from the nearest boundary of any residential or commercial zone:
- (a) coal screening and sieving plants;
- (b) junk yards or salvage yards;
- (c) sanitary landfills;
- (d) sawmills;
- (e) stockyards;
- (f) rock crushers;
- (g) stone mills or quarries;
- (h) gravel pits;
- (i) asphalt plants;
- (j) cement or concrete plants;
- (k) or any other outdoor industrial use which in the judgment of the Director of Codes Administration is similar in character and impact to the above uses.

(2) All other industrial uses permitted in the M-1 Manufacturing Zone shall also be permitted in the M-4 Outdoor Industrial Use Zone subject to the specific requirements of article V, sections 38-300(2), 38-300(3), and 38-300(4). Communications towers may be built only with a Special Permit under the terms specified in article VIII.

(Ord. No. 11253, 3/19/02)

(3) The following uses shall be <u>PROHIBITED</u>:
- (a) Dwellings, except watchman's houses
- (b) Cemeteries

(4) It is not the intent of this Ordinance to require that property be zoned M-4 for the use of portable rock crushers and sawmills at a construction site for a specific project. Such equipment shall not be permitted on a permanent basis except in an M-4 zone. The Director of Codes Administration shall have the authority to determine if the use of such equipment has been established on a permanent basis.

(5) Reasonable conditions concerning the location and method of operation of these uses may be approved by the City Council in accordance with those sections of the T.C.A. which enable local legislative bodies to impose certain conditions and restrictions as deemed necessary for the general welfare of the citizens of Chattanooga. If the City Council determines that the proposed use will have an adverse impact on the surrounding properties or negatively affect the quality of life of persons inhabiting said properties, a rezoning request may be denied.

(6) In all instances in which state or federal surface mining regulations apply, the following additional conditions shall be attached:
- (a) Copies of applications for a permit shall be submitted to the Regional Planning Agency with an application to rezone the property, or to the City Engineer's Office if the use of existing M-4 property changes to one where state or federal surface mining regulations apply. No application to rezone property shall be considered by the Planning Commission or the City Council until evidence of submittal of the permit application has been provided.

(b) A copy of a preblast survey for all properties located within a one (1) mile radius of the area covered by the mining permit shall be filed with the application for rezoning with a copy to be filed with the City Engineer for review and comment. A report and recommendation from the City Engineer shall be submitted to the Regional Planning Agency staff prior to the "Staff Review of Zoning" meeting for the month the rezoning petition is to be heard by the Planning Commission. In the case of a change of use in an existing M-4 zone, the report from the City Engineer shall be submitted to the Director of Codes Administration upon completion.

(c) A plan of operation shall be prepared and submitted to the Traffic Engineer's Office for approval showing all intended haul routes within the City of Chattanooga and evidence that all load limits of bridges used in the operation will be met. No variation from the approved route shall be permitted except by written permission of the City Traffic Engineer. A report from the Traffic Engineer shall be submitted to the Regional Planning Agency staff prior to the "Staff Review of Zoning" meeting for the month the rezoning petition is to be heard by the Planning Commission. In case of a change of use in an existing M-4 zone the report from the City Traffic Engineer shall be submitted to the Director of Codes Administration upon completion.

(7) Any use permitted in M-4 where state or federal surface mining regulations do not apply may be changed to a use where they do apply, subject to approval of the preblast survey and haul routes by the City Engineer and Traffic Engineer, respectively.

(8) It shall be a condition of the issuance of M-4 zoning when state or federal surface mining regulations apply that the owner or operator of the facility maintain during the term of its use liability insurance and performance bonds as follows:

(a) Evidence of liability insurance in an appropriate amount (to be determined by the City council upon recommendation of the City Attorney) shall be maintained with current certificates of insurance filed with the City's Risk Manager.

(b) The owner or operator of the facility shall maintain a current performance bond in the amount of Two Thousand Dollars ($2,000.00) per acre to be filed with the City's Risk Manager to assure compliance if state, federal and local laws and regulations apply relative to reclamation of disturbed land within the City of Chattanooga.

(c) The above requirements of a) and b) may be waived if appropriate alternative security is approved by the City Council upon recommendation by the City Attorney.

(9) All height and area regulations specified within Sec. 38-304 are adopted within this zone by reference.

(10) All screening provisions specified within section 38-305, as well as the screening provisions set forth within the Chattanooga Landscaping Ordinance otherwise applicable to M-1 Manufacturing Zone, are adopted with this zone by reference.

(Ord. No. 10811, 12/15/98)

Cross reference - Off-street parking requirements, article V, section 38-471, et seq.
(Code 1995, Appendix B, Art. V, § 1026; Ord. 11459, §2, 09-16-03)

Secs. 38-342 - 38-350. Reserved.

DIVISION 23. F/W FLOODWAY ZONE

Sec. 38-351. Purpose.

The Floodway Zone is established for the purpose of maintaining the capability of the Tennessee River (Nickajack Lake), its tributaries, and their adjacent lands to drain flood waters; for the purpose of protecting the river, creek channels, streams, and flood plains from encroachment, so that flood heights and flood damage will not be increased; to provide necessary regulations for the protection of the public health and safety; and to reduce the financial burdens imposed upon the community by floods and the inundation of land.
(Code 1995, Appendix B, Art. V, § 1026)

Sec. 38-352. Permitted uses.

Any lawful use permitted in the various zoning zones shall also be permitted in the portions of such zoning zones lying within the Floodway Zone subject to all applicable height, yard area, setback, off-street parking or other regulations applicable in such zone; provided, however, that no fill, structure, development, encroachment or substantial improvements shall be permitted within the Floodway Zone.
(Code 1995, Appendix B, Art. V, §1102)

Secs. 38-353 - 38-360. Reserved.

DIVISION 24. F/H FLOOD HAZARD ZONE REGULATIONS

Sec, 38-361. Areas included.

(1) The flood hazard zone includes all areas covered by the Floodway Zone plus all areas of special flood hazard as set forth and identified as such by the Federal Emergency Management Agency in its most recent floodway maps and Flood Insurance Rate Maps (FIRM) for the community, all property which is considered to be below the elevation of the "High Water Stage" for the Tennessee River and its tributaries and any area included or added by Tennessee Valley Authority study unless certification and documentation by a registered professional engineer or architect is provided demonstrating to the satisfaction of the Director of Codes Administration that a certain property in question is actually above the "High Water Stage." Such certification and documentation shall be filed and maintained as part of the permanent record.

(2) Regardless of the elevation, if the site is located within the Special Flood Hazard Area on the Flood Insurance Rate Map (FIRM), insurance will still be required as a condition of a loan unless an official Letter of Map Amendment (LOMA) or Letter of Map Revision (LOMR) is obtained from FEMA. Procedures for obtaining LOMA/LOMR's are available from the Director of Codes Administration.

(Code 1995, Appendix B, Art. V, § 1120)

(3) The areas of special flood hazard identified on the City of Chattanooga, Tennessee, Federal Emergency Management Agency, Flood Insurance Study (FIS) and Flood Insurance Rate Map (FIRM), Community Panel Numbers listed below, effective date November 7, 2002, are adopted by reference.

470072C0214	470072C0216	470072C0217	470072C0218
470072C0219	470072C0228	470072C0229	470072C0236
470072C0237	470072C0238	470072C0239	470072C0243
470072C0315	470072C0316	470072C0317	470072C0318
470072C0319	470072C0326	470072C0327	470072C0328
470072C0329	470072C0331	470072C0332	470072C0333
470072C0334	470072C0336	470072C0337	470072C0338
470072C0339	470072C0341	470072C0342	470072C0343
470072C0344	470072C0351	470072C0352	470072C0353
470072C0354	470072C0456	470072C0357	470072C0358
470072C0359	470072C0361	470072C0362	470072C0363
470072C0364	470072C0366	470072C0367	470072C0368
470072C0369	470072C0378	470072C0379	470072C0380
470072C0386	470072C0387	470072C0388	470072C0430
470072C0431	470072C0451	470072C0452	470072C0456
470072C0457	470072C0477	470072C0481	470072C0482

(Ord. No. 121318, §2, 11-17-09)

Sec. 38-362. Permitted uses.

Any lawful use permitted in the various zoning zones shall also be permitted in the portions of such zoning zones underlying the Flood Hazard Zone subject to all applicable height, yard area, setback off-street parking, or other regulations applicable in such zones; provided, however, that the following provisions for flood hazard reduction shall apply.
(Code 1995, Appendix B, Art. V, § 1121)

Sec. 38-363. General standards for flood hazard reduction.

In all areas of special flood hazard the following provisions are required:

(1) All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.

(2) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

(3) All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage.

(4) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system in accordance with regulations of the Tennessee Department of Health.

(5) 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 in to flood waters in accordance with regulations of the Tennessee Department of Health. Sewers and manholes constructed below the 100-Year elevation shall be water tight. All manholes shall be constructed so that the manhole covers are not below the High Water Stage.

(6) On-site waste disposal systems shall not be allowed.

(7) Any alteration, repair, reconstruction, or improvements to a building on which the start of construction was begun after the effective date of these regulations, shall meet the requirements of "new construction" as contained in these regulations.

(8) Electrical, heating, ventilation, plumbing, and 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.

(9) For all new construction and substantial improvements, fully enclosed areas below the lowest floor that are used solely for parking of vehicles, building access or storage in an area other than a basement and subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for entry and exit of flood waters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:

A minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one (1) foot above grade. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of flood waters.

(Ord. No. 12318, § 3, 11-17-09)

(10) Commercial Hazardous waste processing and storage facilities shall not be allowed.

(Code 1995, Appendix B, Art. V, § 1122)

Sec. 38-364. Specific standards.

In all areas of special flood hazard where base flood elevation data has been determined, the following specific provisions are required as determined by the intended land use.
(Code 1995, Appendix B, Art. V, § 1123)

Sec. 38-365. Residential construction.

In AE Zones where Base Flood Elevation data is available, new construction and substantial improvement of any residential building (or manufactured home) shall have the lowest floor, including basement, elevated to no lower than two (2) feet above the Base Flood Elevation if constructed of wood or one (1) foot above base flood elevation if constructed of concrete (slab on grade type construction). Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with the standards of "Enclosures" as provided in Section 38-366.
(Code 1995, Appendix B, Art. V, § 1125; Ord. No. 10459, 8/20/96; Ord. No. 12318, §4, 11-17-09)

Sec. 38-366. Non-residential construction.

In AE Zones, where Base Flood Elevation data is available, new construction and substantial improvement of any commercial, industrial, or non-residential building, shall have the lowest floor, including basement, elevated or floodproofed to no lower than one (1) foot above the level of the Base Flood Elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with the standards of "Enclosures" as provided in Section 38-367.

A registered professional engineer, architect, or licensed surveyor shall certify that the standards of this subsection are satisfied. Such certification and the specific elevation (in relation to mean sea level) to which such structures are flood proofed shall be provided to the Chief Building Inspector or Chief Zoning Inspector.
(Ord. No. 8760, 3/3/87; Code 1995, Appendix B, Art. V, § 1126; Ord. No. 12318, §4, 11-17-09)

Sec. 38-367. Elevated buildings.

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

(a) Designs for complying with this requirement must either be certified by a Tennessee professional engineer, architect or licensed registered surveyor or meet or exceed the following minimum criteria.
    1) Provide a minimum of two openings having a total net area of not less than one(1) square inch for every square foot of enclosed area subject to flooding;
    2) The bottom of all openings shall be no higher than one (1) foot above the finished grade;
    3) Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.

(b) The enclosed area shall be the minimum necessary to allow for parking of vehicles, storage or building access.
(c) The interior portion of such enclosed area shall not be finished or partitioned into separate rooms in such a way as to impede the movement of floodwaters and all such partitions shall comply with the provisions of Sections 38-365 and 366.

(Code 1995, Appendix B, Art. V, § 1126; Ord. No. 12318, §4, 11-17-09)

Sec. 38-368. Standards for manufactured homes and recreational vehicles.

(1) In AE Zones, All manufactured homes placed, or substantially improved, on individual lots or parcels, in expansions to existing manufactured home parks or subdivisions, or in substantially improved manufactured home parks or subdivisions, must meet all the requirements for new construction, including elevation and anchoring.
(2) All manufactured homes placed, or substantially improved in an existing manufactured home park or subdivision must be elevated so that:
   a) In AE Zones, with Base Flood Elevations, the lowest floor of the manufactured home is elevated on a permanent foundation to no lower than two (2) feet above the level of the Base Flood Elevation.
   b) The manufactured home chassis is supported by reinforced piers or other foundation elements of at least an equivalent strength, of no less than 36 inches in height above grade.
   c) The manufactured home must be securely anchored to the adequately anchored foundation system to resist flotation, collapse and lateral movement.

   In an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as the result of a flood, any manufactured home placed of substantially improved must meet the standards of subsection (2) (a) and (c) above.
(3) All recreational vehicles placed in an identified Special Flood Hazard Area must either:
   a) Be on the site for fewer than 180 consecutive days;
   b) Be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is licensed, on its wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached structures or additions), or
   c) The recreational vehicle must meet all the requirements for new construction, including anchoring and elevation requirements of subsection (1) or (2) (a) and (c) above.

(Code 1995, Appendix B, Art. V, § 1127; Ord. No. 12318, §4, 11-17-09)

Sec. 38-369. Standards for subdivision proposals.

(1) All subdivision proposals shall be consistent with the need to minimize flood damage. All subdivision proposals shall have the public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.
(2) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards. Base flood elevation data shall be provided for

subdivision proposals and other proposed development which is greater than the lesser of fifty (50) lots or five (5) acres.

(Code 1995, Appendix B, Art. V, § 1128)

Sec. 38-370. Establishment of development permit.

A Development Permit shall be required to assure that all development takes place in conformance with the provisions of these regulations. No building or land shall hereafter be located, extended, converted, or structurally altered without full compliance with the terms of this section of these and other applicable regulations. These regulations are not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where these regulations and others conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

(Code 1995, Appendix B, Art. V, § 1129)

Sec. 38-371. Interpretation.

In the interpretation and application of these regulations, all provisions shall be:

(a) Considered as minimum requirements.

(b) Liberally construed in favor of the governing body.

(c) Deemed neither to limit nor repeal any other powers granted under state statutes.

(Code 1995, Appendix B, Art. V, § 1130)

Sec. 38-372. Penalties for violation.

Any person who violates these regulations or fails to comply with any of these requirements shall, upon conviction thereof, be punished as provided in article XIV, section 38-681, of these regulations, and in addition shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the City of Chattanooga, Tennessee, from taking such other lawful action as is necessary to prevent or remedy any violation.

(Code 1995, Appendix B, Art. V, § 1131)

Sec. 38-373. Designation of director of codes administration.

The Director of Codes Administration is hereby appointed to administer and implement the provisions of these regulations.

(Code 1995, Appendix B, Art. V, § 1132)

Sec. 38-374. Duties and responsibilities of the director of codes administration.

Duties of the Director of Codes Administration shall include, but not be limited to:

(1) Review all development permits to assure that the permit requirements of these regulations have been satisfied.

(2) Advise permittee that additional federal or state permits may be required, and if specific federal or state permits are known, require that copies of such permits be provided and maintained on file with the development permit.

(3) Notify adjacent communities and the Tennessee State Planning Office prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.

(4) Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

(5) Verify and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved buildings.

(6) Verify and record the actual elevation (in relation to mean sea level) to which the new or substantially improved buildings have been flood-proofed.

(7) When flood-proofing is utilized for a particular building, the Director of Codes Administration shall obtain certification from a registered professional engineer or architect.

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

(9) When base flood elevation and Floodway data has not been provided, then the Director of Codes Administration shall obtain, review, and reasonably utilize any base flood elevation data available from a federal, state or other source, in order to administer the provisions of this chapter.

(10) All records pertaining to the provisions of these regulations shall be maintained in the office of the Director of Codes Administration and shall be open for public inspection.

(Code 1995, Appendix B, Art. V, § 1133)

Sec. 38-375. Permit procedures.

Application for a building development permit shall be made to the Director of Codes Administration on forms furnished by him and may include, but not be limited to, the following:

(1) Plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials; drainage facilities, and the location of the foregoing. Specifically, the following information is required:

(a) Elevation in relation to mean sea level of the lowest floor (including basement) of all buildings.

(b) Elevation in relation to mean sea level to which any non-residential building has been flood-proofed.

(c) A certificate from a registered professional engineer or architect that the non-residential flood-proofed building meets the flood-proofing criteria.

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

(Code 1995, Appendix B, Art. V, § 1134)

Sec. 38-376. Variance procedures.

(1) The City Council, as established by these regulations, shall hear and decide appeals and requests for variances from the requirements of this section.

(2) The City Council shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Director of Codes Administration in the enforcement or administration of these regulations.

(3) Any person aggrieved by the decision of the City Council, or any taxpayer, may appeal such decision to a court of competent jurisdiction.

(4) Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places without regard to the procedures set forth in the remainder of these regulations.

(5) In passing upon applications which relate to areas of special flood hazard, the City Council shall consider all technical evaluations, all relevant factors, standards specified in other sections of these regulations, and:

(a) The danger that materials may be swept onto other lands to the injury of others.

(b) The danger of life and property due to flooding or erosion damage.

(c) The susceptibility of the proposed facility and its content flood damage and the effect of such damage on the individual owner.

(d) The importance of the services provided by the proposed facility to the community.

(e) The necessity to the facility of a waterfront location, where applicable.

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

(g) The compatibility of the proposed use with existing and anticipated development.

(h) The relationship of the proposed use to the comprehensive plan and flood plain management program for that area.

(i) The safety of access to the property in time of flood for ordinary and emergency vehicles.

(j) 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.

(k) The cost 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.

(6) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half (1/2) acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level. As the lot size increases beyond the one-half (1/2) acre, the technical justification required for issuing the variance increases.

(7) Upon consideration of the factors listed above and the purposes of these regulations, the City Council may attach such conditions to the granting of variances as it deems necessary to further the purposes of these regulations.

(8) Variances shall not be issued within the Floodway Zone if any increase in flood levels during the base flood discharge would result.

(Code 1995, Appendix B, Art. V, § 1135)

Sec. 38-377. Conditions for variances.

Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief. Variances shall only be issued upon:

(1) A showing of good and sufficient cause.

(2) A determination that failure to grant the variance would result in exceptional hardship to the applicant.

(3) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or regulations.

Any applicant to whom a variance is granted shall be given written notice specifying the difference between the base flood elevation and the elevation to which the building is to be built and stating that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest flood elevation.

The Director of Codes Administration shall maintain the records of all appeal actions and report any variances to the Federal Insurance Administration upon request.

(Code 1995, Appendix B, Art. V, § 1136)

Sec. 38-378. Warning and disclaimer of liability.

The degree of flood protection required by these regulations 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. These regulations do not imply that land outside the Areas of Special Flood Hazard or uses permitted within such areas will be free from flooding or flood damages. These regulations shall not create liability on the part of the City of Chattanooga, Tennessee or by any officer of employee thereof for any flood damages that result from reliance on these regulations or any administrative decision lawfully made hereunder.

(Ord. No. 12318, §4, 11-17-09)

Secs. 38-379 - 38-390. Reserved.

DIVISION 25. PLANNED UNIT DEVELOPMENT: RESIDENTIAL

Sec. 38-391. Purpose.

The purpose of the Planned Unit Development (sometimes hereinafter referred to as PUD) is to provide the opportunities to create more desirable environments through the application of flexible and diversified land development standards under a comprehensive plan and program professionally prepared. The Planned Unit Development is intended to be used to encourage the application of new techniques and technology to community arrangements with lasting values. It is further intended to achieve economies in land development, maintenance, street systems, and utility networks while providing building groupings for privacy, usable and attractive open spaces, safe circulation, and the general well-being of the inhabitants.
(Code 1995, Appendix B, Art. V, § 1201)

Sec. 38-392. Location.

A PUD may be located in any residential zone, the R-4 Special Zone, the A-1 Urban Agricultural Zone, and in commercial zones in which dwellings are permitted.
(Code 1995, Appendix B, Art. V, § 1202; Ord. No. 10322, 10/24/95; Ord. No. 11107, 12/12/00)

The zoning regulations for Planned Unit Developments in each of the zones area are as follows:

Sec. 38-393. Permitted uses in all PUD's.

(1) Single-family dwellings, excluding factory manufactured mobile homes constructed as a single self-contained unit and mounted on a single chassis;
(2) Two-family dwellings;
(3) Townhouses;
(4) Multi-family dwellings;
(5) Schools;
(6) Parks, playgrounds, and community-owned not-for-profit buildings;
(7) Golf courses, except driving ranges, miniature courses, "Par 3" courses, and other similar commercial operations;
(8) Fire stations and other public buildings;
(9) Churches;
(10) Accessory uses and buildings customarily incident and subordinate to the above.
(11) All uses permitted in A-1 Urban Agricultural Zone shall also be permitted in the A-1 Urban Agricultural Zone PUD.

(Code 1995, Appendix B, Art. V, § 1203; Ord. No. 11107, 12/12/00)

Sec. 38-394. Height and area regulations.

(1) No building shall exceed two and one-half (2-1/2) stories or thirty-five (35) feet in height, except that a building may exceed these height regulations provided that for every one (1) foot of additional height over thirty-five (35) feet, the building shall be set back one (1) additional foot from all property and/or building lot lines.
(2) The minimum development site for PUD shall be two (2) acres in all zones where PUD development is allowed except for the A-1 Urban Agricultural zone. The A-1 Urban Agricultural Zone shall be at least twenty (20) acres.

(Ord. No. 10322, 10/24/95; Ord. No. 11597, § 1, 08-17-04]

(3) No free-standing building shall be closer to any other free-standing building than ten (10) feet and no closer than twenty-five (25) feet to the exterior property line.

(Code 1995, Appendix B, Art. V, § 1204; Ordinance No. 10322, 10/24/95)

Cross reference - Off-street parking requirements, article V, section 38-471, et seq.

(Ord. 11459, § 2, 09-16-03)

Sec. 38-395. General provisions.

(1) A PUD will be shown on the zoning map when the Final PUD Plan has been approved by the City Council and recorded in the Office of the County Register.

(2) In addition, a PUD to be located in an R-3 or R-4 zone shall be:

(a) located along, or within 500 feet of a major street of at least collector status as shown on Major Street Plan as adopted by the Planning Commission, provided access to said street is approved by the City Traffic Engineer; and

(b) located and situated to be in accord with the General Plan and the Transportation Plan.

(Code 1995, Appendix B, Art. V, § 1206; Ord. No. 10322, 10/24/95)

Sec. 38-396. Development standards.

(1) All lots shall have a building area above High Water Stage.

(2) Streets may be at an elevation equal to one (1) foot below flood level.

(Code 1995, Appendix B, Art. V, § 1207)

Sec. 38-397. Site improvements.

(1) All dedicated public streets and all streets, roads, right-of-way or access easements serving lots to be sold shall be constructed in accordance with the Chattanooga Subdivision Regulations on rights-of-way having a minimum width as required by the Chattanooga Subdivision Regulations except that the Planning Commission may grant variances from this requirement using procedures for variances in the Chattanooga Subdivision Regulations.

(Ord. No. 11483, 11/18-03)

(2) When lots are to be sold, all physical improvements required by the Chattanooga Subdivision Regulations including water lines, drainage improvements, etc., shall be installed.

(3) There shall be constructed sidewalks, or an equivalent paved internal pedestrian circulation system. The minimum width of such sidewalks shall be five (5) feet.

(4) Fire hydrants in a location approved by the Chattanooga Fire Department.

(5) Where public sanitary sewers are available, a sanitary sewer system approved by the State of Tennessee shall be installed. Where public sanitary sewers are not available, the method of sewage disposal must be approved by the Chattanooga-Hamilton County Health Department.

(Code 1995, Appendix B, Art. V, § 1208; Ord. No. 11806, § 1, 3-21-06)

Sec. 38-398. Permitted density.

(1) The maximum number of dwelling units in a PUD to be located in an R-1 Residential Zone shall be computed by multiplying the gross acreage to be developed by 5, excluding any area to be developed as a church or school.

(2) The maximum number of dwelling units of a PUD to be located in an R-3, R-4, or any commercial zone in which dwellings are permitted shall be computed by multiplying the gross acreage to be developed by 24, excluding any area to be developed as a church or school.

(3) The maximum number of dwelling units of a PUD to be located in all other residential zones shall be computed by multiplying the gross acreage to be developed by 8, excluding any area to be developed as a church or school.

(4) Where zone boundaries for two or more residential zones divide one tract of land proposed for a PUD, the maximum number of dwelling units shall be computed by multiplying the gross acreage within each zone by the densities given above, and adding the numbers for the whole tract. The allowed maximum number of dwelling units may be located anywhere within the tract, in accordance with the regulations of this chapter. (Ord. No. 10322, 10/24/95)

(5) The maximum number of dwelling units to be developed under a PUD in the A-1 Urban Agricultural Zone shall be computed by multiplying the gross acreage to be developed, excluding set asides, as described in article V, section 38-456, Subsections (2) and (3), by 8.

(Code 1995, Appendix B, Art. V, § 1209; Ord. No. 10322, 10/24/95; Ord. No. 11107, 12/12/00)

Sec. 38-399. Open space requirements.

(1) On-site usable recreation and open space shall be provided. Such area shall be set aside for open space or recreation purposes only. It is intended to serve the residents of the PUD, and should, therefore, be easily accessible to them. If the PUD is to be of individually owned units, then this space shall be maintained in common ownership, established in the appropriate legal manner.

(2) Said open space shall be maintained in one of the following methods:
   (a) by the developer or management authority of the PUD;
   (b) by a Home Owner's Association established by deed restrictions;
   (c) by the City of Chattanooga upon approval of the dedication by the City, as public open space.

(3) Open Space shall be defined as an area suitable for passive recreational use or which provides an area of beautification and landscaping, exclusive of detention ponds, retention ponds, flood-control channel rights-of-way, area devoted to parking, vehicular traffic, or private use, and any other area which does not significantly lend itself to the overall benefit of either the particular development or surrounding environment. Retention and detention ponds ***may*** be included if they are designed as part of a pedestrian-accessible passive park with the following amenities as a minimum: pond fountain (for retention ponds only), benches, and walking path. Detention ponds shall be planted with grass or other live ground cover so as to contribute to the green open space character when the detention pond is dry. Additional amenities may be permitted.

Retention Pond:

A pond or pool used for the ***permanent*** storage of water runoff.

Detention Pond:
A pond or pool used for the ***temporary*** storage of water runoff and which provides for the controlled release of such waters. (Ord. No. 12218, § 1, 3-17-09)

(Code 1995, Appendix B, Art. V, § 1210; Ord. No. 12218, § 1, 3-17-09)

Sec. 38-400. Staging.

(1) The applicant may elect to develop the site in successive stages in a manner indicated in the Planned Unit Development Plan; however, each such stage shall be substantially complete within itself.

(2) The Planning Commission may recommend that the City Council require that development be done in stages if public facilities are not adequate to service the entire development initially.

(Code 1995, Appendix B, Art. V, § 1211)

Sec. 38-401. Changes and modifications; Major Changes.

(1) Major Changes - If a major change is made to the Planned Unit Development after it has been reviewed by the Planning Commission or adopted by the legislative body it shall be considered the same as a new petition and shall be made in accordance with the procedures specified in this Section. A major change is any one of the following:

(a) Any increase in density;

(b) Any change in the outside (exterior) boundaries;

(c) Any significant change in the land use classification;

(d) Any significant change in the location or amount of land devoted to a specific land use;

(e) Any significant change in the exterior appearance from what is shown on any plans, if such exterior plans are submitted or presented by the developer;

(f) Any significant change to the location of access as determined by the City Traffic Engineer based on potential negative impacts, including, but not limited to, traffic patterns, traffic flow, and sight distance or relocating access to another existing public street.

(Ord. No. 12394, 5-18-10)

(g) Any increase in building height one story or greater.

(2) Minor Changes - A minor change is any change that is not found in the list of major changes. Minor changes made to the Planned Unit Development after it has been reviewed by the Planning Commission or adopted by the legislative body may be approved by the Planning Commission Staff. Staff shall have the right and responsibility to withhold approval and refer the PUD Plan to the Planning Commission in any situation where the various reviewing agencies, utilities, or Planning Commission member is in disagreement; or in cases involving unusual land features or patterns of development.

(3) All changes to the PUD Plan, minor or major, shall be recorded.

(Code 1995, Appendix B, Art. V, § 1212; Ord. No. 10322, 10-24-95; Ord. No. 12160, 9-16-08; Ord. No. 12394, 5-18-10)

Sec. 38-402. Application procedure for planned unit development.

(1) To obtain a Special Exceptions Permit to develop a Planned Unit Development, the developer shall submit a Preliminary Planned Unit Development Plan to the

Chattanooga-Hamilton County Regional Planning Commission for its review and recommendation to the City Council of the City of Chattanooga. The Preliminary PUD Plan shall be drawn at a minimum scale of one inch equals one hundred feet (1" = 100'), and shall:

(a) define the location, size, accessibility, and existing zoning of the proposed site;

(b) indicate the surrounding type of development and land use;

(c) set forth the type of development proposed, the density of the proposed development, and the location of all structures, (except free-standing single family structures), parking areas, and open space;

(Ord. No. 12283, §1, 9-15-09)

(d) show a plan for streets, thoroughfares, public utilities, school, and other public or community uses.

(e) In addition to the above, the Planning Commission or City Council may require such other additional information as may be determined necessary to adequately review the proposed development.

(2) The Planning Commission shall hold a public hearing on the proposed Preliminary PUD Plan. Notice and publication of such public hearing shall conform to the procedures prescribed in article XIII of this chapter.

(3) Upon the recommendation for approval, approval with conditions, or disapproval by the Planning Commission, the Preliminary PUD Plan shall be submitted to the City Council for consideration; public hearing and action.

The recommendation of the Planning Commission shall be accompanied by a report stating the reasons for the approval or disapproval of the Preliminary PUD Plan, with specific reference to, but not limited to, the following conditions:

(a) The property adjacent to the area included in the plan will not be adversely affected;

(b) The plan is consistent with the intent and purpose of this ordinance to promote public health, safety, morals, and general welfare.

(c) That the building shall be used only for single-family dwellings, two-family dwellings, or multi-family dwellings, and the usual accessory uses such as private or storage garages, storage space, and for community activities, including school and/or churches.

(d) There is a need for such development in the proposed location.

(e) There is a reasonable assurance that development will proceed according to the spirit and letter of the approved plans.

(4) No Preliminary PUD shall be approved by the City Council unless it is first submitted to the Planning Commission.

(5) The resolution by the City Council approving the Preliminary and Final PUD Plan shall have attached thereto, as an exhibit, the official PUD Plan.

(6) Upon approval, or approval with conditions, of the Preliminary PUD Plan by the City Council, the developer may complete a Final PUD Plan for review by the Chattanooga-Hamilton County Regional Planning Agency (RPA).

At the discretion of the developer, the PUD Plan may be submitted as a Preliminary and Final together.

The Final PUD Plan, if submitted separately and after approval of a Preliminary PUD Plan, shall substantially conform to the Preliminary PUD Plan.

When a Final PUD is approved, or approved with conditions, by the RPA, the RPA shall submit a resolution to the City Council recommending that the Final PUD be approved or approved with conditions. The Final PUD drawing, together

with a list of any conditions not shown on the drawing, shall be attached to the RPA Resolution.

After notice and publication as provided in article XIII, section 672, the City Council shall hold a public hearing to review the Final PUD and take legislative action.

Final legislative action on a change of zoning in conjunction with a PUD Plan shall be contingent upon the issuance of the Special Exceptions Permit for the Final PUD by the City Council.

The Council, by resolution, may approve or approve with conditions, the Final PUD and issue a Special Exceptions Permit. A copy of the Final PUD drawing together with any conditions not shown on the drawing shall be attached to the Resolution as exhibits. (Ord. No. 10639, 11-18-97)

(7) Approval of the Preliminary PUD Plan shall expire twenty-four (24) months from the after its approval by the City Council if the Final PUD Plan has not been submitted to the Planning Commission Staff.

Submittal of a Final PUD Plan shall constitute an automatic permanent extension of the Preliminary PUD Plan; or if the Preliminary PUD Plan expires prior to submittal of a Final PUD Plan, the City Council may grant an extension for an additional period not to exceed one (1) year upon condition that no major changes have been made to the Plan as originally approved, and provided that no other reason or circumstance, as determined by the Planning Commission staff, warrants resubmittal to the Planning Commission.

(8) Any Special Exceptions Permit issued on the basis of a Final PUD Plan or Preliminary and Final PUD Plan together shall expire twenty-four (24) months from and after its approval if said Plan has not been recorded in the Office of the County Register. If the Special Exceptions Permit expires prior to recording of the Final PUD Plan or Preliminary and Final PUD Plan, the City Council may grant an extension for an additional period not to exceed one (1) year.

(Ord. No. 10322, 10-24-95)

(9) A Special Exceptions Permit may be revoked by the City Council upon written report by the Director of Codes Administration that the PUD is not being constructed in conformance with the Plan as recorded.

If the Special Exceptions Permit shall expire or is revoked by resolution of the City Council, no other building permit shall be issued for any construction whatsoever upon the land area covered by the PUD Plan until a decision is made by the City Council as to whether such land area, or any part thereof, shall be rezoned; and if the decision is that it should be rezoned, then no building permit shall be issued until such rezoning is finally effectuated by chapter.

If the Special Exceptions Permit is revoked, the Director of Codes Administration shall have the responsibility for notifying the staff of the Planning Commission. The Building Official, after having given said notice, may thereafter upon proper application issue building permits for construction upon said land area consistent with the then prevailing or existing zoning on such land.

(Ord. No. 10322, 10-24-95)

(10) No building permit shall be granted until after issuance of the Special Exceptions Permit and the recording of the Final PUD Plan in the Office of the County Register. There shall be no start of construction prior to recording of the Final PUD Plan. The Director of Codes Administration shall revoke any building permit issued in reliance upon said Plan, as finally approved, at such time as it reasonably appears that such Plan is not being complied with; and notice thereof shall be given to the staff of the Chattanooga-Hamilton County Regional

Planning Commission. During such time as a Final PUD Plan is in effect, no building permit for any other construction purpose not in accordance with such plan shall be issued.

(Code 1995, Appendix B, Art. V, § 1213; Ord. No. 10322, 10-24-95)

Secs. 38-403 - 38-410. Reserved.

DIVISION 26. PLANNED UNIT DEVELOPMENT: INSTITUTIONAL

Sec. 38-411. Purpose.

(The purpose of the Institutional Planned Unit Development (sometimes hereinafter referred to as Institutional PUD) is to provide the opportunities to create more desirable environments through the application of flexible and diversified land development standards under a comprehensive plan and program professionally prepared. The Institutional Planned Unit Development is intended to be used to encourage the application of new techniques and technology to community development which will result in superior living or development arrangements with lasting values. It is further intended to achieve economies in land development, maintenance, street systems, and utility networks while providing building groupings for privacy, usable and attractive open spaces, safe circulation, and the general well-being of the inhabitants.
(Code 1995, Appendix B, Art. V, § 1301 & 1303)

Sec. 38-412. Classification.

(1) There shall be one (1) classification of an Institutional Planned Unit Development. An Institutional PUD may be located in an R-4 Special Zone.
(Code 1995, Appendix B, Art. V, § 1302)

(2) The zoning regulations for the Institutional Planned Unit Development in the R-4 Special Zone are set forth in the remaining sections of this division below.
(Code 1995, Appendix B, Art. V, § 1303)

Sec. 38-413. Permitted uses.

(1) College and university-owned facilities (e.g., classroom facilities, administration facilities, dormitories, sports related facilities, cafeterias, libraries, maintenance buildings, etc.)
(2) Churches, synagogues and houses of worship, and student centers sponsored by religious organizations
(3) Social agencies and other non-commercial public and semi-public uses
(4) Commercial parking lots
(5) Professional, medical, or dental offices and clinics
(6) Laboratories and research centers
(7) Single-, two-, and multi-family residential dwelling units, excluding factory manufactured mobile homes constructed as a single self-contained unit and mounted on a single chassis.
(8) Offices
(9) Parks and playgrounds
(10) Professional and/or hobby clubs
(11) Fraternity and/or sorority houses
(12) Hospitals and nursing homes
(13) Public, private, and parochial schools, kindergartens, and day care centers and homes
(14) Accessory uses and buildings
(Code 1995, Appendix B, Art. V, § 1303)

Sec. 38-414. Area, land coverage, and density of development.

(1) The development site for an Institutional Planned Unit Development shall be not less than five (5) acres.
(2) The applicant shall be required to submit a Plan of Development to the City Council for approval of all uses in the Institutional Planned Unit Development.
(3) Building coverage shall not exceed 35% of the total Planned Unit Development area (excluding public streets).
(4) Off-street surface parking areas, parking structures, and the service drives shall not exceed 35% of the total Development Area.
(5) No free-standing building shall be closer than fifteen (15) feet to any other free-standing building and no closer than ten (10) feet from any exterior property line, or twenty-five (25) feet from any public street.
(6) The density of dormitories, apartment-dormitories, and married student apartments shall not exceed 50 bedrooms per acre of the entire Institutional PUD.

(Code 1995, Appendix B, Art. V, § 1304)
Cross reference - Off-street parking requirements, article V, section 38-471, et seq.
(Ord. 11459, § 2, 09-16-03)

Sec. 38-415. General provisions.

(1) An Institutional Planned Unit Development will be shown on the zoning maps when the final Institutional PUD Plan has been approved by the City Council. An Institutional PUD will be located within an R-4 Zone, as delineated on the zoning maps of the City of Chattanooga.
(2) The minimum development site shall be at least five (5) acres.

(Code 1995, Appendix B, Art. V, § 1306)

Sec. 38-416. Development standards.

All lots shall have a building site not lower than two (2) feet below the elevation of the 100-year flood. Streets may not be at an elevation lower than two (2) feet below the elevation of the 100-year flood.
(Code 1995, Appendix B, Art. V, § 1307)

Sec. 38-417. Site improvements.

(1) All public streets shall be constructed in accordance with plans and specifications furnished by the City Engineers on a dedicated right-of-way having a minimum width of 50 feet.
(2) There shall be constructed sidewalks, or an equivalent paved internal pedestrian system. The minimum width of such sidewalks shall be six (6) feet.
(3) Curbs and gutters shall be constructed on all public streets and permanent private drives.
(4) Storm drainage facilities shall be constructed in accordance with standard plans and specifications furnished by the City Engineer.
(5) Fire hydrants shall be installed in locations approved by the Chattanooga Fire Department.
(6) A sanitary sewer system shall be installed and approved by the Chattanooga-Hamilton County Health Department and the City Engineer.

(7) No residence or structure for human habitation shall be erected unless its first habitable floor elevation is equal to or greater than the 100-year flood level.

(8) A bond, the amount of which to be determined by the City Engineer, may be required of the applicant to assure the construction of all planned site improvements.

(Code 1995, Appendix B, Art. V, §1308)

Sec. 38-418. Open space requirements.

(1) Usable On-site Recreation and Open Space
On-site usable recreation and open space shall be provided. Such areas shall be set aside for open space or recreation purposes only. It is intended to serve as a respite for the owners, tenants, and users of the Institutional PUD area, and should, therefore, be easily accessible to them.

(2) Maintenance of Open Space
Said open space shall be maintained in one of the following methods:
(a) By the developer or management authority of the Institutional PUD.
(b) By the City of Chattanooga upon approval of the dedication to the City as public open space.
(c) By the owner of the land on which the Institutional PUD is located.

(Code 1995, Appendix B, Art. IV, § 1309)

Sec. 38-419. Staging.

The applicant may elect to develop the site in successive stages in a manner indicated in the Planned Unit Development Plan; however, each such stage shall be substantially complete within itself. Also, the Planning Commission may recommend that the City Council require that development be done in stages if public facilities are not adequate to service the entire development initially.
(Code 1995, Appendix B, Art. V, § 1310)

Sec. 38-420. Changes and modifications.

(1) Major Changes - If a major change is made to the Planned Unit Development after it has been reviewed by the Planning Commission or adopted by the legislative body it shall be considered the same as a new petition and shall be made in accordance with the procedures specified in this Section. A major change is any one of the following:
(a) Any increase in density;
(b) Any change in the outside (exterior) boundaries;
(c) Any significant change in the land use classification;
(d) Any significant change in the location or amount of land devoted to a specific land use;
(e) Any significant change in the exterior appearance from what is shown on any plans, if such exterior plans are submitted or presented by the developer;
(f) Any change to the location of access;
(g) Any increase in building height one story or greater.

(2) Minor Changes - A minor change is any change that is not found in the list of major changes. Minor changes made to the Planned Unit Development after it has been reviewed by the Planning Commission or adopted by the legislative

body may be approved by the Planning Commission Staff. Staff shall have the right and responsibility to withhold approval and refer the PUD Plan to the Planning Commission in any situation where the various reviewing agencies, utilities, or Planning Commission member is in disagreement; or in cases involving unusual land features or patterns of development.

(Code 1995, Appendix B, Art. V, § 1311; Ord. No. 10322, 10/24/95; Ord. No. 12160, 9/16/08)

Sec. 38-421. Application procedure for institutional planned unit development.

(1) Preliminary Planned Unit Development Plan
To obtain a Special Exceptions Permit to develop an Institutional Planned Unit Development, the developer shall submit a Preliminary Planned Unit Development Plan to the Chattanooga-Hamilton County Regional Planning Commission for its review and recommendations to the City Council of the City of Chattanooga.

(2) No Preliminary PUD Plan shall be approved by the City Council unless it is first submitted to the Planning Commission.

(3) The Preliminary PUD Plan shall be drawn at a minimum scale of one inch equals one hundred feet (1”=100’) and shall:
- (a) Define the location, size, accessibility, and existing zoning of the proposed site.
- (b) Indicate the surrounding type of development and land use.
- (c) Show the topography of the area at 2-foot contour levels.
- (d) Set forth the type of development proposed, the density of the proposed development, and the location of all structures, parking areas, and open space.
- (e) Show a plan for streets, thoroughfares, public utilities, schools, and other public or community uses.
- (f) Show the 100-year flood level, if applicable.
- (g) Show a plan for uniform sign design and control.
- (h) In addition to the above, the Planning Commission or City Council may require such other additional information as may be determined necessary to adequately review the proposed development.
- (i) The Preliminary PUD Plan may be submitted without meeting all of the above requirements if items to be varied are specifically noted in the Plan. Such notation shall not establish approval for any variance, however.

(4) Upon the recommendation for approval, approval with conditions, or disapproval by the Planning Commission, the Preliminary Institutional PUD Plan shall be submitted to the Council for consideration, public hearing and action. The recommendation of the Planning Commission shall be accompanied by a report stating the reasons for the approval or disapproval of the Preliminary Institutional PUD Plan, with specific reference to, but not limited to, the following conditions:
- (a) The property adjacent to the area included in the plan will not be adversely affected;
- (b) The plan is consistent with the intent and purpose of this Ordinance to promote public health, safety, morals, and general welfare.
- (c) There is a need for such development in the proposed location.
- (d) There is a reasonable assurance that development will proceed according to the spirit and letter of the approved plans.

(5) The resolution by the City Council approving the Preliminary Institutional PUD Plan shall have attached thereto, as an exhibit, the official PUD Plan.

(6) Upon approval or approval with conditions of the Preliminary Institutional PUD Plan by City Council resolution, the developer may complete a Final Institutional PUD Plan for review by the Chattanooga-Hamilton County Regional Planning Agency (RPA).

(7) At the discretion of the developer, the IPUD Plan may be submitted as a Preliminary and Final together.

(8) The Final Institutional PUD Plan, if submitted separately and after approval of a Preliminary Institutional PUD Plan, shall substantially conform to the Preliminary Institutional PUD Plan.

(9) When a Final Institutional PUD is approved or approved with conditions by the RPA, the RPA shall submit a resolution to the City Council recommending that the Final Institutional PUD be approved or approved with conditions. The Final Institutional PUD drawing, together with a list of any conditions not shown on the drawing, shall be attached to the RPA Resolution.

(10) After notice and publication as provided in article XIII, section 38-672, the City Council shall hold a public hearing to review the Final Institutional PUD and take legislative action.

(11) Final legislative action on a change of zoning in conjunction with an PUD Plan shall be contingent upon the issuance of the Special Exceptions Permit for the Final Institutional PUD by the City Council.

(12) The Council, by Resolution, may approve or approve with conditions, the Final Institutional PUD and issue a Special Exceptions Permit. A copy of the Final Institutional PUD drawing together with any conditions not shown on the drawing shall be attached to the resolution as exhibits. (Ord. 10639, 11/18/97)

(13) Building Permits: No building permits shall be issued until after approval of the Special Exceptions Permit issued on the basis of the Final Institutional PUD Plan or Preliminary and Final Plan together by the City Council. The Director of Codes Administration shall revoke any permit issued in reliance upon said plan, as finally approved at such time as it reasonably appears that such plan is not being complied with; and notice thereof shall be given to the staff of the Chattanooga-Hamilton County Regional Planning Commission. During such time as a Final Institutional PUD Plan is in effect, no building permit for any other construction purpose not in accordance with such plan shall be issued.

(Ord. 10322, 10/24/95)

(14) Approval of the Preliminary PUD Plan shall expire twelve (12) months from and after its approval by the Planning Commission or the City Council, whichever is later.

(15) Any Special Exception Permit issued on the basis of an approved Final Institutional PUD Plan or Preliminary and Final submitted together shall expire twelve (12) months from and after its issuance if the development, as planned, has not been adhered to. Provided, however, that with good cause shown said Special Exception Permit may be extended by the City Council for additional periods not to exceed one (1) year. (Ord. 10322, 10/24/95)

(16) If the Special Exceptions Permit is revoked, or expires, the Director of Codes Administration shall have the responsibility for notifying the staff of the Planning Commission.

(17) The Building Official may thereafter upon proper application issue building permits for construction upon said land area consistent with the then prevailing or existing zoning on such land.

(Code 1995, Appendix B, Art. V, § 1312; Ord. 10322, 10/24/95)

Secs. 38-422 - 38-430. Reserved.

DIVISION 27.

DOWNTOWN RESIDENTIAL/MIXED USE DISTRICT

REPEALED. (Ord. No. 12370, §1, 3/10/10)

Secs. 38-431 - 38-450. Reserved.

DIVISION 28. A-1 URBAN AGRICULTURAL ZONE

Sec. 38-451. Definitions.

(1) *Livestock*: Horses, mules, cows, pigs, goats, sheep, emu, ostrich, rabbits and all other animals that typically are kept primarily for productive or useful purposes rather than as pets.

(2) *Fowl*: Chickens, ducks, guineas, turkeys, etc. (excluding peacocks).

(Code 1995, Appendix B, Art. V, § 1601)

Sec. 38-452. Purpose.

The purpose of the A-1 Urban Agricultural Zone is to provide the opportunity for agricultural land and related uses within the City limits. This zone also designed to provide an opportunity for Planned Unit Development (under Planned Unit Development: Residential article V, section 38-145, hereafter referred to as PUD) that allows for open space design for the protection of sensitive natural resources such as floodplains, slopes over 20%, riparian areas, wetlands, and prime agricultural soils.

(Code 1995, Appendix B, Art. V, § 1602)

Sec. 38-453. Permitted uses.

(1) Agricultural uses such as the growing of crops, dairying, grazing, the raising and maintaining of poultry and livestock, horticulture, viticulture, floriculture, forest and woods. Also permissible as an agricultural use are such uses as riding academies, livery or boarding stables, and other similar enterprises and uses. It shall be unlawful for any person to own, keep or maintain any livestock or fowl on land that does not satisfy each of the following conditions:

(a) Livestock shall only be kept in an area that satisfies the following conditions:

(i) Each cow, equine, swine or other large livestock shall have a minimum pasture area of one acre. Each goat, sheep, emu, ostrich or other small livestock shall have minimum pasture area of one-fourth (1/4) acre. Livestock pasture areas must be securely fenced at all times.

(ii) Livestock animals must be provided with shelter to protect them from the elements.

(iii) The shelter and fenced pasture area shall be kept clean, sanitary and free from accumulations of animal excrement and objectionable odor.

(iv) No barn or building that houses livestock animals shall be erected or maintained within 25 feet of any property line or within 150 feet of any property that is zoned or used for residential purposes.

(v) All food and feed kept for feeding livestock shall be kept and stored in rat-free and rat-proof containers, compartments or rooms unless kept in a rat-proof building. Any building or container used for the storage of feed shall be located at least 150 feet from any residential building and at least 150 feet from any other property that is zoned or used for residential purposes.

(vi) No swine shall be kept within 150 feet of any property that is zoned or used for residential purposes.

(b) Fowl shall only be kept in an area that satisfies the following conditions:

(i) No more than 20 fowl shall be kept or maintained per acre.

(ii) Such animals must be provided adequate shelter to protect them from the elements and must be contained in a secure fenced enclosure at all times.

(iii) Such animals must be confined at all times in a secure enclosure that is not less than 18 inches in height. The enclosure must be well ventilated and well drained so there is no accumulation of odor or moisture.

(iv) The enclosure shall have a minimum of ten square feet of floor area for each fowl.

(v) The enclosure shall be kept clean, sanitary and free from accumulation of animal excrement and objectionable odor.

(vi) No enclosure shall be erected or maintained within 25 feet of any property line or within 150 feet of any other property that is zoned or used for residential purposes.

(vii) All food for fowl shall be kept and stored in rat-proof and rat-free containers, compartments or rooms unless kept in a rat-proof building. Any building or container used for the storage of feed shall be located at least 150 feet from any residential building and at least 150 feet from any property that is zoned or used for residential purposes.

(2) Detached single-family dwellings, excluding factory manufactured homes constructed as single self-contained unit and mounted on a single chassis.

(3) One stand, building or portable building for the sale of edible products or products produced entirely on the premises, not including livestock or fowl, provided that the stand does not exceed an area of one thousand (1000) square feet and is set back from all property lines by at least 25 feet.

(4) One free-standing, on-premises, sign limited to:

(a) Signs not over twelve (12) square feet in area advertising the sale of farm products produced on the premises.

(b) Churches, schools, public buildings, and other non-agricultural permitted land uses may have one (1) bulletin board or identification sign, not to exceed twenty-four (24) square feet in area; such bulletin board or identification sign shall indicate nothing more than the name and/or address of the premises, and schedule of services or other information relevant to the operation of the premises.

(c) An allowable sign may have direct illumination provided that it is lit in such a way that the light source cannot be seen from any public way or adjoining property. The lighting intensity shall not exceed 25 foot-candles at the face of the sign. No flashing or intermittent lights will be permitted.

(d) No sign shall be located less than 10 feet from any property line.

(5) Churches or similar places of worship with accessory structures.

(6) Elementary or high schools, public or private, and institutions of higher learning.

(7) Parks, playgrounds and community-owned not-for-profit buildings.

(8) Accessory uses and buildings customarily incidental and subordinate to the above.

(9) Planned Unit Development: Residential (as described under article V, section 38-391).
(10) Home occupations.
(11) Communications towers subject to the provisions of article VIII.

(Code 1995, Appendix B; Art. V, § 1603; Ord. No. 11253, 3/19/02)

Sec. 38-454. Area regulations.

(1) Minimum Lot Area: The minimum area requirement shall be 20 acres.
(2) Front Yard: There shall be a minimum front yard of not less than twenty-five (25) feet.
(3) Side Yard:
  (a) For residential buildings and accessory buildings, there shall be a minimum side yard of not less than twenty-five (25) feet, except under a PUD as provided in Sec. 38-453.
  (b) For the building of churches, schools or other permitted uses and their accessory structures, other than dwellings, there shall be a side yard of not less than twenty-five (25) feet.
(4) Rear Yard:
  (a) There shall be a rear yard for any building of not less than twenty-five (25) feet.
  (b) Unattached buildings of accessory use shall not be located closer to a rear lot line than ten (10) feet.

(Code 1995, Appendix B, Art. V, § 1604)

Sec. 38-455. Height regulations.

No building shall exceed two and one-half (2 ½) stories or thirty-five (35) feet in height except that a building may exceed these height regulations provided that for every one (1) foot of additional height over 35 feet the building shall be set back one (1) additional foot from all property lines. Communications towers shall be subject to the special setback requirements set forth in article VIII..

(Code 1995, Appendix B, Art. V, § 1605; Ord. No. 11253, 3/19/02)

Cross reference - Off-street parking requirements, article V, section 38-451, et. seq.
(Ord. 11459, § 2, 09-16-03)

Sec. 38-456. Special exceptions for planned unit development (PUD).

(1) Flexibility in the arrangement of residential uses may be permitted by the City Council as a special exception in any A-1 Urban Agricultural Zone, provided that the minimum size of any tract of land sought to be used for the PUD shall be at least 20 acres and that a desirable environment through the use of good design procedures is assured, allowing flexibility in individual yard requirements to provide for multiple dwelling units, townhouses, and two-family units in conjunction with dedicated open space.
(2) The 20 acre minimum lot may be subdivided under a Planned Unit Development: Residential (article V, section 38-391) in which case a 20 acre minimum lot may be subdivided according to PUD regulations if a minimum of 50 % of total land area is set aside for agricultural uses or open space that is maintained in common

ownership, private ownership or other manner, established in an appropriate legal manner.

(3) Lands set aside under an A-1 PUD shall include all wetlands, riparian areas including at least 10 feet on either side of high water mark for all USGS blue line streams, 500 year floodplains as shown on FEMA Flood Insurance Rate Maps, and slopes over 20%, and shall reflect a preference for forested lands, and/or prime agricultural soils as defined by county soil survey.

(4) The maximum number of dwelling units to be developed under a PUD in the A-1 Urban Agricultural Zone shall be computed by multiplying the gross acreage to be developed, excluding land set aside as explained in Sections 2 and 3, by 8. For lots using septic systems for sewage disposal the maximum number of dwelling units shall be determined by the Health Department.
(Code 1995, Appendix B, Art. V, § 1607)

Sec. 38-457. Precedence.

This ordinance shall take precedence over all ordinances or parts of ordinances or resolutions or parts of resolutions in conflict herewith and to the extent that they do conflict with this ordinance they are hereby repealed with respect to the conflict and no more.
(Code 1995, Appendix B, Art. V, § 1608)

Secs. 38-458 - 38-470. Reserved.

DIVISION 29. OFF-STREET PARKING AND LOADING SPACE REQUIREMENTS

Sec. 38-471. Intent.

The following standards are designed to meet the minimal, necessary off-street parking requirements for residential, institutional, office, commercial and industrial land uses within all zoning districts.
(Code 1995, Appendix B, Art. V, § 1701)

Sec. 38-472. General regulations.

(1) No building or other structure shall hereafter be erected or altered to provide less off-street parking and loading space as required herein or permitted, or in any manner contrary to the provisions of this Ordinance except as approved utilizing a Shared Parking Plan or with a parking variance from the Chattanooga Board of Appeals for Variances and Special Permits.

(2) 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 purposes of complying with this Ordinance, shall be include as part of a yard, open space, or off-street parking or loading space similarly required for any other building except as provided through an approved Shared Parking Plan.

(3) All parking and loading spaces shall be subject to review, approval and enforcement by the City Traffic Engineer.

Table 1700*

Residential

See Section 38-473, District Regulations, for specific zone parking requirements.

Single-family dwellings- 2 spaces for every dwelling unit. 3 spaces for units with four or more bedrooms.
Townhouses- 1 space for 1 bedroom dwelling units. 2 spaces for 2 or 3 bedroom dwelling units. 3 spaces for units with four or more bedrooms.
Duplexes- 1.5 spaces per dwelling unit. Units with two or more bedrooms shall have 2 spaces per dwelling unit.
Multi-family units- 1.25 spaces per dwelling unit. Units with two or more bedrooms shall have 1.75 spaces per dwelling unit.

Institutional

Public buildings (including churches):	1 space per three seats in the main auditorium
Dormitories:	1 space per four beds
Hospitals and nursing homes:	1 space per three beds
Fraternity and Sorority Houses:	1 space per two lodgers
Day Care homes and centers:	
45 children and fewer	1 space per five students plus employee parking
Greater than 45 children	8 spaces plus one space for every 40 students plus employee parking
Stadiums and Sports Arenas:	1 space per eight seats or twelve feet of benches. For swimming pools, 1 space per 30 sq. ft. of water surface area.
Golf Course:	Per approval of City Traffic Engineer
All other uses:	5 spaces per 1,000 sq. ft. GLA

Commercial

Restaurants:	1 space per 75 sq. ft. GLA
Retail uses:	
Under 25,000 sq. ft.	4 spaces per 1,000 sq. ft. GLA
Over 25,000 sq. ft.	5 spaces per 1,000 sq. ft. GLA
Furniture and Appliance Sales:	2.5 spaces per 1,000 sq. ft. GLA
Funeral Homes, Theaters:	1 space per three seats in the main chapel or auditorium
Hotels and Motels:	1 space per unit or guest room plus 1 space for every innkeeper's dwelling
Boarding/Lodging Houses, Assisted Living, and Bed and Breakfasts:	1 space per two units plus employee/visitor parking
Automobile Repair Shops:	2 spaces per bay plus employee parking
All other uses:	5 spaces per 1,000 sq. ft. GLA

Office

General office uses:	4 spaces/1,000 sq. ft. GLA
Medical offices:	5 spaces/1,000 sq. ft. GLA
Mixed office space:	Approrrtioned based on the percentage mix of office uses

Industrial

1 auto parking space for every two workers on the combined two largest successive shifts
1 off-street loading space per 10,000 sq. ft. of floor space or fraction thereof used for industrial or commercial uses upon approval

Commercial, Office and Manufacturing Requirements:

The number of spaces provided shall not exceed the required number of spaces by more than 50 percent.

Handicapped parking shall meet the current ADA standard.

(Ord. No. 11459, § 3, 9-16-03 ; Ord. No. 11918, 12-19-06)

Note: GLA= Gross Leasable Area: The total floor area for which the tenant pays rent and that is designed for the tenant's occupancy and exclusive use. GLA does not inlcude public or common areas, such as utility rooms, stairwells, mall and so on.

Sec. 38-473. District regulations.

(1) R-1 Residential Zone
For parking requirements refer to Table 1700

(2) RT-1 Residential Townhouse Zone
For parking requirements refer to Table 1700

(3) RZ-1 Zero Lot Line Residential Zone
For parking requirements refer to Table 1700

(4) R-T/Z Residential Townhouse/Zero Lot Line Zone
For parking requirements refer to Table 1700

(5) R-2 Residential Zone
For parking requirements refer to Table 1700

(6) R-3MD Moderate Density Zone
For parking requirements refer to Table 1700

(7) R-3 Residential Zone
For parking requirements refer to Table 1700

(8) R-4 Special Zone
For parking requirements refer to Table 1700

(9) R-5 Residential Zone
For parking requirements refer to Table 1700

(10) O-1 Office Zone
For parking requirements refer to Table 1700

(11) C-2 Convenience Commercial Zone

(a) For parking requirements refer to Table 1700

(b) Additional requirements:

(i) Parking spaces are not required for detached warehouse facilities which are attendant to the principal commercial use.

(ii) There shall be one (1) loading space for every ten thousand (10,000) square feet of floor area used for commercial purposes. Such loading space shall be in accordance with the standards of and approved by the City Traffic Engineer. Off-street loading facilities shall be provided which do not require the use of required off-street parking space during hours when establishments in the zone are open for business.

(iii) All off-street parking and loading space shall be subject to review and approval by the City Traffic Engineer prior to issuance of building permits and shall be so located, improved, illuminated, operated, and maintained as to provide safe and convenient circulation on the premises from adjacent streets, and to minimize potential frictions with adjoining residential property.

(iv) For business operations which involve a combination of uses such as warehousing and wholesaling along with retailing or other permitted uses, total required parking may be determined by measuring the amount of floor space within the business structure that is devoted to each separate use and calculating the need based upon the specific parking requirements as set forth for the various uses in this section and elsewhere in this ordinance. Parking requirements calculated in this manner shall be subject to review and approval by the City of Chattanooga

Traffic Engineer prior to issuance of any building or occupancy permit.

(12) UGC Urban General Commercial Zone

(a) For parking requirements refer to Table 1700

(b) Users of this zone are strongly encouraged, but are not required, to meet the reduced parking requirements allowable in the Urban Overlay Zone, if applicable.

(c) Additional requirements:

(i)The square footage of any outdoor accessory uses and the base square footage of the primary building/structure shall be added together for the total square footage in calculating the amount of required off-street parking.

(ii) Parking for commercial nurseries, commercial greenhouses, garden centers, and related outdoor storage shall be subject to the requirements of the City Traffic Engineer.

(Ord. 12253,§ 5, 6/16/09)

(13) C-3 Central Business Zone

(a) There shall be no requirement for the provision of off-street parking within the C-3 Central Business Zone.

(b) Off-street loading facilities shall be provided which do not require the blockage of public thoroughfares during loading operations.

(c) All off-street loading space and parking space, if provided, shall be subject to review and approval by the City Traffic Engineer and shall be so located, improved, illuminated, operated, and maintained as to provide safe and convenient circulation on the premises from adjacent streets and to minimize potential frictions with adjoining residential property.

(14) C-4 Planned Commerce Center Zone

(a) For parking requirements refer to Table 1700

(b) Additional requirements:

(i) Parking spaces are not required for detached warehouse facilities which are attendant to the principal commercial use.

(ii) For warehousing and wholesaling operations, and for space within retail operations devoted to such uses, parking shall be provided at a rate of one (l) space per employee, on the largest shift, and one (l) off-street loading space shall be provided per ten thousand (10,000) square feet of floor space or fraction thereof.

(iii) There shall be one (1) loading space for every ten thousand (10,000) square feet of floor area used for commercial purposes. Such loading space shall be in accordance with the standards of and approved by the City Traffic Engineer. Off-street loading facilities shall be provided which do not require the use of required off-street parking space during hours when establishments in the zone are open for business.

(iv) All off-street parking and loading space shall be subject to review and approval by the City Traffic Engineer prior to issuance of building permits and shall be so located, improved, illuminated, operated, and maintained as to provide safe and convenient circulation on the premises from adjacent streets, and to minimize potential frictions with adjoining residential property.

(15) C-5 Neighborhood Commercial Zone

(a) For parking requirements refer to Table 1700

(b) Additional requirements:

(i) Off-street loading facilities shall be provided which do not require the use of required off-street parking space during hours when establishments in the zone are open for business.

(ii) All off-street parking and loading space shall be subject to review and approval by the City Traffic Engineer and shall be so located, improved, illuminated, operated, and maintained as to provide safe and convenient circulation on the premises and to and from adjacent streets, and to minimize potential frictions with adjoining residential property.

(16) C-7 North Shore Commercial/Mixed Use Zone

Refer to Article V, Division 18.

(17) M-1 Manufacturing Zone

For parking requirements refer to Table 1700.

(18) M-2 Light Industrial Zone

(a) For parking requirements refer to Table 1700.

(b) Additional requirements:

(i) No parking or drives shall be permitted in required side yards joining a residential zone.

(ii) Truck doors or loading docks fronting on a street shall be not less than 75 feet from said street.

(19) M-3 Warehouse and Wholesale Zone

(a) For parking requirements refer to Table 1700

(b) Additional requirements:

(i) No parking or drives shall be permitted in required side yards joining a residential zone.

(ii) Truck doors or loading docks fronting on a street shall be not less than 75 feet from said street.

(20) M-4 Outdoor Industrial Use Zone

For parking requirements refer to Table 1700

(21) A-1 Urban Agricultural District

Off-street parking shall be provided on the same lot or on a lot adjacent to the building in accordance with the following requirements:

(a) There shall be one (1) space for every dwelling unit.

(b) There shall be one (1) space for every three (3) seats in the main auditorium of churches or other public buildings.

(c) Parking space for any other permitted use shall be an ample amount to accommodate all vehicles of transportation that are used by employees, visitors, or patrons of the permitted uses.

(d) The off-street parking facilities shall be designated so as to make it unnecessary for cars to back across sidewalks or into alleys or otherwise to maneuver in and out of parking areas into areas for pedestrian or automotive traffic.

(22) Planned Unit Development: Residential

Off-street parking shall be provided on a site adjacent to the building in accordance with the following requirements:

(a) For townhouse, duplexes, and single-family dwellings two (2) parking spaces are required. Units with four (4) bedrooms or more shall be required to have three (3) parking spaces.

(b) For multi-family dwellings 1.25 parking spaces for every dwelling unit. Units with two (2) or more bedrooms shall be required to have 1.75 parking spaces per dwelling unit.

(c) There shall be at least one (1) space for every three (3) seats in the main auditorium of churches and other public buildings.

(d) Parking spaces for parks, playgrounds, and community buildings in the development may be required according to the design of the Planned Unit Development.

(23) Planned Unit Development: Institutional

(a) Off-street parking spaces should be provided to meet the normal peak demands for parking. The location and number of off-street parking spaces shall be reviewed by the Traffic Engineer and the Chattanooga-Hamilton County Regional Planning Commission.

(b) Parking spaces within the Institutional PUD may be counted for more than one use within the Institutional PUD where, in the opinion of the Traffic Engineer and the Chattanooga-Hamilton County Regional Planning Commission, the demand for parking for both uses will not normally occur at the same time.

(c) For off-street parking requirements see Table 1700.

(Code 1995, Appendix B, Art. V, § 1708; Ord. No. 11968, § 1, 5-15-07; Ord. 12253,§ 5, 6/16/09)

Editor's Note: The subsections of this section were renumbered (1) through (23) rather than (A) through (W) to conform with the other sections of this chapter when entering Ord. No. 11968, adopted 5-15-07.

Sec. 38-474. Shared parking.

(1) Intent: The intent of this ordinance is to provide a method for providing shared parking facilities among diverse uses in order to reduce the amount of land dedicated to surface parking. The goal is promote efficiency in land usage and complementary forms of development.

(2) Definition: Shared Parking: Joint use of a parking area for more than one use and including valet and remote parking arrangements.

(3) Application: Shared parking may be applied when land uses have different parking demand patterns and are able to use the same parking spaces/areas throughout the day. Shared parking is most effective when these land uses have significantly different peak parking characteristics that vary by time of day, day of week, and/season of the year. Shared parking is inherent in mixed-use developments that include one or more businesses that are complementary, ancillary, or support other activities such as church and retail shared parking. General off-site parking lots and valet parking are available for patrons of nearby land uses can also constitute shared parking. The standards in this ordinance provide an opportunity for shared parking; however, parking requirements are very often unique to an individual land use and as a result, each site's proposed parking plan must be approved in advance by the City Traffic Engineer.

(a) In conjunction with the Traffic Engineering of the City of Chattanooga, the applicant for shared parking will conduct a pre-survey meeting designed to review with the traffic engineer the shared parking standards and the applicant's proposed shared parking arrangement.

(b) No formal parking study shall be required for proposed developments under 3,000 sq. feet gross leasable area (GLA).

(c) For proposed developments over 3,000 sq. feet gross leasable area (GLA), the pre-survey meeting will help to determine the scope, method and engineering standards to be met in the parking study. In some specific cases, and with agreement of the City Traffic Engineer, a formal parking study maybe waived for small developments where there is established experience with the land use mix and its impact is expected to be minimal.

(d) Applicants for a shared parking arrangement shall examine the feasibility of using shared parking arrangements by conducting a parking demand survey unless exempted under the agreement in Sec. 38-476(2)(a). Factors in this study include but are not limited to: operating hours, seasonal/daily peaks in parking demand, the site's size and orientation, location of access drives, accessibility to other nearby parking areas, pedestrian connections, availability of parking spaces, and duration of proposed agreements to share parking. A registered engineer must prepare this study.

(e) For all developments, up to 25% of the required parking spaces for a specific development may be incorporated into a shared parking plan.

(f) In no case shall the distance between the principal use and the property to be used as a shared parking site be greater than 1000 linear feet except that in the situation where valet parking is provided, the distance may be greater.

(g) Based on the results of the shared parking study if required and upon approval by the Traffic Engineer, the applicant shall furnish to the Traffic Engineer a shared parking agreement stipulating the conditions as approved by the Traffic Engineer. The original of this document is to be kept on file in the Traffic Engineers Office

(h) All the properties utilized as shared or valet parking including the donor and donee property shall be properly posted and identified as shared/valet parking.

(i) The appurtenant easement created by this agreement, must be recorded in the Register's Office of Hamilton County Tennessee and a copy of this document furnished to the Traffic Engineer's office for its records.

(4) Calculation of Parking Spaces Required with Shared Parking: The parking spaces required shall be based on the standards of the zoning ordinance for individual uses and the shared parking rates adjusted from the base-parking requirement. For those developments requiring a parking study, the minimum number of parking spaces for a specific use or mixed-use development as proposed shall be determined by the parking study furnished by the applicant following approved transportation engineering procedures and practices. Handicapped parking shall meet the current ADA standards.

(5) Shared Parking Plan: Based on calculations resulting from the parking study or determined in conjunction with the City Traffic Engineer, a shared parking plan shall be submitted to the City Traffic Engineer. This plan will portray the parking pattern and number of spaces, detail the access points and provide distance information to the land uses they will serve. For valet parking, this will include the operating plan for the land uses being served, required employee parking and the area that is required for queuing vehicles being dropped off or picked up.

(6) Operating Plan and Legal Agreement Among Sharing Property Owners: If a privately owned parking facility is to serve two or more separate properties either as shared or valet parking, a legal agreement between property owners guaranteeing access to, use of, available time of use and management of designated spaces is required. The agreement will be reviewed and approved by the City Traffic Engineer and the City Attorney. A copy will be retained in the Traffic Engineers Office and a copy recorded in the Hamilton County Registers Office as an appurtenant easement.

(7) Change of Land Use That Modifies The Parking Plan: In the event one or both land use types change and the parking characteristics of the site no longer are in conformance with the approved parking plan, a new parking plan must be developed in accordance with this ordinance.

(8) On-Street Parking: Public parking spaces along public rights-of-ways may prove to be beneficial to a specific user but by its very nature it cannot be reserved for private use by a specific business. For purposes of meeting the on-site parking requirement, on-street parking is not counted toward the parking standard. The use of on-street parking may alleviate requirements for required parking for truck loading or passenger loading but will not be counted towards the overall parking space requirement for shared parking.

(9) Shared Parking Districts: Based on a specific site review in situations where there is minimal or no on-site parking available, parking may be provided off-site that will satisfy the parking standards of this ordinance. Certain commercial areas of the City of Chattanooga will be designated as a Shared Parking District and this parking arrangement may be either shared parking or parking that is remote from the principle land use. Based on the parking study provided to the Traffic Engineer, the required parking for the site may be assigned to the off-site parking facility. The parking plan and any agreement between property owners must be developed and reviewed in accordance with this ordinance. Handicapped parking shall meet the current ADA standards.

(10) The areas where this section is applicable includes only those densely developed commercial areas as determined by an examination of land use and zoning practices and as specified herein:

Glass Street:

Beginning at the intersection of the center lines of the 2300 block of Daisy Street and the 2400 block of Wheeler Avenue thence some 220 feet northeast along Wheeler Avenue to its intersection with the center line of an unnamed alley, thence some 200 feet southeast along the center line of said alley to its intersection with the center line of the 2500 block of O'Rear Alley, thence northeast along the center line of O'Rear Alley some 180 feet to its intersection with the center line of the 2400 block of Appling Street, thence some 210 feet southeast along Appling Street to its intersection with the center line of North Chamberlain Avenue, thence some 165 feet along North Chamberlain Avenue, thence some 95 feet northeast to the center line of the 2500 block of Awtry Street, thence some 475 feet southeast along the center line of Awtry Street, thence some 20 feet southwest to the southeast corner of Tax Map 137H-E-027, thence southwest 189.7 feet along the south line of said parcel to the southeast corner of Tax Map 137H-E-026, thence some 55 feet southeast along the south line of said parcel to its southwest corner, thence some 55 feet northwest along the west line of said parcel to the southeast corner of Tax Map 137H-E-025, thence some 50 feet southeast along the south line of said parcel to the west line

of Tax Map 137H-E-024, thence some 65 feet southeast along the east line of said parcel to its southeast corner, thence southwest some 50 feet along the south line of said parcel to the southeast corner of Tax Map 137H-E-023, thence some 90 feet southeast along the south line of said parcel to the east line of Tax Map 137H-E-022, thence some 30 feet southeast along the east line of said parcel to its southeast corner, thence some 145 feet northwest along the south line of said parcel to its southwest corner, thence some 20 feet northwest to the center line of the 2400 block of North Chamberlain Avenue, thence southwest some 160 feet southwest along the center line of North Chamberlain Avenue, thence some 25 feet northwest to the southeast corner of Tax Map 137H-A-010, thence northwest some 150 feet along the south line of said parcel to the its southwest corner, thence 50 feet northeast along the west line of said parcel to its northwest corner, thence 5 feet southeast along the north line of said property to the southwest corner of Tax Map 137H-A-009, thence northeast along the west line of said parcel to the southwest line of Tax Map 137H-A-004, thence northeast along the west line of said parcel some 50 feet, thence some 60 feet northwest along the west line of said parcel to its northwest corner, thence some 20 feet northwest to the center line of the 2400 block of Glass Street, thence southwest some 130 feet along the center line of Glass Street to it's intersection with the unopened center line of the 2300 block of Wheeler Avenue, thence some 310 feet southwest along the center line of the 2300 block of said avenue to it's intersection with the center line of the 2300 block of Latta Street, thence some 270 feet northwest long the center line of Latta Street to it's intersection with the center line of the 2400 block of Glass Street, thence some 135 feet northeast along the center line of Glass Street, thence some 155 feet northwest to the center line of an unnamed alley, thence some 120 feet northeast along the center line of said alley to its intersection with the center line of Daisy Street, thence some 15 feet southeast along the center line of Daisy Street to its intersection with the 2400 block of Wheeler Avenue the point of beginning.

Rossville Business District:

Beginning at the intersection of the east line of the 1500 block of State Street with the center line of the 2700 block of East 50th Street, thence northeast some 210 feet along the center line of East 50th Street to it's intersection with the center line of the 5000 block of Rossville Boulevard, thence continuing east along the center line of East 50th Street some 200 feet to the west line of an unnamed alley, thence southeast some 320 feet along the west line of said alley to the Tennessee/Georgia State Line, thence some 485 feet southwest along the Tennessee/Georgia State Line to the east line of State Street, thence some 260 feet northeast along the east line of State Street to the point of beginning.

Brainerd Tunnels:

Beginning at the intersection of the center lines of the unit block of North Seminole Drive and the 3200 block of Brainerd Road, thence northeast along North Seminole Drive some 110 feet, thence some 25 feet southeast to the northwest corner of Tax Map 146M-M-033, thence some 130 feet southeast along the north property line of said parcel to the west property line of Tax Map 146M-M-032, thence continuing some 30 feet southeast, thence some 25 feet northeast, thence some 30 feet southeast to the northwest corner of Tax Map 146M-M-031, thence southeast some 60 feet along the north line of said parcel to the west line of Tax Map 146M-M-027 55 feet northeast to the northwest corner

of said parcel, thence some 55 feet southeast along the north line of said parcel, thence some 105 feet southwest along the east line of said parcel, thence some 12 feet east along the north line of said parcel, thence 10 feet southwest along the continuing east line of said parcel to the center line of the unopened 3200 block of Crestone Circle, thence southwest some 10 feet to the center line of said block, thence some 95 feet southeast along said center line to its intersection with the center line of the Unit Block of West Brow Terrace, thence southeast some 20 feet along the center line of West Brow Terrace to its intersection with the center line of the 3300 block of Crestone Circle, thence following the meandering center line of Crestone Circle southeastwardly and northeastwardly some 530 feet, thence some 25 feet southeast to the northwest corner of Tax Map 147P-C-009, thence southeast along the north line of said parcel to the northwest corner of Tax Map 147P-C-008, thence southeast along the north line of said parcel some 325 feet to the center line of the Unit Block of Woodlawn Drive, thence southwest some 390 feet along the said center line to its intersection with the center line of the 3400 block of Brainerd Road, thence some 340 feet southeast along said center line to its intersection with the 3300 block of Rosemont Drive, thence following the meandering center line of Rosemont Drive southwestwardly and northwestwardly some 1720 feet, thence northeast some 20 feet to the west line of Tax Map 146M-N-001, thence northeast some 190 feet along said parcel to the center line of the 3100 block of Brainerd Road, thence southeast some 275 feet along the intersection of said center line to its intersection with the center line of the Unit Block of North Seminole Drive, the point of beginning.

St. Elmo:

Beginning at the intersection of the center lines of the 100 block of Ochs Highway and the 4000 block of St. Elmo Avenue, thence southwest some 95 feet along the center line of St. Elmo Avenue, thence southeast some 20 feet to the southwest corner of Tax Map 155O-L-020, thence along the south line of said parcel some 130 feet to its southeast corner, thence some 12.5 feet southeast to the center line of the unopened 4000 block of Virginia Avenue, thence some 290 feet southeastwardly and southwestwardly along the center line of said avenue to it's intersection with the center line of the Chattanooga Belt Railway Right-of-way, thence following said right-of-way some 310 feet northeastwardly to its intersection with the center line of the 4000 Block of Tennessee Avenue, 570 feet northwest along the center line of said avenue, thence 40 feet northeast to the south corner of Tax Map 155O-M-001, thence some 210 feet northeast to the southeast corner of Tax Map 155O-M-002, thence northeast some 130 feet along the east line of said parcel to the southeast corner of Tax Map 155O-M-003, thence some 115 feet northeast along the east line of said parcel to the southeast corner of Tax Map 155O-M-004, thence some 100 feet along the east line of said parcel to its northeast corner, thence some 200 feet northeast, thence 125 feet southeast along the south line of Tax Map155O-M-008, thence some 105 feet northeast along the east line of said parcel to its northeast corner, thence some 175 feet northwest to said parcel's northwest corner, thence some 35 feet northwest to the center line of the 3700 block of Tennessee Avenue, thence northeastwardly along the said center line some 340 feet to the south line of the Southern Railway, thence some 430 feet northwest along the south line of said railway to its intersection with the center line of 3700 block of St. Elmo Avenue, thence southwest along the center line of St. Elmo Avenue some 1010 feet to its intersection of the center line of Old Mountain Road, thence some 735 feet

southwestwardly along the center line of said road, thence southwestwardly some 60 feet to the northwest corner of Tax Map 155O-E-014, thence some 210 feet southwest along the west line of said parcel to its southwest corner, thence some 20 feet from said corner to the center line of the 1600 block of West 40th Street, thence some 230 feet southwestwardly and northwestwardly along said center line, thence 15 feet southwest to the northwest corner of Tax Map 155O-F-017, thence southwest some 70 feet along the west line of said parcel to its southwest corner, thence southeast some 155 feet along said parcel's south line to the southwest corner of Tax Map 155O-F-018, thence southeast along the south line of said parcel some 100 feet to the southeast corner of said parcel thence southeast some 65 feet to the intersection of the center lines of Ochs Highway and St. Elmo Avenue, the point of beginning.

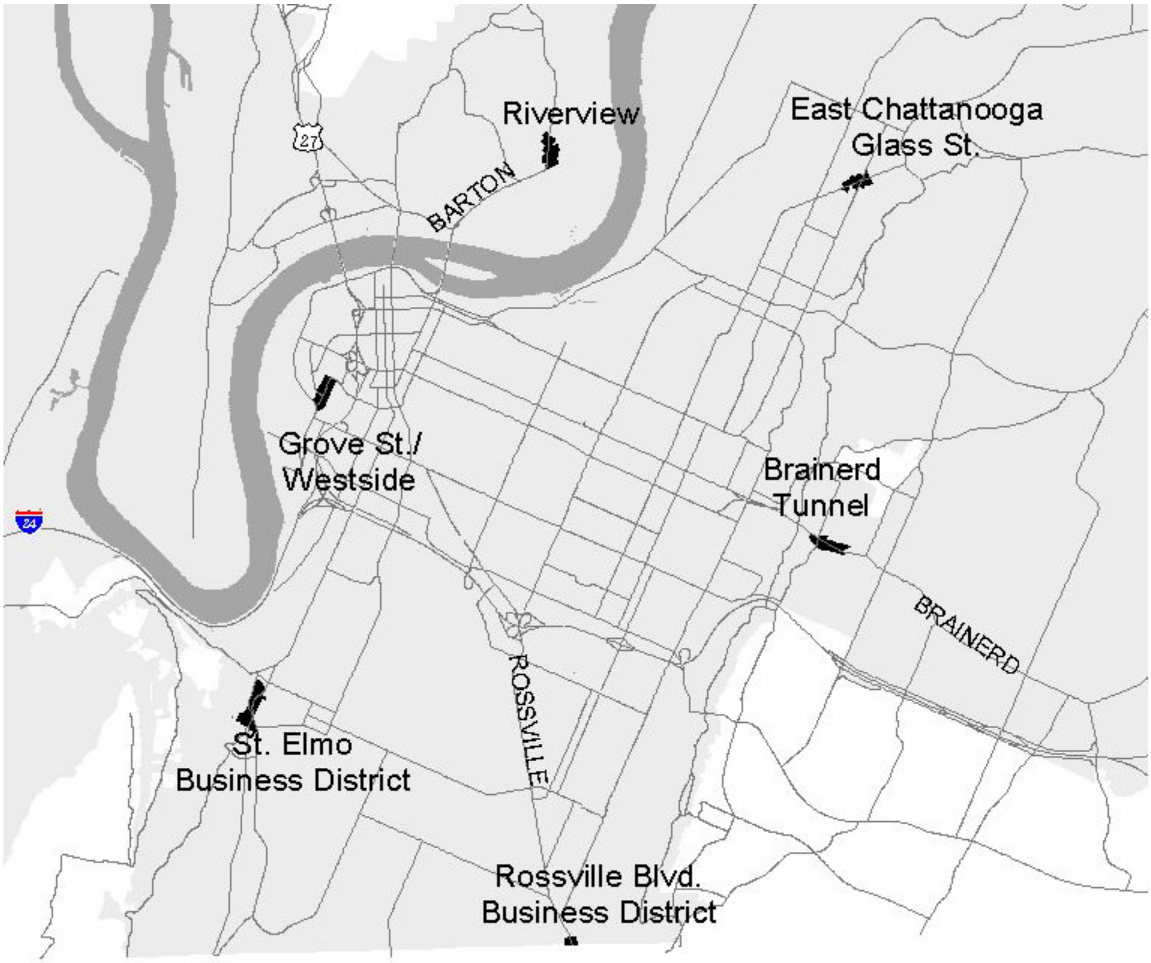
Riverview:

Beginning at the intersection of the center line of the 1000 block of Hixson Pike with the 1300 block of Worthington Street, thence some 175 feet northwest along the center line of Worthington Street, thence some 25 feet northeast to the southwest corner of Tax Map 136A-G-019, thence northeastwardly along the west line of said parcel some 195 feet, thence some 15 feet northwest, thence some 170 feet northeast to the center line of the 1200 block of Hanover Street, thence northwest some 140 feet along said center line, thence some 30 feet northeast to the southwest corner of Tax Map 136A-H-024, thence northeastwardly along the west line of said parcel to the south corner of Tax Map 136A-H-023, thence northwestwardly some 60 feet along the south line of said parcel to its west corner, thence some 75 feet northeast along the west line of said parcel to its north corner, thence some 20 feet northeast to the center line of the 1200 block of Tremont Street, thence some 230 feet northwest along said center line, thence some 20 feet northeast to the southwest corner of Tax Map 136A-J-008, thence some 95 feet northwest along the west line of said parcel to its northwest corner, thence some 30 feet northeast to the center line of the 1200 block of Dartmouth Street, thence some 120 feet northwest along said center line, thence some 30 feet northeast to the southwest corner of Tax Map 127P-L-019, thence some 50 feet northeast along the west line of said parcel to the southwest corner of Tax Map 127P-L-018, thence some 70 feet along the west line of said parcel to its northwest corner, thence some 115 feet southeast along the north line of said parcel to its northeast corner, thence southeast some 50 feet to the center line of the 1300 block of Hixson Pike, thence some 160 feet southeast to along said center line, thence some 40 feet southeast to the northwest corner of Tax Map 127P-T-024, thence some 185 feet southeast along the north line of said parcel to its northeast corner, thence some 50 feet southwest along the east line of said parcel to the northeast corner of Tax Map 127P-T-023, thence some 50 feet southwest along the east line of said parcel to the northeast corner of Tax Map 127P-T-021, thence some 75 feet southwest along the east line of said parcel to its southeast corner, thence some 35 feet southeast to the center line of the 1300 block of Falmouth Road, thence some 100 feet southwest along the center line of Falmouth Road to its intersection with the 1100 block of Lyndhurst Lane, thence some 250 feet southeastwardly and northeastwardly along said center line of Lyndhurst Lane, thence some 20 feet southeast to the northeast corner of Tax Map 136B-B-012, thence some 210 feet southeast along the east line of said parcel, thence some 250 feet southwest along the east line of said parcel to its southeast corner, thence some 40 feet southwest to the center line of the 1300

block of Dorchester Road, thence some 190 feet southeast along Dorchester Road to the south corner of Tax Map 136A-K-008, thence some 65 feet southwest to the southeast corner of Tax Map 136A-K-009 and the north line of the 900 block of Barton Avenue, thence some 430 feet southwest along the north line of Barton Avenue to the southwest corner of Tax Map 136A-K-014, thence southwest some 130 feet to the center line of the 900 block of Hixson Pike, thence some 315 feet northeastwardly along the center line of Hixson Pike to its intersection with the 1300 block of Worthington Street, the point of beginning.

Grove St./Westside:
Beginning at the intersection of the center line of the 1300 block of Riverfront Parkway with the center line of the 1300 block of Grove Street, thence northwest along the center line of Riverfront Parkway some 230 feet, thence northeast along parallel lines to Grove Street some 1099 feet, thence southeast some 230 feet to the intersection of the center line of the 1100 block of Grove Street with the center line of the 600 block of West 12th Street, thence southeast some 230 feet along the center line of West 12th Street, thence southwest along parallel lines to Grove Street some 1488 feet to the center line of the 1300 block of Riverfront Parkway, thence northwest along the center line of Riverfront Parkway some 230 feet to its intersection with the 1300 block of Grove Street, the point of beginning.

(11) The attached map generally depicts the areas described by the legal descriptions in subsection (10) above:



(12) The City Traffic Engineer will review the specific situation and the development needs of the site being requested and approve, modify or deny specific parking plans as presented.

(13) Cessation of the Shared Parking Agreement: In the event that a shared parking agreement is terminated, the tenant of the shared spaces must provide alternative parking arrangements for the site. In the event that suitable parking cannot be acquired, the applicant of the shared parking agrees to waive any right to contest enforcement by the City of Chattanooga of the required parking standards, although the applicant for the shared parking may have recourse against the property owner supplying the off-street shared parking for breach of the shared parking agreement.

(Code 1995, Appendix B, Art. V, § 1709)

Sec. 38-475. Reduced parking in the urban overlay zone.

(1) Intent: The Urban Overlay Zone (as identified in Article III, Section 38-11 of the Zones and Boundaries), created to maintain the physical layout of downtown Chattanooga and its surrounding neighborhoods, defines an area where reduced parking requirements may be implemented. The development pattern that allows for this reduction included sidewalks, public transit routes, available on-street parking, and smaller lot sizes. (Ord. No. 11951, § 1, 4-17-07)

(2) Those zoning districts with no required parking are not affected by this overlay. In addition, these reductions may be used in conjunction with all shared parking options.

(3) The parking reductions in the Urban Overlay Zone are as follows:

(a) Residential Uses: Residential units shall be required to have a minimum of one (1) parking space per dwelling unit.

(b) Non-residential Uses:

(i) All non-residential uses shall receive a 10% reduction in their parking requirement.

(ii) For only those non-residential uses under 5,000 square feet gross leasable area, up to an additional 20% reduction may also be obtained provided the criteria specified below are met. For each adjustment category whose criterion is met a 5% reduction is obtained. If the use receives a reduction for all four adjustments, the use then has obtained the maximum 30% parking reduction.

(iii) There shall be no more than a 30% reduction in required parking.

(iv) The criteria are as follows:

Adjustment	Criteria	Parking
Transit	500 feet from a public transit stop	5% reduction
Pedestrian Access	Located within 1000 feet of residentially zoned or residentially used property	5% reduction
On-street parking	On-street parking abutting the property line	5% reduction
Bicycle Parking	Provide bike rack(s)- rack design and location must be approved by the City Traffic Engineer	5% reduction

(4) In the case of mixed-use development, e.g. commercial and residential combined in a building, each use may receive a reduction based on the above standards. The combination of the parking requirements for each use shall constitute the total.

(5) All off-street parking reduction requests shall be subject to review and approval by the City Traffic Engineer. Review of the requested reductions will be based on information supplied by the applicant to the City.

(Code 1995, Appendix B, Art. V, § 1710; Ord. No. 11951, § 1, 4-17-07)

Sec. 38-476. Modified parking in special districts.

(1) Intent: There are some areas within the City of Chattanooga that have special needs that may not be met through the standard parking requirements. Large commercial sites are most often developed with an overall site plan and have excess amounts of parking onsite. As these sites continue to develop and redevelop to maintain a viable presence, alternatives to the minimum standards may need to be explored. At these locations, consumers tend to park once and walk, transit service is provided, and a safe pedestrian environment enables reduced parking, shared parking, or a modified version of both. These modified

parking options are most appropriate if a safe, connected pedestrian system is provided onsite.

(2) Application: Modified Parking may only be used for large-scale commercial sites greater than twenty (20) acres.

(a) In conjunction with City Traffic Engineering of the City of Chattanooga, the applicant for Modified Parking will conduct a pre-survey meeting designed to review with the Traffic Engineer the Modified Parking requirements and the applicant's proposed parking arrangement. The pre-survey meeting will help determined the scope, method, and engineering standards to be met in the Parking Demand Study.

(b) Applicants for Modified Parking shall examine the feasibility of using a Modified Parking arrangement by conducting a Parking Demand Study. Factors in this study include, but are not limited to: operating hours, seasonal/daily peaks in parking demand, the site's size and orientation, location of access drives, accessibility to other nearby parking areas, pedestrian connections, availability of parking spaces and duration of proposed agreement to share parking (if applicable). A registered engineer must prepare this study.

(c) Based on the results of the Parking Demand Study and upon approval by the Traffic Engineer, the applicant shall furnish to the Traffic Engineer a Modified Parking Agreement stipulating the conditions as approved by the Traffic Engineer. The original of this document is to be kept on file in the Traffic Engineer's Office.

(d) All the properties utilized as shared or valet parking including the donor and donee property shall be properly posted and identified as shared/valet parking.

(e) The appurtenant easement created by this agreement, must be recorded in the Register's Office of Hamilton County Tennessee and a copy of this document furnished to the City Traffic Engineer's office for its records.

(f) Modified Parking Agreement: Based on calculations resulting from the parking study or determined in conjunction with the Traffic Engineer, a Modified Parking Agreement shall be submitted to the Traffic Engineer. This plan will portray the parking pattern and number of spaces, detail the access points and provide distance information to the land uses they will serve. For valet parking, this will include the operating plan for the land uses being served, required employee parking and the area that is required for queuing vehicles being dropped off or picked up.

(g) Operating Plan and Legal Agreement among Sharing Property Owners: If a privately-owned parking facility is to serve two or more separate properties either as shared or valet parking, a legal agreement between property owners guaranteeing access to, use of, available time of use and management of designated spaces is required. The agreement will be reviewed and approved by the City Traffic Engineer and the City Attorney. A copy will be retained in the Traffic Engineers Office and a copy recorded in the Hamilton County Register's Office as an appurtenant easement.

(h) Change of Land Use that modifies the Modified Parking Agreement: In the event land use types change and the parking characteristics of the site no longer are in conformance with the approved Modified Parking Agreement, a new Parking Demand Study must be developed in accordance with this ordinance.

(i) Upon approval of the Modified Parking Plan by the Traffic Engineer and the requirements of the ordinance being met, the site will be designated as a Modified Parking Special District and be kept on record at the City Traffic Engineer's office.

(Code 1995, Appendix B, Art. V, § 1706; Ord. No. 11935, § 1, 3-20-07)

DIVISION 30. URBAN INFILL LOT COMPATIBILITY OPTION

Sec. 38-477. Intent.

(1) In areas previously subdivided and predominantly developed, lot sizes resulting from a proposed subdivision may be generally in keeping with the lot sizes of surrounding lots with setbacks reflecting both an urban form and maintaining compatibility with existing residential development.

(2) The adopted Comprehensive Plan encourages appropriate development forms in the Urban Infill Development Sector which contains the Urban Overlay Zone. The plan supports urban neighborhoods which have a denser and more urban fabric than other areas of the city. New development should follow urban patterns with smaller blocks, a connected street grid, alleys, smaller lots, and shallow building setbacks. This subdivision option allows this development form to occur by determining compatible lot size, frontage, and front setback, and allowing reduced side yard setbacks, and requiring appropriate parking and access.

(3) The intent of this ordinance is to:
   - (a) stimulate economic investment and development in older, established neighborhoods by allowing for the subdivision of a parcel into lots of a similar size as existing lots of record in the neighborhood; and
   - (b) reduce the need for zoning variances for building setbacks, lot dimensions, and related physical characteristics; and
   - (c) promote neighborhood preservation by fostering new construction that is in harmony with the character of the neighborhood and urban fabric of the city.

Sec. 38-478. Applicability

(1) Reduced lot size and yard regulations apply only to:
   - (a) Creation of new lots
   - (b) Lots in the Urban Overlay Zone
   - (c) Single-family detached dwellings
   - (d) Lots on sewers
   - (e) Lots zoned R-1 Residential, R-2 Residential, or R-3 Residential
   - (f) Lots that are not in a Local Historic District
   - (g) Lot area to be subdivided to be less than one acre

Sec. 38-479. Lot area and frontage compatibility

(1) Lots excluded from establishing lot compatibility. The following properties shall not be used to determine the block character for purposes of establishing lot compatibility:
   - (a) Properties zoned non-residential, zoned for attached single-family residential, or multi-family.
   - (b) Properties zoned for single-family, but used for legal non-residential uses or other legal non-conforming uses.
   - (c) Properties zoned R-1, R-2, or R-3 but used for non-residential purposes such as schools, day cares, or religious facilities.
   - (d) Lots that are part of a Planned Unit Development.

(e) Properties where development continuity cannot be provided due to a natural or man-made barrier, including but not limited to, arterial or collector streets, public land, railroad right-of-way, waterways, or

(f) Properties that face a block face within a non-residential zoning district.

(g) Interior lots located to the rear of another lot but with a narrow portion extending to the street when that narrow portion is less than the frontage required by the Chattanooga Zoning Ordinance.

(2) Compatible Lots. The following properties shall be used to determine the block character for purposes of establishing lot compatibility:

(a) Lots on the same and opposing block face (as defined in Section 17.04.060 of the Zoning Code) that are within 300 feet of the boundary of the property proposed to be subdivided.

(b) Lots abutting each quadrant of an intersection when the proposal involves a corner lot; and

(c) Lots that abut or are directly across a public way, but not to the rear of the property, from the property proposed to be subdivided.

(3) Lot Compatibility Calculation. To determine if a proposed subdivision meets the requirements of this Section, the allowable minimum lot frontage and area of the surrounding comparable lots shall be calculated as follows:

(a) The surrounding lot frontages and areas shall be stratified and any lot varying more than 50 percent from the median shall not be included in the calculations.

(b) Determine the average frontage of the applicable surrounding lots and multiply the result by 90 percent. This result then is the minimum lot frontage required for comparability. If the lot proposed to be subdivided has frontage on two or more streets, the frontage of the lot proposed to be created shall be compatible with the existing lots on the same street frontage.

(c) Determine the average area of the applicable surrounding lots and multiply the result by 75 percent. This result then is the minimum lot area required for comparability.

Sec. 38-480. Minimum yard requirements.

(1) For lot sizes created with the reduction allowed under the Lot Compatibility Calculation that are less than 7,500 sq. ft., the following minimum yard requirements shall apply:

(a) Building setback shall be equal to the average of the building setbacks of adjacent residential structures on the same street, ± 5 feet. Maximum setback allowed is 25'. If adjacent lots are vacant, the nearest residential structures on the same side of the street shall be used. Exceptions for hardships due to topography, lots of record or other factors must be approved by the Chattanooga-Hamilton County Regional Planning Commission.

(b) Rear setback: There shall be a rear yard of not less than 25 feet.

(c) If the Infill Lot is an interior lot there shall be a side yard of not less than five (5) feet

(d) If the Infill Lot is a corner lot, the following minimum side yards on the street shall apply:

LOT WIDTH	
50 feet or less	10 feet
50.1 feet to 60 feet	10 feet
60.1 feet or more	25 feet

(e) On corner Infill Lots, the interior sidelines shall be permitted to have a side yard setback of five (5) feet.

(2) Height: No building shall exceed two and one-half stories or 35 feet in height except that a building may exceed these height regulations provided that for every one (1) foot of additional height over 35 feet the building shall be set back one (1) additional foot from all property lines.

Sec. 38-481. Parking and access

(1) The purpose is to locate off-street parking and provide paving design which improves the streetscape, to minimize curb cuts and maximize front yard landscaping and to maximize the opportunity for on-street parking.

(a) To assure that new buildings relate to the street in a manner that is similar to that seen traditionally in a neighborhood, the following standards shall apply:

i. parking access and no parking area shall be allowed in the required front yard setback area (determined by building setback in (1) A of Sec. 38-480 above). Where an alley does not abut the side or rear of the lot, the standards below shall be applied to any garage.

ii. All attached and detached garages shall remain subordinate to the primary wall plane and should be have a setback of a minimum of 12’ behind the houses' main facade line.

Sec. 38-482. Process

(1) Notification. Any lot(s) proposed to be created under the Lot Compatibility Calculation in Sec. 38-479 shall require notification by the Planning Agency Staff by first class mail to all property owners within 300 feet of an area to be subdivided.

The deadline for Urban Infill Lot proposals shall be the 10th of a month unless the 10th falls on a Saturday, Sunday or holiday in which case the deadline will be the next working day and shall be accompanied by a $100 non-refundable fee.

(2) All lot(s) proposed to be created using the Lot Comparability Calculation shall be reviewed and approved or disapproved by the Chattanooga-Hamilton County Regional Planning Commission.

A subdivision may not be approved if it has determined from adequate investigations that the development would be detrimental to the public welfare. Such inhibiting factors may include, but are not limited to, flooding, adverse drainage problems, unsuitable soil, excessive slope of the land, surface or sub-surface rock formations, and other features which may endanger health, life, or property, aggravate erosion, increase flooding potential, or necessitate the excessive expenditure of public funds for supply and maintenance of services. Other factors that may preclude development include land unsuitably located which might involve danger or injury to the health or safety of the future property owners; and uneconomical utilization of the land due to the lack of, or adverse

affect on, the water supply, transportation facilities, or other public services or facilities which might necessitate an excessive expenditure of public funds.

(a) Applicant shall provide a plat for review by the Commission with the front setback line shown; and

(b) Applicant shall provide a site plan showing, where applicable, proposed building footprint, setbacks, parking, and access.

(3) The Chattanooga-Hamilton County Regional Planning Commission may allow a deviation from the setback and parking and access requirements of the Lot Compatibility option in Sec. 38-480 and Sec. 38-481. A variance may be considered under the following conditions:

(a) The applicant presents an alternative that complies with the stated intent, goals and general standards of the Zone.

(b) The deviation from the standard is consistent with adopted plans and principles for the area.

(c) The deviation is compatible with the character of the Zone where it is proposed, and with the size and location of the buildings in the vicinity.

(d) The physical conditions of the property, such as steep slopes, drainage, easements, or small or irregular lot shape make compliance to this specific requirement impossible.

(e) When using the calculated setback, frontage, or lot size will result in development which does not achieve the objective of maintaining a rhythm along the street, alternative setbacks may be considered.

(Ord. No. 12277, § 2, 8-8-09)

Secs. 38-483 - 38-500. Reserved.

ARTICLE VI. HEIGHT AND AREA EXCEPTIONS AND OTHER SPECIAL EXCEPTIONS

Sec. 38-501. Purpose.

The following requirements or regulations qualify, or supplement as the case may be, the following regulations or requirements appearing elsewhere in this Ordinance.
(Code 1995, Appendix B, Art. VI, § 100; Ord. No. 12194, 12/16/08)

DIVISION 1. HEIGHT AND AREA EXCEPTIONS

Sec. 38-502. Height of chimneys, etc.

Chimneys, water tanks or towers, penthouses, scenery lofts, elevator bulkheads, stacks, ornamental towers or spires, wireless or broadcasting towers, monuments, cupolas, domes, false mansards, parapet walls, similar structures, and necessary mechanical appurtenance may be erected to a height in accordance with existing or hereafter adopted Ordinance to the City of Chattanooga, Tennessee.
(Code 1995, Appendix B, Art. VI, § 102; Ord. No. 12194, 12/16/08)

Sec. 38-503. Projections over yards.

Every part of a required yard shall be open from its lowest point to the sky unobstructed; except for the ordinary projections of sills, belt courses, cornices, buttresses, ornamental features and eaves; provided, however, that none of the above projections shall project into a minimum side yard more than twenty-four (24) inches, except eaves which shall not project more than thirty-six (36) inches. Heating, air conditioning, or mechanical equipment shall not project into the required side yard over 5 feet.

(1) Detached small storage building, private automobile storage garages, private shops for woodworking, metal working, ceramics, etc. and other similar accessory building or structures may be located in side and rear yards provided that the following requirements are met. Areas zoned C-3 are exempt from subsections (a), (b), (c) and (f) below:
   - (a) the building or structure shall be set back at least five (5) feet from the side and rear lot lines; and
   - (b) in the case of a corner lot, the accessory building or structure may not project into the side yard adjacent to the street; and
   - (c) the buildings are not more than one (1) story in height; and
   - (d) buildings used for agricultural purposes are allowed on tracts of land two (2) acres or more in size without a principal residential structure; and
   - (e) detached accessory buildings or structures are to be separated by not less than three (3) feet from the principal structure on a lot; and
   - (f) attic space within any accessory building shall be non-habitable and shall be a maximum of 6' from the highest point of the roof to the attic floor.

(2) A detached accessory building for purposes of storage only may be located on a separate, vacant lot abutting a lot on which the main building is located provided that the storage building is not larger than 12' x 12' and with a maximum height to the low point of the eaves of 6'. Said storage building shall also be subject to the provisions of Article VI, Section 38-393(1)(a), (b), and (c).

(Ord. No. 9077, 11/22/88; Code 1995, Appendix B, Art. VI, § 102; Ord. No. 12194, 12/15/08)

Sec. 38-504. Outside stairways, etc.

Open or enclosed fire escapes, fireproof outside stairways and balconies projecting into a minimum yard or court not more than three and one-half (3½) feet and the ordinary projections of chimneys and flues may be permitted by the Building Inspector.
(Code 1995, Appendix B, Art. VI, § 103; Ord. No. 12194, 12/15/08)

Sec. 38-505. Uncovered decks, porches, etc.

(1) An uncovered deck may be located ten (10) feet from the rear property lines if it:
   (a) does not encroach on required side yards, easements, areas reserved for septic tank and field lines, and
   (b) has a maximum deck elevation no greater than the average finished first floor elevation.
(2) A porch, portico, entry landing or similar structure five (5) feet or less in width may extend into the front and rear required yards (setback areas) no more than five (5) feet.

(Ord. No. 9738, 6/23/92; Ord. No. 9883, 5/18/93; Ord. No. 9923, 7/20/93; Code 1995, Appendix B, Art. VI, § 104; Ord. No. 12194, 12/16/08)

Sec. 38-506. Single family dwellings.

(1) A single-family dwelling may be built on any lot that was recorded, by deed at the time of the passage of Zoning Ordinance No. 5149 on June 20, 1961, or on any lot legally platted on record with the Hamilton County Register of Deeds on or before June 20, 1961, in any zone where dwellings are permitted, regardless of lot size.
(2) If the "lot of record" is an interior lot:
   (a) There shall be a front yard of not less than fifteen (15) feet,
   (b) There shall be a side yard of not less than five (5) feet
   (c) The rear yard shall conform to the setback requirements of the Zone where such lot is located.
(3) Other than allowable eave overhang, no other permitted element of the building/structure or accessory building/structure shall be permitted within the five (5) foot side yard setback, including but not limited to heating, ventilation and air conditioning systems (HVAC), porches, decks, porticos, entry landings or similar structures.
(4) For single family houses on "lots of record", off street parking shall be required according to the zone requirements where such lot is located.
(5) A single-family dwelling may be built on any lot resulting from a re-subdivision of "lots of record"; provided that the re-subdivided lot(s) are as large or larger than the previous lot(s) and the lot thus created is located in a zone where dwellings are permitted.
   (Ord. No. 6938, 9/2/75; Code 1995, Appendix B, Art. VI, § 105; Ord. No. 10641, 11/18/97; Ord. No. 11199, 11/27/01; Ord. No. 12194, 12/16/08)

Sec. 38-507. Duplexes.

A duplex may be built on any lot which was a separate unit at the time of the passage of this Ordinance in any zone where duplexes are permitted, provided that the yard requirements are

met and that the lot has an area of 7,500 square feet or more in the R-2 Zone and R-3MD Zone, or 5,000 square feet or more in the R-3 and R-4 Zones.
For duplexes on "lots of record", off street parking shall be required according to the zone requirements where such lot is located.

(Ord. No. 6554, 1/9/73; Code 1995, Appendix B, Art. VI, § 106; Ord. No. 11199, 11/27/01; Ord. No. 12194, 12/16/08; Ord. No. 12195, 12/16/08)

Sec. 38-508. Altering existing buildings.

Nothing in this Ordinance is intended to prevent the conversion or alteration of existing buildings to include or accommodate more dwelling units or persons than previously included or accommodated provided the following requirements are met:

(1) The building is located in a residential or the C-3 Commercial Zone;
(2) All requirements of the Chattanooga Housing Code are met;
(3) The proposed number of dwelling units does not exceed the number permitted for the zone in which it is located, or, in the case of lodging, boarding, fraternity or sorority houses, these uses are permitted in the zone in which the structure is located;
(4) The dwelling shall meet the lot area requirements for the proposed number of dwelling units or lodgers for the zone in which the building is located.
(5) Parking space shall be provided according to the requirements of the appropriate zone regulations.

(Code 1995, Appendix B, Art. VI, § 107; Ord. No. 11199, 11/27/01; Ord. No. 12194, 12/16/08)

Sec. 38-509. Side yards on corner lots.

(1) On corner lots, in all zones, the side yard requirements on the street side shall be the same as the front yard requirements.
(2) Except that where a corner lot was recorded by deed at the time of the passage of Zoning Ordinance No. 5149 on June 20, 1961, or on any corner lot legally platted on record with the Hamilton County Register of Deeds on or before June 20, 1961, the following minimum side yards on the street shall apply:

ZONES

LOT WIDTH	R-1, R-5, A-1	R-2, R-3, R-4, RZ-1, RT-1, R-T/Z, R-3MD	O-1, C-1, C-2, C-4, C-5, C-6, C-7, M-1, M-2, M-3, M-4
50 feet or less	10 feet	5 feet	5 feet
50.1 feet to 60 feet	10 feet	10 feet	10 feet
60.1 feet or more	25 feet	25 feet	25 feet

(3) For the lots listed above, the interior sidelines shall be permitted to have a side yard setback of five (5) feet.

(Code 1995, Appendix B, Art. VI, § 108; Ord. No. 11199, 11/27/01; Ord. No. 12194, 12/16/08)

Sec. 38-510. Curbs, cuts, access to streets.

The location and design of all curb-cuts, points of access to and from all streets and parking and loading areas, parking and loading areas for all uses except single and two-family

residences shall be submitted to and approved by the city traffic engineer before building permits can be issued.
(Code 1995, Appendix B, Art. VI, § 109; Ord. No. 12194, 12/16/08)

Sec. 38-511. Access to commercial, industrial or other non-residentially zoned property.

(1) Access to commercial, industrial or other non-residentially zoned property shall be permitted only through a non-residential zone.
(2) Access to residentially zoned or developed property may be through any other zone.
(3) The R-3 Residential Zone, for purposes of access, shall be considered a non-residential zone if developed with multi-family residences.
(4) The R-4 Special Zone, for purposes of access, shall be considered a residential zone if undeveloped or developed residentially; it shall be considered a non-residential zone if developed with non-residential uses as multi-family residential uses.

(Code 1995, Appendix B, Art. VI, § 115; Ord. 10244, 06/20/95 ; Ord. No. 12046. § 2, 11-20-07; Ord. No. 12194, 12/16/08)

Sec. 38-512. Setbacks in commercial and manufacturing zones.

The following rule shall apply to commercial and/or manufacturing zones that abut the R-4 Special Zone:

(1) For purposes of setback, the R-4 zone shall be considered the same as any other non-residential zone if developed with non-residential uses. The R-4 zone shall be considered the same as any other residential zone, if undeveloped or developed with residential uses.

(Ord. No. 12005, § 2, 9/18/07; Ord. No. 12046. § 2, 11-20-07; Ord. No. 12194, 12-16-08)

Secs. 38-513 – 38-520. Reserved.

DIVISION 2. OTHER SPECIAL EXCEPTIONS

Sec. 38-521. Special exceptions for cemeteries.

(1) The development and use of property as a cemetery may be permitted as a special exception by the City Council provided that the following criteria are met:

(a) Minimum size of any tract of land intended for such use shall be twenty-five (25) acres. However, if said tract abuts or adjoins an existing cemetery it shall be one (1) acre. Memorial gardens, where human ashes are spread upon the earth, shall be excluded from any size requirement.

(Ord. No. 11004, 4/18/2000)

(b) Access and egress shall be obtained only from an arterial or collector street;

(c) For proposed cemeteries of twenty-five (25) acres or more there shall be a one hundred (100) foot buffer area, for proposed cemeteries of less than twenty-five (25) acres there shall be a twenty-five (25) foot butter area, said buffer area should be set aside along all property lines abutting other residentially zoned land, and said buffer shall be used only for the location of trees, shrubs, fencing or other site-obscuring ornamentation, but specifically shall not be used for grave sites, interior drives, parking or service buildings.

(Ord. No. 11004, 4/18/2000)

(d) All land intended for grave sites shall be above the elevation of the 100-Year Flood.

(2) Application Procedure for a Cemetery Special Exception:

(a) The owner of a tract of land proposed for development as a cemetery shall apply to the City Council for a Special Exception Permit through the Chattanooga-Hamilton County Regional Planning Commission.

(b) The applicant must submit a site plan to the Planning Commission for the proposed development drawn at a minimum scale of one inch equals one hundred feet (1" = 100') and shall:

(i) Define the location, size, accessibility and existing zoning of the proposed site;

(ii) Indicate the surrounding type of development and land use;

(iii) Illustrate the proposed plan of development, including the location of all structures, parking areas and open space;

(iv) Show a plan for new public streets, thoroughfares, public utility easements or other public or community uses, if such are intended as part of the development;

(v) In addition to the above, the Planning Commission or City Council may require such other additional information as may be determined necessary to adequately review the proposed development.

(3) The planning staff of the Chattanooga-Hamilton County Regional Planning Commission shall conduct an analysis of the proposed cemetery site, which will include, but shall not be limited to, the following:

(a) A land use survey of the surrounding development;

(b) Evaluation of the probable impact of the proposed development

(c) Proposed points of access and ease of ingress and egress;

(d) The lot, yard and open space requirements.

(4) The Planning Commission shall submit the findings of the Chattanooga-Hamilton County Regional Planning Commission staff, along with the recommendations of the Chattanooga-Hamilton County Regional Planning Commission, to the City Council for consideration and action.

(5) The recommendations of the Planning Commission shall be accompanied by a report stating the reasons for approval or disapproval of a Special Exception Permit for a cemetery. This report is to include, but is not limited to, the following areas of concern:

(a) The probable effect on the property adjacent to the site under consideration;

(b) The consistency of the proposal with the intent and purpose of this Ordinance to promote the public health, safety, morals and general welfare;

(c) Additional requirements which are needed in order to make the development more compatible with the surrounding land use.

(6) The City Council of the City of Chattanooga shall hold a public hearing on the request for the Special Exceptions Permit. The notice and publication of the public meeting shall conform to the procedures as prescribed in article XI hereof for hearings before the Council on changes and amendments.

(Code 1995, Appendix B, Art. VI, § 111; Ord. No. 12194, 12-16-08)

Sec. 38-522. Special exceptions for existing cemeteries.

(1) Existing cemeteries may be expanded by a Special Exceptions Permit issued by the City Council subject to a review and recommendation by the Planning Commission. The following criteria must be met:

(a) Ingress and egress shall be approved by the City Traffic Engineer.

(b) All land intended for grave sites shall be above the elevation of the 100-Year Flood.

(c) For expansions of less than twenty-five (25) acres, a twenty-five (25) foot buffer shall be set aside along all property lines abutting residentially used land or residentially zoned land. Said buffer shall:

(i) Be used only for the location of trees, shrubs, fencing or other sight obscuring ornamentation;

(ii) Shall not be used for grave sites, interior drives, parking, structures or buildings;

(d) For expansions of twenty-five (25) acres or more there shall be a one hundred (100) foot buffer area, subject to the above restrictions.

(2) Application Procedure for a Special Exceptions Permit for Expansion of an Existing Cemetery:

(a) The owner shall submit plans as required in article VI, section 38-403(2);

(b) The Planning Commission staff shall conduct an analysis of the request subject to the provisions of article VI, section 38-403(3) and (4).

(c) The Planning Commission shall hold a public hearing to review the staff analysis and shall make a recommendation to the City Council.

(d) The City Council shall hold a public hearing on the request. Notice of the public hearing shall conform to the procedures prescribed in article XIII of this zoning ordinance.

(Code 1995, Appendix B, Art. VI, § 112)

Sec. 38-523. Special exceptions permit for a residential home for handicapped and/or aged persons operated on a commercial basis.

(1) Upon approval of a Special Exceptions Permit by City Council, the applicant must apply for a license for a "Residential Home for the Aged" from the Tennessee Department of Public Health; or shall apply for license for a "Boarding Home Facility", or a "Large Group Home Facility", to be submitted to the Tennessee Department of Mental Health and Mental Retardation, as the case may be. Prior to operating either of the above, both the Special Exceptions Permit and the State License must be obtained.

(2) Application and Procedure for a Special Exception Permit:

(a) The applicant shall apply to the City Council through the Chattanooga-Hamilton County Regional Planning Commission, following the same procedures used for a rezoning request, including a public hearing before the Chattanooga-Hamilton County Regional Planning Commission, a recommendation by the Planning Commission to the City Council, and a public hearing by the City Council.

(b) The City Council may issue a Special Exceptions Permit with or without special conditions that must be met by the applicant. In granting the Special Exceptions Permit, the City Council may allow exceptions in minimum site area (lot) requirements, and in off-street parking requirements either of the above, both the Special Exceptions Permit and the State License must be obtained.

(Code 1995, Appendix B, Art. VI, § 113; Ord. No. 12046. § 2, 11-20-07; Ord. No. 12194; 12/16/08)

Sec. 38-524. Special permit for a two-family dwelling in the R-1 Residential Zone.

(1) Intent: The City of Chattanooga has rezoned property in several neighborhoods from R-2 Residential Zone and R-3 Residential Zone to R-1 Residential Zone. This Special Exceptions Permit would allow structures that were constructed as two-family dwellings to be able to continue such use after the loss of nonconforming status. The purpose of this Special Exceptions Permit is to provide relief to property owners of certain two-family dwellings which, under current zoning, could only be used for single-family residences. The intent of issuance of a Special Exceptions Permit is not to encourage similar requests in an area.

(Ord. No. 12220, § 1, 3-17-09)

(2) Any future zoning studies shall provide guidance on the suitability of maintaining two-family dwellings in the area of the zoning adjustment.

(3) Applies to:

(a) One duplex for each Special Exceptions Permit, not multiple structures.

(b) Two-family dwellings constructed with a building permit and/or constructed on a Lot of Record.

(c) Dwellings that are easily identified as being constructed for two-families. Most often this would be determined by two front doors facing either the same street, or if on a corner, one door facing each street, or by the existence of two electric meters.

(d) Dwellings that lost nonconforming status due to a rezoning to R-1 Residential through the zoning study process by the City of Chattanooga

as determined by the Chattanooga-Hamilton County Regional Planning Agency.

(4). Does not apply to:
- (a) Single-family structures that were converted to two-family structures.
- (b) New construction.
- (c) Multiple structures on one lot.

(5) A Special Exceptions Permit may be granted if City Council, after recommendation by Planning Commission, determines that:
- (a) The request is consistent with the adopted plans for the area.
- (b) The request is consistent with the zoning study that rezoned requested property from R-2 Residential Zone and R-3 Residential Zone to R-1 Residential Zone. (Ord. No. 12220, § 2, 3-17-09)
- (c) Issuance of a permit will benefit a neighborhood by encouraging an increase in investment in the property.

(6) Application and procedure for a special exception permit:
- (a) The applicant shall apply to the City Council through the Chattanooga-Hamilton County Regional Planning Commission, following the same procedures used for a rezoning request, including a public hearing before the Chattanooga-Hamilton County Regional Planning Commission, a recommendation by the Planning Commission to the City Council, and a public hearing by the City Council.
- (b) The City Council may issue a Special Exceptions Permit with or without special conditions that must be met by the applicant. In granting the Special Exceptions Permit, the City Council may allow exceptions in minimum site area (lot) requirements, and in off-street parking requirements.

(Code 1995, Appendix B, Art. VI, § 114; Ord. No. 12046. § 2, 11-20-07; Ord. No. 12194, 12/16/08; Ord. No. 12220, §§ 1 & 2, 3-17-09)

Editor's Note – The language contained in Section 38-525 was put back into Section 38-524 as (6)(a) and (b) as it had been placed into a separate section by the publisher in error.

Sec. 38-525. Revocable Special Exception for Non-Profit Heritage Educational Facility.

(1) Intent: The Revocable Special Exception Permit for Non-Profit Heritage Educational Facilities is intended to allow certain functions and uses that support our City's existing and future environmental, historical, and cultural resources while maintaining the integrity of existing development patterns as development decisions are made. Heritage Educational Facilities are an important part of our urban and rural landscapes. Such features need to be valued and sustained as part of the overall planning process if they are to remain as vital parts of the natural heritage left for succeeding generations. These features help to define the City's unique sense of place.

(2) Definition: Heritage Educational Facility - An educational facility that focuses on the preservation of environmental, historical, and cultural resources through educational programs and activities for members and/or the general public.

(3) Applicability: Application for a Revocable Special Exception Permit for the Non-Profit Heritage Educational Facility is allowed in all zones **except** MXU, UGC, O-1, C-5, C-7, M-2, M-3 and M-4.

(4) Permitted Uses: The Revocable Special Exceptions Permit allows uses that are necessary for and accessory to the operation of the educational facility as shown on a site plan and approved by the City Council.

(5) General Restrictions: The development and use of property as an Environmental/Historical/Cultural Educational Facility may be permitted as a Special Exception by the City Council with or without additional conditions, provided that the following requirements are met:

(a) Minimum site area shall be five (5) acres.

(b) No more than 8 full time persons employed on the premises.

(c) The grounds shall be non-illuminated except for necessary security.

(d) All parking, including overflow parking, shall be on the site and shall be approved by the City Traffic Engineer.

(e) Gated and/or emergency access point shall be approved by the Fire Department.

(f) Maintain 501(c)(3) non-profit status.

(g) The Special Exceptions Permit may be revoked by the City Council upon written report by the Director of Codes Administration that the Non-Profit Heritage Educational Facility is not being constructed or used in conformance with the approved site plan.

Additional conditions may include, but are not limited to: types of allowable uses, building footprint, building size, building location, use of amplification devices, and the frequency of events in a given year as determined by the expected number of participants.

(6) Application Procedure:

(a) The applicant shall apply to the City Council through the Chattanooga-Hamilton County Regional Planning Agency to be reviewed by the Planning Commission followed by final action of the City Council.

(b) The applicant shall submit copy of the 501(c)(3) status with the application for the Revocable Special Exception Permit.

(c) The applicant shall submit building elevations for proposed buildings.

(d) The applicant shall submit a site plan drawn at a minimum scale of one inch equals one hundred feet (1”=100’) and shall include:

(i) Location, square footage, and use of existing and proposed buildings, structures, and dumpster areas.

(ii) Vehicle access, parking, and overflow parking with total number of spaces.

(iii) In addition to the above, the Planning Commission or City Council may require such other additional information as may be determined necessary to adequately review the proposed development.

(Ord. No. 12232, § 2, 4-21-09)

Secs. 38-526. Special Exception for Movement of Single Family Residences.

(1) Intent: In order to insure that the movement of single family dwellings is compatible to the area where the residence is to be moved, the following guidelines and criteria listed (pursuant to T.C.A.§§ 13-3-501 through 504) shall be followed by the specified body as referred to below.

(a) This applies to single family dwellings only and does not apply to manufactured homes or modular homes.

(b) “Developed area of single family residences” (as used in this part) means an area generally referred to as a subdivision as indicated on a plat filed in the Register of Deeds Office.

(2) Requirements: Requirements for moving single family residence from one foundation to another are as set forth below.

(a) No single family residence shall be moved from an existing foundation to another foundation located within a developed area of single family residences unless:

(i) The residence to be moved is consistent with the **age, value, size** and **appearance** of existing residences within the developed area of single family residences to which the single family residence is to be moved and provided that the value of the house may be greater than that of the existing residences and the size of the house may be larger than that of the existing residences; **AND**

(ii) Approval for the movement of the single family residence to a foundation within a developed areas of single family residences has been given by the following specified body:

a. The home owners' association of the development where the residence is to be moved, if a home owner's association is in existence;

b. A neighborhood association where the residence is to be moved that has been in existence for more than one (1) year prior to the date the residence is to be moved, if a neighborhood association is in existence in the area; or

c. The Chattanooga-Hamilton County Regional Planning Commission by issuance of a special exceptions permit, if (i) or (ii) above does not apply.

(3) Age, Value, Size and Appearance Criteria: The residence to be moved shall be consistent with:

(a) The **age** of existing residences within the developed area of single family residences, if the residence to be moved is within ten (10) years of the average age of the existing structures within the developed area;

(b) The **value** of existing residences within the developed area of single family residences, if the valuation of the residence being moved appraised, prior to being moved, at a value that is at least equal to the average appraisal of the existing structures within the developed area; provided that nothing in this subdivision shall be construed to prevent such residence from exceeding the value of such existing structures. In establishing the value of existing structures, the value of modular homes located in such developed area shall not be used in arriving at the average appraisal of the existing structures.

If the value of the residence, prior to being moved, appraised at a value that is at least equal to the average appraisal of the existing structures within the developed area, then is shall be presumed that such residence shall appraise at least at the same or greater value once it is moved.

In obtaining approval from the specified body as proof that the value of the residence or appearance of the residence is consistent with the value or appearance of such existing residences, evidence may be presented that includes photographs of the inside and outside of the residence to be moved as well as the appraised value of such residence as determined by the assessor of property, or the fair market value of such residence as determined by an independent appraiser. Such proof shall be a rebuttable presumption that the value and appearance of the residence is at least equal to the value and appearance of the existing structures within the

developed area. Additional documents showing intended improvements may also be presented.

(c) The **size** of existing residences within the developed area of single family residences, if the size of the residence being moved is at least within one hundred (100) square feet of the average size of the existing structures within the developed area, provided that nothing in this subdivision shall be construed to prevent such residence from exceeding such average square footage. In establishing the average size of existing structures, the square footage of a modular home shall not be used in making such calculations.

(d) The **appearance** of existing residences within the developed area of single family residences as determined by the specified body giving its approval for the single family residence to be moved to the developed area.

(4) Enforcement:

(a) An approval letter from the specified body, along with documentation of the required criteria, shall be submitted to the Land Development Office before the issuance of a building permit for the movement of a single family residence.

(b) All structural improvements which will affect the value and appearance of the residence moved to the developed area of single family residences shall be made to such residence in accordance to applicable codes and ordinances in effect. If improvements have not been completed on the residence at least equal to the average standards in the developed area, such residence shall be deemed to be in violation of the local government building codes, and penalties associated with such violations may begin to accrue in accordance with all relevant local building codes and ordinances adopted and in effect in the local jurisdiction where the residence is located.

Sec. 38-527. Special Exceptions for Late Night Entertainment/Event Facility and/or Nightclub or similar uses. (See Article II, Section 38-2 for definitions.)

If a commercial establishment, which may or may not be held out to the public as a Bar or other social gathering place, with an occupancy capacity of more than one hundred (100) people, and which serves alcohol or allows alcohol on the premises and is operated as a place of entertainment at night for eating, drinking, dancing and provides live or recorded entertainment and engages in certain activities referenced under the nightclub definition at Chattanooga City Code 38-2, such commercial establishment shall require a special permit under Chattanooga City Code 38-527 before any certificate of occupancy can be issued by the Building Official and provided that the following conditions are met:

Application Procedure:

(1) The business owner shall apply for a Special Exceptions Permit which shall be issued by the City Council. The applicant shall apply to the City Council through the Chattanooga-Hamilton County Regional Planning Agency.

(2) The applicant for this permit shall submit a site plan to the Chattanooga-Hamilton County Regional Planning Agency, which shows the general plan for utilization of any building (including the location and size of outside gathering places such as decks, balconies, covered

areas and patios), distances from nearby residential zones, locations of any amplified speakers in the building, parking plans, and any proposed landscaping or noise reduction efforts which will be taken to protect nearby properties from excessive noise or traffic concerns due to this use by the applicant.

(3) Additionally, the applicant should provide a copy of its Tennessee Alcoholic Beverage Commission Liquor by the Drink (LBD) Application and supporting paperwork. The City Council may refer any site plan to the Regional Planning Agency and Land Development Office for review and suggestions on necessary conditions for parking, landscaping, or noise reduction resulting from the proposed or actual use of the property.

(4) The application will be placed on the City Council agenda no less than thirty (30) days from the initial application for the permit with the Regional Planning Agency.

(5) Regional Planning Agency will contact the City Attorney's Office for the date of the City Council meeting that the Special Exceptions Permit will be placed on the agenda.

(6) The applicant will be given notification sign(s) for placement on the property advertising date and time of the scheduled public hearing.

(7) Regional Planning Agency will send a notice of the public hearing held by the City Council by regular mail to each property owner(s) within a minimum of 200' radius from the property line of the proposed Late Night Entertainment/Event Facility and/or Nightclub or Similar Uses. Notification letters will be mailed at least seven (7) days prior to the public hearing by the City Council.

General Provisions:

(1) Late Night Entertainment/Event Facilities and/or Nightclubs are permitted only within the C-2 Convenience Commercial Zone by Special Exception Permit issued by the City Council.

(2) The Special Exception Permit may be revoked by the City Council after notice and hearing as set forth in subsection (i).

(3) Restaurants, Sports Bars and Bars as defined within Article II, Section 38-2 are exempt from these requirements.

(4) If a business owner disagrees with the determination of the City Zoning Official that an establishment meets the definition of a Late Night Entertainment/Event Facility and/or Nightclub rather than a Restaurant, Sports Bar or Bar, upon request by the owner, the decision of the Zoning Official will be reviewed by the Chattanooga City Council.

(a) A business owner seeking an appeal from the determination by the City Zoning Official shall submit a letter to the office of the Zoning Official requesting an appeal.

(b) The Zoning Official will contact the City Attorney's Office for placement of the appeals request on the next available agenda of the City Council.

(5) Any doorway entrance regularly used for ingress and egress or outdoor place of gathering such as a deck/patio of any such use (if permitted by approval of a Special Exception Permit) shall be located more than (750') away from the nearest boundary of any residential zone when constructed for the business. The 750' buffer distance may be decreased in part or entirety and the City Council may impose additional conditions

for the protection of residential properties from excessive noise or other nuisance issues depending on the proximity and location of water, rail, and road rights-of-way, topography, adjoining land uses, or other natural or man-made barriers to sound and noise.

(6) Outdoor gathering places such as decks, balconies, covered areas and patios shall have no amplified noise, no entertainment or theatrical lighting, and no outside sale of food or beverages.

(7) For the purposes of this section, the R-4 Special Zone shall be considered a residential zone if undeveloped or developed residentially; it shall be considered a non-residential zone if developed with non-residential uses.

(8) If a Special Exceptions Permit for a Late Night Entertainment/Event Facility and/or Nightclub is approved:

(a) Said permit shall not be transferred to any persons other than the Officers and Owners of the Corporation as identified in the Liquor by the Drink permit or Beer license application in place upon initial receipt of the Special Exceptions Permit without approval of the Chattanooga City Council.

(b) The Ordinance granting the approval and any conditions attached to the Special Exceptions Permit shall be posted in the interior of the business next to the building's Occupancy Rating and shall be available for inspection upon request.

(c) A Revocation Hearing before City Council may be triggered for any of the factors set forth in subsection (9).

(9) A Special Exceptions Permit for a Late Night Entertainment/Event Facility and/or Nightclub may be revoked by the City Council at any time upon notice to the owner and after a public hearing which establishes violations by a preponderance of evidence before the Chattanooga City Council and which shall consider the following triggers and factors:

(a) Triggers for a Revocation Hearing will occur:

(b) At the time of the third suspension of a license by the Beer Board or other state alcohol licensing board; or

(c) Upon recommendation by the City Zoning Official, City Chief Building Official, Chattanooga Police Department or the Chattanooga Beer Board.

(d) The Chattanooga City Council shall consider proof by a preponderance of the evidence of any of the following factors as a basis for revocation of the Special Exceptions permit:

(i) Number and occurrences of Beer Board or state Alcoholic Beverage Commission suspensions after granting a Special Exceptions Permit

(ii) Number and occurrences of Police Department calls after granting a Special Exceptions Permit

(iii) Impact of noise and activity on surrounding property owners after notice to permit holder

(iv) Distance of property owners from the business

(v) Changes to site plan by the business or activity occurring at the business since Special Exceptions Permit approval

(vi) Parking problems on nearby properties occurring due to the business use after notice to permit holder

(vii) Any additional ordinance violations related to use of property as provided by City staff

(viii) Revisions or revocation of the State of Tennessee Liquor by the Drink Permit

(Ord. No. 12280, §3, 8-25-09; Ord. No. 12468, §3, 1-25-11; Ord. No. 12529, § 3, 7-19-11)

Sec. 38-528. Special Exception Permit for Ethanol Transfer Facility.

(1) Intent:

The Special Exceptions Permit for an Ethanol Transfer Facility is intended to establish reasonable regulations in order to minimize the impact or characteristics of such special use on the community adjacent to and surrounding such use and to assure and maintain the public safety and welfare.

(2) Permit Approval and Transferability:

Chattanooga City Council approval of the Special Exceptions Permit shall be issued for the specific site location and/or address of the proposed Ethanol Transfer Facility under review. The Special Exceptions Permit is non-transferable to another site, property or location.

(3) Application Procedure:

(a) The applicant shall apply to the Chattanooga City Council through the Chattanooga-Hamilton County Regional Planning Agency following the same procedures used for a rezoning request, including a public hearing before the Chattanooga-Hamilton County Regional Planning Commission, a recommendation by the Planning Commission to the City Council, and a public hearing by the City Council.

(b) The Chattanooga City Council, if the Special Exceptions Permit request is approved may require additional conditions that must be met by the applicant.

(4) Minimum Required Information:

So that the Chattanooga-Hamilton County Regional Planning Commission and the Chattanooga City Council may evaluate the effect of the proposed use and its effect on adjacent properties the applicant shall provide the following:

(a) Site Plan:

A site plan of the site drawn at a minimum scale of one inch equals fifty feet (1”=50’). The site plan shall contain the following information:

1. Site location and size of the tract or parcel of land.

2. Zoning classification of the property.

3. Property boundary lines and dimensions.

4. Existing and proposed utilities, fire hydrants, easements, and streets.

5. Existing and proposed rail lines, pipe lines, storage tank locations, and the location of the transfer area on-site.

6. Location and width of existing and proposed driveways, parking lots, including proposed number of parking spaces, and any unloading/loading areas.

7. Proposed height, dimensions and arrangement of buildings and/or other structures.

8. Proposed setbacks from exterior property lines to all proposed buildings and structures to be located on the site.

9. Type, location, and width of proposed landscaping and screening.

10. In addition to the above, the Planning Commission or City Council may require such additional information as may be determined necessary to adequately review the proposed development.

(b) Additional Information Required:

The following information shall be provided as part of the application process describing the manner in which the Ethanol Transfer Facility will be operated, including but not limited to, the following:

1. Description detailing the ethanol transfer process proposed to occur on-site. This description should include information as to how and where the ethanol will be transferred.

2. Vicinity map showing the property, which is the site of the proposed Ethanol Transfer Facility and all parcels of property within a five hundred-foot (500') radius. Identify the name and location of any public gathering place such as schools, churches, and parks located within this 500' radius.

3. A description of the type of materials used in the construction of the transfer facility, including the type of material used for the construction of pipe lines.

4. If ethanol will be stored on-site, describe the proposed volume or capacity of on-site storage, including the number of railcars capable of being unloaded/loaded at the facility.

5. Projected traffic volume expected to be generated by the ethanol transfer facility. The Planning Commission or City Council may require a Traffic Impact Study.

6. Proposed days and hours of operation, including proposed number of employees.

7. Description of any worker safety systems proposed to be installed or implemented such as emergency shelters, emergency shut-off system, showers, wash-down rooms, etc.

8. Description of hazard protection plan indicating any proposed evacuation procedures, spill control procedures and containment, fire suppression equipment and other fire and public safety features.

9. Description of security provided such as security fencing around the perimeter of the property, or providing security personnel.

10. In addition to the above, the Planning Commission or City Council may require such additional information as may be determined necessary to adequately review the proposed development.

(5) Minimum Development Requirements:

The proposed Special Exceptions Permit shall satisfy the minimum development standards of this section; however, the

Planning Commission or City Council may restrict the hours of operation, increase building setbacks, increase required landscape buffers and screening, and impose other reasonable conditions necessary to protect the public health, safety and welfare.

A. General Provisions

1. The minimum requirements of Section 38-322 shall apply.

2. The minimum requirements of Section 38-323, except (5) shall apply.

3. Applicant shall schedule and attend a Pre-Submittal meeting with the Land Development Office to review the proposed site plan of the facility to ensure compliance with all currently adopted codes.

B. Building Setbacks

1. All buildings, structures, parking areas, and transfer area shall be located a minimum of twenty-five feet (25') from all property lines.

2. The proposed transfer area shall be adequately separated from parking lots, office buildings, above-ground storage tanks, and other combustible materials located on-site. This required separation shall be approved by the Chattanooga Fire Marshall's Office.

C. Screening Requirements

1. At a minimum, Type B screening shall be provided along all side and rear property lines where the proposed use abuts any non-residential use or zone. Type B screening shall be provided in accordance with the Chattanooga Zoning Regulations, Article IX Landscape Provisions.

2. At a minimum, Type A screening shall be provided along all side and rear property lines where the proposed use abuts any residential use or zone. Type A screening shall be provided in accordance with the Chattanooga Zoning Regulations, Article IX Landscape Provisions.

3. The R-4 Special Zone shall be considered a residential zone if undeveloped or developed residentially.

4. All other requirements of the Chattanooga Zoning Regulations, Article IX Landscape Provision will apply, such as required street yard, landscaped parking lot, screening of dumpster and loading and unloading areas.

D. Off-Street Parking and Access

1. Vehicle access to the property shall not be provided on residential streets or through residential neighborhoods.

2. Off-street parking shall be provided in accordance with the Chattanooga Zoning Regulations, Article V. Zone Regulations, Division 29. Off-Street Parking and Loading Space Requirements.

E. Fire Safety

1. The proposed use shall meet the requirements of currently adopted codes.

2. Applicant for the Special Exceptions Permit shall schedule a meeting with the Chattanooga Fire Marshall's Office, to review any proposed hazard protection plan, including any proposed fire suppression systems, spill controls, types of flammable materials stored on site, and the proposed site plan of the facility to ensure compliance with all currently adopted Fire Prevention Codes.

3. The Fire Marshall's Office will issue a written report of its findings. This report will be included as part of this packet of information sent to the Planning Commission and City Council members.

(6) A Special Exceptions Permit for an Ethanol Transfer Facility may be revoked by the City Council at any time upon notice to the owner and after a public hearing which establishes violations by a preponderance of the evidence before the Chattanooga City Council and which shall consider the following factors:

A. Documented history of safety violations identified by local/state safety enforcement officials.

B. Documented utilization of Ethanol Transfer Facility for transfer of other hazardous/flammable materials by local zoning official, LDO staff or state enforcement agencies.

(Ord. No. 12550, §5, 10/18/11)

Secs. 38-529 - 38-540. Reserved.

ARTICLE VII. NON-CONFORMING USES

Sec. 38-541. Buildings in use at time zoning ordinance passed.

(1) The lawful use of a building existing at the time of the passage of the Chattanooga Zoning Ordinance or any amendment thereto (the Zoning Ordinance and amendments thereto are hereinafter, and in section 38-542, collectively referred to as the "Ordinance") shall not be affected by the Ordinance, although such use does not conform to the provisions of the Ordinance and such use may be extended throughout any such building, provided that no structural alterations, except those required by law or other City ordinance, or ordered by an authorized officer to secure the safety of the building, are made therein, but no such use shall be extended to occupy any land outside such buildings.

(2) If such non-conforming building is removed or the non-conforming use of such building is discontinued for 100 consecutive days regardless of the intent of the owner or occupant of such building to continue or discontinue such use, every future use of such premises shall be in conformity with the provisions of the Ordinance.

(3) Manufactured homes, existing on lots where manufactured homes are not a permitted use, shall be treated as non-conforming uses as specified in this section.

(Code 1995, Appendix B, Art. VII, § 100)

Sec. 38-542. Land in use at time zoning ordinance passed.

(1) The lawful use of land existing at the time of the passage of the Ordinance, although such use does not conform to the provisions of the Ordinance, shall not be affected by the Ordinance, provided, however, that no such non-conforming use be extended to occupy a greater area of land than that occupied by such use at the time of the passage of the Ordinance.

(2) If such non-conforming use is discontinued for a period of not less than 100 consecutive days regardless of the intent of the owner or occupant of such premises to continue or discontinue such non-conforming use, any future use of such land shall be in conformity with the provisions of the Ordinance.

(3) Nothing in this section shall prevent the replacement of a manufactured home that is a legal non-conforming use in a residential zone with another manufactured home, provided that a new building permit shall be issued for such manufactured home, specifying that the manufactured home meets all of the current regulations concerning plumbing, electrical and other codes applicable to such units.

(Code 1995, Appendix B, Art. VII, § 101; Ord. 10365, 01/16/96)

Sec. 38-543. Change of use of non-conforming use.

A non-conforming use may be changed to a use of the same classification according to the provisions of this Ordinance. When a zone shall hereafter be changed, any then existing non-conforming use in such changed zone may be continued or changed to a use of a similar classification; provided all other regulations governing the new use are complied with. Whenever a non-conforming use of a building has been discontinued or changed to a conforming use, such use shall not hereafter be changed to a non-conforming use.

(Code 1995, Appendix B, Art. VII, § 102)

Sec. 38-544. Restoration of buildings.

(1) Nothing in this Ordinance shall be taken to prevent the restoration within one (1) year of a building destroyed to any extent by fire, explosion or other casualty, nor the continued occupancy of such building. In the event that additional time is necessary to complete restoration of a building destroyed by fire, explosion, or other casualty, an applicant may apply to the Chattanooga City Council for an extension of time within which to reconstruct a building or structure. The Chattanooga City Council may approve any necessary extension of time by resolution lawfully passed.

(Ord. No. 10788, 11/10/98)

(2) In addition, a lot that had a single use consisting of a legal non-conforming manufactured home in a residential zone, that was destroyed by any of the above may, prior to the expiration of 100 consecutive days, have another manufactured home placed on the lot, provided that a new building permit shall be issued for this manufactured home, specifying that the manufactured home meets all the current regulations concerning building, plumbing, electrical and other codes applicable to the said unit.

(Code 1995, Appendix B, Art. VII, § 103)

Sec. 38-545. Non-conforming industrial, commercial or other business.

(1) Any non-conforming industrial, commercial, or other business establishment in operation shall be allowed to expand operations and construct additional facilities which involve an actual continuance and expansion of the activities of the industry or business provided that there is a reasonable amount of space for such expansion on the property owned by such industry or business and so as to avoid nuisances to adjoining landowners.

(2) No building permit or like permission for construction or landscaping shall be denied to an industry or business seeking to expand and continue activities conducted by that industry or business provided that there is a reasonable amount of space for such expansion on the property owned by such industry or business and so as to avoid nuisances to adjoining landowners.

(3) Industrial, commercial, or other business establishments in operation and permitted to operate as non-conforming uses shall be allowed to destroy present facilities and reconstruct new facilities necessary to the conduct of such industry or business provided that no destruction and rebuilding shall occur which shall act to change the use classification of the land as classified under any zoning regulations or exceptions thereto in effect.

(4) No building permit or like permission for demolition, construction or landscaping shall be denied to an industry or business seeking to destroy and reconstruct facilities necessary to the continued conduct of the activities of that industry or business provided that there is a reasonable amount of space for such expansion on the property owned by such industry or business and so as to avoid nuisances to adjoining landowners.

(Ord. No. 9077, 11/22/88; Code 1995, Appendix B, Art. VII, § 104)

Secs. 38-546 - 38-560. Reserved.

ARTICLE VIII. BOARD OF APPEALS FOR VARIANCES AND SPECIAL PERMITS

Sec. 38-561. Membership terms and compensation.

The Board of Appeals for Variances and Special Permits (the "Board" or "Board of Appeals"), consisting of nine (9) members, shall be appointed by the City Council for 3-year terms. The initial Board shall be comprised of 4 members serving for 1 year, 4 members serving for 2 years, and 1 member serving for 3 years. Thereafter, members shall serve for 3-year terms. In the case of a vacancy, a member shall be appointed to serve the un-expired term of the former member creating the vacancy. A member who has served for 3 years shall continue to serve as an official member of the Board until he has been reappointed or a new member has been appointed to take his place. Members of the Board shall serve without compensation.
(Code 1995, Appendix B, Art. VIII, § 100)

Sec. 38-562. Meetings and rules of order.

The Chairman of the Board shall be elected from its own membership. The board shall fix its place of meeting and shall conduct at least one (1) regular meeting a month, provided there are applications to be reviewed by the Board. Other meetings of the Board shall be held on the call of the Chairman and at such times as the Board may determine. The presence of five (5) members shall constitute a quorum. In all other matters, the Board shall proceed to its own rules of order for the conduct of business, such rules being of public record. The City Attorney or his designated representative shall be present at each Board meeting.
(Code 1995, Appendix B, Art. VIII, § 101)

Sec. 38-563. Jurisdiction of the board.

The Board shall have the following powers:

(1) To make special exceptions to the terms of the zoning regulations in harmony with their general purpose and intent and under the conditions set forth in the following paragraphs, upon the request of the owner of the property in question.

(2) To interpret the zoning maps and pass upon disputed questions of foot lines or zone boundary lines or similar questions as they arise in the administration of the zoning regulations.

(3) To hear and decide appeals from property owners on actions or decisions by an administrative official in the administration or enforcement of the zoning ordinance.

(4) To review Conditional Permits and other Special Exceptions Permits specified in the ordinance to determine that the provisions of the ordinance are met. In the case of Conditional Permits and other Special Exceptions Permits, the Board may set a time period for the permit, at the conclusion of which the Board may review for an extension of an additional time period or the termination of the permit.

(Ord. No. 11619, 10/19/04)

(Code 1995, Appendix B, Art. VIII, § 102; Ord. No. 9970, 11/9/93; Ord. No. 12497, §1, 4/19/11)

Sec. 38-564. Applications to the board.

(1) Persons desiring consideration by the Board shall apply to the Secretary of the Board and shall supply such information as the Board may require to identify the land and determine the reason for the appeal or review. Each application by a

property owner shall be accompanied by a receipt for a fee of seventy-five dollars ($75.00), paid to the City Treasurer to cover the City's cost of handling the application, no part of which fee is returnable.

(2) Persons objecting to the relief sought by the applicant or interested in the review or determination made by the Board may likewise set forth their views and actual evidence in writing and be signed by the objectors. The application and objections shall be submitted to the Board within the time provided in its rules of procedure.

(Code 1995, Appendix B, Art. VIII, § 103; Ord. No. 11175, 09/11/01)

Sec. 38-565. Notices.

A notice of the public hearings held by the Board shall be sent by regular mail to each of the property owners within a minimum of 200 feet of each property in question before the Board. Said notice will be mailed at least seven (7) days prior to the public hearing by the Board. The most recently updated tax rolls for the City of Chattanooga will be the source of ownership information for Board purposes. A notice shall be published in a daily paper at least seven (7) days before the hearing.

(Code 1995, Appendix B, Art. VIII, § 104)

Sec. 38-566. Hearings.

(1) All official actions of the Board shall be subject to due notices and public hearings, as established by its rules. Any interested person may appear and be heard subject to procedures adopted by the Board.

(2) A review by the Planning Commission Staff may be required for the purpose of obtaining information available as to the effect of a proposed variance, conditional permit, or administrative ruling upon the use, enjoyment, safety, and value of the land and buildings nearby. Such report may contain other information on existing or pre-existing conditions relating to topography, geology, utilities, existing, and proposed land use and factors pertaining to the comprehensive plan of the City.

(3) A review by the City Engineer, the Traffic Engineer and any other City Officials may be required for the purpose of obtaining information as to the effect of a proposed variance, Conditional Permit or administrative ruling upon the flow of traffic, congestion, parking, service for utilities and similar matters usually pertaining to the functions of their office.

(4) The Board shall make and record findings of fact relevant to their decisions and shall accept letters and petitions for the record and shall particularly examine the facts relating to the conditions set forth in article VIII.

(5) The Board shall make a determination that it has been delegated authority to render a decision in each case and that it is not performing a legislative function not delegated by the legislative body of the City.

(Code 1995, Appendix B, Art. VIII, § 105)

Sec. 38-567. Condition for board decisions.

Before a variance or special exception may be granted, the Board must find that the following conditions exist:

(1) That by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of enactment of the zoning regulations, 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 practical difficulties or undue hardships upon the owner to develop his property in accordance with the use provisions of the zoning regulations.

(2) That the relief of the peculiar hardships, practical difficulties or undue hardships granted by the Board would not establish substantial detriment to the public good or substantially impair the intent and purpose of the zoning ordinance.

(3) That the peculiar hardship, practical difficulties, or undue hardships would apply to the particular land or building regardless of the owner.

(4) That the peculiar hardship, practical difficulties, or undue hardship is not created as the result of an act upon the part of the applicant.

(5) That the peculiar hardship, practical difficulties, or undue hardships asserted by the applicant relate only to the premises for the benefit of which the variance or special exceptions sought and would not be generally applicable to other premises in the City or the personal conditions of the applicant.

(6) Provided, however, that where the application for a variance or special exception involves only the addition to or extension of an existing building or structure, the Board may allow such addition or extension when said addition or extension would be no less conforming as to setback distances than the existing structure or structures on the same or adjacent property, provided further, that such addition or extension is not in conflict with the character of the area in which the property is located or the comprehensive zoning plan.

(Code 1995, Appendix B, Art. VIII, § 106)

Sec. 38-568. Powers, etc., of board; hearings.

The Board is empowered to hear and decide whether Special Exceptions Permits (hereinafter referred to as Special Permits) shall be issued as proposed, based on a site plan map furnished by the applicant and other supporting documentation as appropriate. It is a requirement that the applicant for a special or conditional permit furnish a site plan with the application that depicts the proposed use of the property to include but not limited to site access, building configuration, building setback, proposed landscaping and drainage and a parking plan. The Board shall determine that the proposed use will not be in conflict with the adopted plans and zoning districts of Chattanooga. In consultation with appropriate City of Chattanooga departments, the Board shall review all plans for the points of ingress and egress, parking and loading facilities, provision for drainage and storm water, landscaping and screening, and all applicable building codes that may impact the proposed use, the building and site. In addition, other criteria, including but not limited to noise, traffic generated by the proposed use, odors, et cetera that may be detrimental to the public health, safety or welfare of adjacent property owners and the surrounding community may be considered by the Board in reviewing the following cases:

(Ord. No. 11177, 9/25/2001)

(1) For **Manufactured Home Parks** in the R-3 Residential Zone, provided that such uses comply with the requirements of article V, section 38-113.

(2) For **commercial parking lots** in the R-4 Special Zone.

(3) For **fraternal, professional, or hobby clubs** in the R-4 Special Zone.
(Ord. 10491, 10/15/96)

(4) For **funeral homes, mortuaries and undertaking establishments**, and including cremation/crematory, when used in conjunction with such establishments; in the R-4 Special Zone and C-2 Convenience Commercial Zone.

For **cremation/crematory only** in the M-1 Manufacturing Zone.

(Ord. No. 12241, § 3, 5-19-09; Ord. No. 12496, §1, 4/19/11)

(5) For **miniature golf courses and similar outdoor amusement facilities** in the C-1 Highway Commercial Zone, the C-2 Convenience Commercial Zone, and the C-4 Planned Commercial Center Zone. Applications to the Board for a Special Permit for these uses shall be accompanied by a site plan showing the following information:

(a) Size and location of all buildings and structures;

(b) Parking facilities;

(c) Ingress and egress points; and

(d) All adjacent land uses.

(Ord. No. 10548, 03-18-97)

(6) For **Day Care Centers and kindergartens not operated by government or religious organizations** in the R-1, R-2, RT-1, RZ-1, R-3, R-3MD, R-4, R-5, O-1, C-1, C-2, C-3, C-4, C-5, C-6 and C-7 Zones; in the M-1 Zone as an on-site accessory use to any permitted use.

(Ord. No. 12303, §3, 10-20-09)

(7) For **off-street parking on lots** in the R-1, R-2, R-3MD, R-3 and R-5 Residential Zones when such lots are adjacent to the R-4, O-1, C-1, C-2, C-4, C-5, C-6, M-1, M-2, or M-3 Zones, provided that plans for such off-street parking, approved by the City Engineer and Traffic Engineer, are filed with an application for such permits. Such plans shall also provide for the paving of all driveways and parking areas and adequate drainage of the lots.

(8) For **small animal hospitals** in the R-4 Special Zone, the C-2 Convenience Commercial Zone and the C-7 North Shore Commercial/Mixed Use Zone.

(Ord. No. 12303, §3, 10-20-09)

(9) For **drug and alcohol, penal or correctional halfway houses or rehabilitation centers** and uses similar in character.

(10) **Museums and art galleries with retail sales as an accessory on-site use** in the R-4 Special Zone.

(11) **Gift shops** in the R-4 Special Zone.

(12) Facilities such as **boarding, grooming, training, and similar uses for small animals** (defined as **household pets**), in the M-1 Manufacturing Zone, C-2 Convenience Commercial Zone, and C-7 North Shore Commercial/Mixed Use Zones, subject to the provision that any outdoor use:

(a) Shall be limited to the rear yard and

(b) Shall be one hundred (100) feet from any residential, commercial, or office use or zone and

(c) Shall be fenced by a sight-obscuring screen (either solid or veil block, or some form of fence that is at least 50% opaque and at least six (6) feet high). No chain link, slat or wire fences can be used to meet the requirements of this section.

(Ord. 10326, 11-14-96; Ord. No. 12303, §3, 10-20-09; Ord. No. 12378, §2, 4/20/10)

(13) For **home occupations** which generate vehicular traffic to the premises. To issue this permit, the Board must first find that the type and amount of vehicular traffic generated by the home occupation will not be disruptive to the neighborhood or in any way create a nuisance or safety hazard to the neighborhood in which the proposed home occupation is to be located. Home occupations permitted under this section shall also be subject to the provisions of article II, subsection (54)(e)

of this chapter. The Board may also impose such additional conditions as deemed necessary to insure the public safety and welfare.
(Ord. No. 10204, 04/18/95)

(14) **Beauty Shops, barber shops, and hair salons** in the R-4 Special Zone.
(Ord. No. 11003, 04/24/2000)

(15) For **travel trailer camps** in the C-2 Convenience Commercial Zone, provided that:

(a) The owner shall submit to the Board of Appeals a site plan of the proposed camp, drawn to scale no smaller than one inch equals fifty feet (1" = 50') and showing:

(i) Name of actual or beneficial owner(s),
(ii) Location of the tract,
(iii) Tract boundaries and acreage,
(iv) The number and general location of the trailer stands,
(v) Driveways and parking spaces,
(vi) Size and location of the nearest public water line that is approved by the Health Department, or nature and capacity of alternate water source,
(vii) Type and location of sewage disposal facilities,
(viii) Restrooms and shower facilities.

(b) There shall be no more than ten (10) trailer or tent stands per acre. There shall be at least twenty-five feet (25') between all trailers with their tow vehicle and any other trailer or tow vehicle. There shall be at least twenty feet (20') between all tents.

(c) There shall not be more than one (1) sign for each travel trailer camp, and it shall be set back thirty-five feet (35) from the street. It shall not exceed twenty (20) square feet in area. If illuminated, the sign shall be indirectly lit in such a way that the light source cannot be seen from any public way or adjoining property. The lighting intensity shall not exceed twenty-five (25') foot candles at the face of the sign. No flashing or intermittent lights will be permitted.

(d) No trailer or tent may be located within: Thirty-five (35) feet of the front property line, Twenty-five (25) feet of the rear property line, and Fifteen (15) feet of the side property lines.

(e) There may be one (1), but not more than one (1), small food market located on the travel trailer camp site. It shall have no more than one thousand (1,000) square feet in floor area and be in business to serve the transients of the camp.

(f) There may be one (1), but not more than one (1), structure containing a launderette and/or dry cleaning establishment. This building shall be located on the site and shall contain no more than six-hundred (600) square feet in floor area. Such building shall be heated, lighted, sidewalled, and covered.

(g) All travel trailer camps shall comply with the requirements of the Tennessee Trailer Court Act, T.C.A. Section 53-3201 through 53-3220, regarding water supply, sewage disposal facilities, refuse storage, collection and disposal.

(h) A greenbelt planting strip, not less than fifteen (15) feet in width, is located along the property lines of the travel trailer camp where the property abuts a residential district except in those parts of the perimeter where such planting would create a traffic hazard by impairing visibility.

Such greenbelt shall be composed of one (1) of three (3) methods given below:

(i) One (1) row of deciduous and evergreen trees, spaced not more than fifteen (15) feet apart, at least eight (8) feet tall, and with a minimum trunk diameter of one-and-one-half (1 1/2) inches at planting, and

(ii) One (1) row of shrubs, with a ratio of two (2) deciduous to one (1) evergreen shrub, spaced an average of five (5) feet apart. Such shrubs shall be a minimum of thirty (30) inches in height at planting and expected to grow to a height of five (5) feet in three (3) or four (4) full growing seasons.

(iii) Natural vegetation can be retained if it meets the intent of this section or supplemented to meet the intent of this section.

(iv) A sight obscuring screen (either solid or veil block, or some form of fence that is at least fifty (50) percent opaque and at least six (6) feet high).

(i) The building inspector is hereby authorized to inspect the records of the camp operator to enforce the ninety (90) day occupancy limit.

(16) **Commercial radio, television, telephone, and microwave towers** are subject to the following conditions:

(a) Exemptions and Administratively Approved Sites: A Special Permit shall not be required under the following circumstances:

(i) Concealed Devices - Communication equipment which is concealed within a building or structure so that it is architecturally indiscernible may be permitted in all zoning districts subject to building permit procedures and standards. Architecturally indiscernible shall mean that the addition or feature containing the antenna is architecturally harmonious in such aspects as material, height, bulk, scale and design with the building or structure to which it is to be a part.

(ii) Additions To Existing Structures In Any Zoning District- An antenna, a dish or transmitter may be placed inside or on an existing structure, including but not limited to steeples, silos, spires, utility water tanks or towers, athletic field lighting poles, utility poles and similar structures, (but excluding single-family or duplex dwellings for any commercial use), subject to structural adequacy and provided the addition of the antenna and any supporting structure shall not add more than twenty (20) feet to the existing structure without obtaining a Special Permit. The setback requirements for freestanding communications towers shall not be applied to existing structures used to support or house the antenna. Additional antennas may be placed on existing communication towers without obtaining a Special Permit. The placement of antennas in or on existing structures or communications towers shall be subject to the screening landscape standards of this section if the addition of the antenna or associated equipment causes any significant change to the ground level view of the existing structure in the discretion of the Building Official.

(iii) Existing Communication Towers - Antennas, dishes, or similar equipment or additional users which do not add to the tower

height, may be added to existing communications towers without obtaining a Special Permit, but shall be subject to all applicable zoning, set-back, design, and building code regulations.

(b) Special Permits Required: Except as exempted by regulations of a particular zone, Special Permits shall be required for all lattice communication towers and for monopole communication towers as provided herein:

(i) Subject to the issuance of a Special Permit by the Board of Appeals, commercial towers may be permitted to locate on publicly owned property in R-1, RT-1, R-TZ, R-2 and R-3MD Zoning Districts.

(ii) Subject to the issuance of a Special Permit by the Board of Appeals, commercial towers may be permitted to locate on any property whether publicly or privately owned that is located in any zone where Communications Towers are listed as a permitted use.

(Ord. No. 11253, 3/19/02)

(iii) The issuance of a Special Permit is subject to landscaping standards, co-location requirements and other requirements set forth in the Special Permit procedures.

(Ord. No. 11082, 10/17/00)

(c) Special Permit Procedures: The following information must be provided at the time of application for a Special Permit:

(i) A schematic site plan, including schematic landscape plan with an elevation view of the type of facility to be placed on the site. The site plan shall depict where the tower is to be located on the site and where additional co-located communication equipment, shelters or vaults can be placed.

(ii) Identification of the intended user(s) of the tower.

(iii) A site justification statement prepared by the applicant that considers other alternatives to the proposed site and the impact of the proposed tower. The statement shall include a technical justification for the need for additional communications towers within the proposed coverage area with sufficient calculations and technical detail for review by qualified professionals. This statement shall include adequate documentation that no suitable existing facilities within the coverage area are available for the proposed use including existing communication towers, other sites for which communication tower applications are pending, and utilization of existing structures that are suitable for mounting antennae. A map of the coverage area identifying all existing communication towers and other sites with suitable zoning and adequate land area to site a communications tower shall be included. The applicant shall justify the selection of the proposed site over other available alternative sites within the identified coverage area weighing the relative impacts of the proposed site to other available sites with particular consideration of the impact of the tower upon adjacent properties, historic areas, scenic vistas and residential neighborhoods.

(iv) Communications towers shall be sited so as to be as unimposing as practical. The applicant shall demonstrate that through location, construction, or camouflage, the proposed facility will have minimum visual impact upon the appearance of adjacent properties, views and vistas of historic areas, scenic assets, and the integrity of residential neighborhoods. The representations in the site justification statement shall be subject to comment by citizens and shall also be subject to verification by the City of Chattanooga or its assigns. False representations in an application shall be grounds for denial of a special exceptions permit. The Board is specifically empowered to utilize its collective judgment in assessing and approving or denying the application based upon such information**.**

(Ord. No. 11253, 3/19/02)

(v) Documentation of the number of other users that can be accommodated within the design parameters of the tower as proposed. If the tower will not accommodate the required number of users, the applicant must demonstrate with compelling evidence why it is not economically, aesthetically, or technologically feasible to construct the tower with the required co-location capability. No application not fulfilling the co-location requirement is eligible for administrative approval by the Building Official.

(vi) A statement indicating the owner's commitment to allow feasible shared use of the tower within its design capacity for co-location.

(vii) The applicant or the landowner shall provide proof of the establishment of a financially secure and legally enforceable method of removing a communications tower when it ceases to be used for a period of twelve (12) months. This financial assurance can be provided through a sinking fund, a lien upon land which has a greater unencumbered appraised value than the cost of removal of the communications tower, a removal bond, a letter of credit or any alternative financial arrangement which is approved by the Finance Officer as to financial adequacy and the City Attorney as to legal enforceability. If the applicant or landowner owns more than one (1) tower, a blanket removal bond or alternative financial assurance may cover multiple sites.

(viii) The applicant shall furnish the names and addresses of all property owners within three hundred (300) feet of the site as measured from the property lines of the site upon which the tower is to be constructed to the nearest property line of any property within said distance.

(d) Landscape Requirements: Commercial telecommunication tower sites shall be subject to the following landscaping standards:

(i) The visual impact of a tower on adjacent properties and streets shall be minimized to the extent practicable by utilizing existing topography, structures, and natural vegetation to screen the tower. For all visual exposures not equivalently screened by existing structures or natural vegetation, all tower sites shall be landscaped with a ten (10) foot deep landscape yard with evergreen trees spaced a maximum of ten (10) feet on-center or

two (2) staggered rows of shrubs spaced a maximum of eight (8) feet apart. All plantings shall meet the installation and planting size requirements as specified below:

1. Intent: All landscaping materials shall be installed in a professional manner, and according to accepted planting procedures specified in the current edition of American Studies for Nursery Standard.
2. Screening Trees: Screening trees are used to meet the tree planting requirements of this ordinance and shall be installed at a minimum height of eight (8) feet and have a minimum expected mature spread of eight (8) feet. Recommended species are American Holly, Foster Holly, Southern Magnolia, Eastern Red Cedar, Atlas Cedar, Deodar Cedar and Virginia Pine.
3. Screening Shrubs: All screening shrubs shall be installed at a minimum size of three (3) gallons and have an expected maturity height of at least eight (8) feet and mature spread of at least five (5) feet. Recommended species include: Fragrant Olive, English Holly, Burford Holly, Nellie R. Stevens Holly, Wax Myrtle, Cherry Laurel, English Laurel and Leatherleaf Viburnum.
4. Prohibited Plants: The following plants are prohibited from being used to meet these requirements due to problems with hardiness, maintenance, or nuisance: Kudzu Vine, Purple Loosestrife, Japanese Honeysuckle, Shrub Honeysuckle, Autumn Olive, Common Privet, Tree of Heaven, Lespedeza, Garlic Mustard, Paulownia, Multiflora Rose, Siberian Elm, Silver Poplar, Mimosa, Mulberry and Silver Maple.
5. Maintenance: The property owner (or lessee if so provided in a written lease) shall be responsible for the maintenance of all provided landscaping. All landscaped areas must present a healthy, neat and orderly appearance and shall be kept free from refuse and weeds. Any dead or diseased plant material shall be replaced by the property owner (or lessee if provided in a written lease) with new plantings that meet the requirements of these regulations.

(ii) A break in the landscape not to exceed sixteen (16) feet in width, shall be allowed for access for maintenance personnel and vehicles.

(iii) New or existing vegetation, earth berms, existing topographic features, walls, screening fences, buildings and other features other than prescribed above may be used to meet the requirements of these regulations if the Director of Codes Administration finds that they achieve reasonably equivalent screening as subsection 1 herein.

(iv) In Commercial and Industrial Districts a sight-obscuring fence at least eight (8) feet in height and a minimum of seventy-five percent (75%) opaque may be substituted for screening trees or screening shrubs as specified in subsection 1 herein by special

exception from the Board of Appeals when the applicant can demonstrate that it is impractical to provide living screening material.

(v) No screening shall be required if the base of the communication tower site is not visible from adjoining property or is not otherwise visible from a dedicated public right-of-way.

(vi) Site landscaping is not required for antennas which are being co-located on existing towers, or which are being placed on other buildings or structures where the antenna is allowed as an accessory use.

(vii) No screening shall be required when this screening is explicitly prohibited by Federal Communications Commission regulations or is otherwise restricted by site limitations. The Board of Appeals shall review and approve any deviations from the standards specified herein.

(e) Co-location requirements: New communication towers of a height of more than one hundred (100) feet and less than two hundred (200) feet must be designed and built to accommodate three (3) or more personal communication system carrier applications and must be made available upon reasonable terms for co-location to at least three (3) additional single antenna applications such as paging, 911, two-way, and emergency management communications. Additionally, the site must be sufficiently large enough to accommodate at least three (3) telecommunication equipment shelters, cabinets or additions to existing structures. New communication towers of a height of two hundred feet (200) or more must be designed and built to accommodate at least three (3) personal communication system applications and at least three (3) additional single antenna applications plus at least one (1) additional personal communication system application and at least one additional single antenna application for each additional fifty (50) feet of height, to a maximum of six (6) personal service communication system carriers and six (6) single antenna applications, to be made available upon reasonable terms for co-location.

(f) Other requirements:

(i) Design standards: The proposed site plan and tower design plans meet or exceed all applicable standards, including without limitation those of the Federal Communications Commission (FCC), American National Standards Institute (ANSI), and Institute of Electrical and Electronics Engineers (IEEE) standards for power density levels and structural integrity, American Concrete Institute (ACI), American Standards Testing and Materials Institute (ASTM), the National Electrical Code, and the American Steel Institute.

(ii) Construction plans: Construction plans or drawings prepared by a registered engineer certifying that the tower has sufficient structural integrity and equipment space to accommodate multiple users shall be required at the time of applying for a building permit.

(iii) Landscape plans: Landscape plans that comply with the landscaping requirements of this ordinance shall be required at the time of applying for a building permit.

(iv) Maintenance: The property owner (or lessee if provided in a written lease) shall be responsible for the maintenance of all provided landscaping. All landscaped areas must present a healthy, neat and orderly appearance and shall be kept free from refuse and weeds. Any dead or diseased plant material shall be replaced by the property owner with new plantings that meet the requirements of these regulations.

(v) Removal of Abandoned Antennas and Towers: Any tower permitted under article VIII, section 38-568(16)(B) that is not operated as a personal communication system carrier application for a continuous period of twelve (12) months shall be considered abandoned and the owner of such antenna or tower shall remove same within ninety (90) days of receipt of notice from the Building Inspector. Failure to do so shall be deemed to be a violation of these regulations and shall be subject to the penalty provisions of article XIV. The owner of the antenna or tower may appeal the decision of the Building Official to the Board of Appeals for Variances and Special Permits, but at such hearing shall be required to show just cause why the antenna or tower should not be considered abandoned and subject to removal.

(vi) Communication Towers shall be set back from all property lines on which the tower is located by the distance equal to the height of the lowest engineered failure point on the proposed structure or the height of the tower. Provided, however, the minimum setback for any tower is fifty (50) feet.

(vii) For purposes of these regulations, the engineered failure point is that location(s) on the tower that is designed to fail when overstressed beyond the structural parameters of the tower design. This failure point will cause the overstressed potion of the structure to fall in upon itself in such a way as to reduce the remaining stress on the structure to such a level that result in no further failures of the tower structure. The lowest engineered failure point is described such that if the tower should collapse, the tallest remaining vertical section of the structure shall be equal to the setback from the abutting property lines. If the proposed tower is designed with failure points that allow for the collapse of the structure upon its self, a letter stamped by a licensed Professional Structural Engineer evidencing the design and fall zone parameters of the proposed tower shall satisfy the requirements determining the minimum fall zone setback distance.

(viii) No portion of the tower structure shall be designed or constructed so that the height of the tower allows it to fall across the property line of the abutting property. The communications tower must comply with building codes and other federal, state, and local regulations.

(Ord. No. 11253, 3/19/02)

(vii) A sign furnished by the Chief Building Official shall be prominently posted by the applicant on the site of the proposed communications tower for at least fifteen (15) consecutive days

prior to the meeting of the Board to give notice to the public of the application and the Board meeting date.

(Ord. No. 11253, 3/19/02)

(17) For **open air markets** in the C-2 Convenience Commercial Zones and M-1 Manufacturing Zones, provided that the following conditions are met:

(a) Parking shall be provided at a rate of two (2) spaces for every stall, booth or vendor's lot; or (alternatively) at least two-thirds (2/3) of the entire site shall be set aside as the usable customer parking space.

(b) Access and egress to public streets shall be established and maintained in a manner approved by the City Traffic Engineer.

(c) Public sanitary facilities shall be provided as follows:

(i) Whenever business is conducted on undeveloped property zoned for open air markets, sanitary facilities, including, but not limited to, toilets, water and trash containers, will be made available at the start of each business day.

(ii) Either permanent toilet fixtures or portable facilities approved for public use by the Chattanooga-Hamilton County Health Department shall be made available in the following ratio:

1. Property less than one (1) acre--Two (2) toilet units shall be provided.
2. Property one (1) to three (3) acres--Four (4) toilet units shall be provided.
3. Property more than three (3) acres--Six (6) toilet units shall be provided.

(iii) All portable toilets will be emptied, sanitized and serviced not less than two (2) times a week, or more frequently if needed, and the contents emptied in an approved wastewater treatment facility.

(iv) Portable drinking water, either under pressure or furnished in an approved dispenser, will be made available so there will be a drinking fixture or dispenser for each acre of used property or fraction thereof. Single service cups, in an approved dispenser, will be made available.

(v) A covered trash receptacle, capable of holding not less than ten (10) gallons, will be made available by each vendor who leases, rents or is furnished space to barter or sell merchandise. All trash and debris must be picked up and removed from the area, curb or street by close of the business day.

(d) A board or chain-link fence at least four (4) feet high shall be erected along any property boundary adjacent to a school, church or residential land use.

(e) Alteration or deletion of any parking space or sanitary facility or abridgment of any condition agreed to at the time of issuance of the Special Permit shall constitute grounds for revocation of the Special Permit. Upon verification by the City Building Inspector that such alteration, deletion or abridgment has occurred, the operator of the open air market shall be summoned before the Board of Zoning Appeals to show cause why the Special Permit should not be permanently revoked. Failure to appear or failure to correct deficiencies found by the Board within ten (10) days following the hearing shall result in automatic revocation of the Special Permit, and the operator shall cease to use the

property as an open air market until such time as a new Special Permit is applied for and received.

(18) For **adult-oriented establishments** in the C-2, C-3, and M-1 Zones, provided that the use meets the following definitions, conditions, restrictions and other provisions:

(a) Definitions**:** For the purpose of these regulations, certain terms and words shall be defined as follows:

(i) **Adult** means any person who is eighteen (18) years of age or older.

(ii) **Adult Entertainment** means any exhibition of any adult-oriented motion picture, live performance, display or dance of any type that has as a principal portion of such performance, any actual or simulated performance of specified sexual activities, sexual conduct, or exhibition and viewing of any specified anatomical areas, removal of articles of clothing or appearing unclothed, including pantomime, modeling, or any other personal service offered customers involving exhibition and viewing of specified anatomical areas.

(iii) **Adult-Oriented Establishments** includes, but is not limited to, sexually explicit establishments which cater to an exclusively or predominantly adult clientele and offer adult entertainment for business purposes such as: adult bookstores, adult motion picture theaters, adult cabarets, escort agencies, sexual encounter centers, massage parlors, adult saunas, adult video stores, and other enterprises which regularly feature materials, acts or displays involving complete nudity or exposure of the "Specified Anatomical Areas" herein below defined and/or sexual excitement or enticement. Adult-oriented Establishment further includes, without being limited to, any adult entertainment studio or any premises that is physically arranged and used as such, whether advertised or represented as an adult entertainment studio, rap studio, exotic dance studio, encounter studio, sensitivity studio, model studio, escort service, lingerie studio or any other term of like import which regularly feature materials, acts or displays involving complete nudity or exposure of the "Specified Anatomical Areas" herein below defined for sexual excitement or enticement as a business purpose.

(iv) **Adult Bookstore** means a commercial establishment which, as one of its principal business purposes, offers for sale or rental for any form of consideration any one of the following: books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, sexual devices, video cassettes, compact discs, digital video discs, slides, or other visual representations which are characterized by their emphasis on the display of “Sexual Conduct,” “Specified Sexual Activities” or “Specified Anatomical Areas” (as defined below). A business purpose for purposes of these definitions shall be a principal business purpose if any one or more of the following criteria applies:

1. A principal portion of the business’s displayed merchandise consists of the foregoing enumerated items; or

2. A principal portion of the wholesale value of the business's displayed merchandise consists of the foregoing enumerated items; or
3. A principal portion of the retail value of the business's displayed merchandise consists of the foregoing enumerated items; or
4. A principal portion of the business's revenues derive from the sale or rental for any form of consideration, of the foregoing enumerated items; or
5. A principal portion of the business's interior business space is used for the display, sale, or rental of the forgoing enumerated items; or
6. The business regularly features the foregoing enumerated items, and prohibits access by minors, because of age, to the premises, and/or advertises itself as offering "adult" or "xxx" or "x-rated" or "erotic" or "sexual" or "sensual" or "pornographic" material on signage visible from a public right of way.

(v) **Adult Motion Picture Theater** means any public place, whether open or enclosed, which is used as one of its principal business purposes for presenting material distinguished or characterized by an emphasis on matter depicting, describing, or relating to "Sexual Conduct," "Specified Sexual Activities" or "Specified Anatomical Areas" (as defined below) for observation by patrons therein. A business purpose for purposes of these definitions shall be a principal business purpose if any one or more of the following criteria applies:

1. A principal portion of the business's displayed merchandise consists of the foregoing enumerated items; or
2. A principal portion of the wholesale value of the business's displayed merchandise consists of the foregoing enumerated items; or
3. A principal portion of the retail value of the business's displayed merchandise consists of the foregoing enumerated items; or
4. A principal portion of the business's revenues derive from the sale or rental for any form of consideration, of the foregoing enumerated items; or
5. A principal portion features the foregoing enumerated items, and of the business's interior business space is used for the display, sale, or rental of the forgoing enumerated items; or
6. The business regularly prohibits access by minors, because of age, to the premises, and/or advertises itself as offering "adult" or "xxx" or "x-rated" or "erotic" or "sexual" or "sensual" or "pornographic" material on signage visible from a public right of way.

(vi) **Adult Cabaret** means any restaurant, bar, dance hall, nightclub or other such public place which as one of its principal business purposes regularly features entertainment of an erotic nature,

including exotic dancers, go-go dancers, strippers, male or female impersonators or similar entertainers, and prohibits access by minors, because of age, to the premises, and/or advertises itself as offering "adult" or "xxx" or "x-rated" or "erotic" or "sexual" or "sensual" or "pornographic" material on signage visible from a public right of way. A business purpose for purposes of these definitions shall be a principal business purpose if any one or more of the following criteria applies:

1. A principal portion of the business's displayed merchandise consists of the foregoing enumerated items; or
2. A principal portion of the wholesale value of the business's displayed merchandise consists of the foregoing enumerated items; or
3. A principal portion of the retail value of the business's displayed merchandise consists of the foregoing enumerated items; or
4. A principal portion of the business's revenues derive portion of the business's interior business from the sale or rental for any form of consideration, of the foregoing enumerated items; or
5. A principal space is used for the display, sale, or rental of the forgoing enumerated items; or
6. The business regularly features the foregoing enumerated items, and prohibits access by minors, because of age, to the premises, and/or advertises itself as offering "adult" or "xxx" or "x-rated" or "erotic" or "sexual" or "sensual" or "pornographic" material on signage visible from a public right of way.

(vii) **Adult Video Store** means a commercial establishment which, as one of its principal business purposes, offers for sale or rental for any form of consideration any one of the following: photographs, films, motion pictures, sexual devices, video cassettes, compact discs, digital video discs, slides, or other visual representations which are characterized by their emphasis on the display of "Sexual Conduct," "Specified Sexual Activities" or "Specified Anatomical Areas" (as defined below). A business purpose for purposes of these definitions shall be a principal business purpose if any one or more of the following criteria applies:

1. Displayed merchandise consists of the foregoing enumerated items; or
2. A principal portion of the business's revenues derive a principal portion of the business's displayed merchandise consists of the foregoing enumerated items; or
3. A principal portion of the wholesale value of the business's displayed merchandise consists of the foregoing enumerated items; or
4. A principal portion of the retail value of the business's from the sale or rental for any form of consideration, of the foregoing enumerated items; or

5. A principal portion of the business's interior business space is used for the display, sale, or rental of the forgoing enumerated items; or
6. The business regularly features the foregoing enumerated items, and prohibits access by minors, because of age, to the premises, and/or advertises itself as offering "adult" or "xxx" or "x-rated" or "erotic" or "sexual" or "sensual" or "pornographic" material on signage visible from a public right of way.

(viii) **Massage Parlors** means any premises, public place, place of business or membership club which as one of its principal business purposes includes the business or activity of furnishing, providing or giving for a fee or any other form of consideration a massage, a bath, tanning services, body painting or similar massage services or procedure, and prohibits access by minors, because of age, to the premises, and/or advertises itself as offering "adult" or "xxx" or "x-rated" or "erotic" or "sexual" or "sensual" or "pornographic" material on signage visible from a public right of way. This definition shall not be construed to include a principal business purpose such as a hospital, nursing home, medical clinic, exercise facility, or the office of a duly licensed physician, surgeon, physical therapist, chiropractor or osteopath. Nor shall this definition be construed to include a barber shop or beauty salon operated by a duly licensed barber or cosmetologist, so long as any massage administered therein is limited to the head and neck. A business purpose for purposes of these definitions shall be a principal business purpose if any one or more of the following criteria applies:

1. A principal portion of the business's displayed merchandise consists of the foregoing enumerated items; or
2. A principal portion of the wholesale value of the business's displayed merchandise consists of the foregoing enumerated items; or
3. A principal portion of the retail value of the business's displayed merchandise consists of the foregoing enumerated items; or
4. A principal portion of the business's revenues derive from the sale or rental for any form of consideration, of the foregoing enumerated items; or
5. A principal portion of the business's interior business space is used for the display, sale, or rental of the forgoing enumerated items; or
6. The business regularly features the foregoing enumerated items, and prohibits access by minors, because of age, to the premises, and/or advertises itself as offering "adult" or "xxx" or "x-rated" or "erotic" or "sexual" or "sensual" or "pornographic" material on signage visible from a public right of way.

(ix) **Massage** means the administering by any person by any method of exerting or applying pressure, friction, moisture, heat or cold

to the human body, and/or the rubbing, stroking, kneading, pounding, tapping, or otherwise manipulating a part or whole of the human body or the muscles or joints thereof, by any physical or mechanical means. Massage shall also mean the giving, receiving, or administering of a bath to any person or the application of oil, lotion, body paint or other such embrocating to any person.

(x) **Minor** means any person less than 18 years of age.

(xi) **Principal Portion** means at least 33⅓% of the thing so described whenever such term is used in this ordinance.

(xii) **Public Place** means any place to which the public or a substantial group of persons has access and congregates, regardless of whether admission is charged thereto, and includes, but is not limited to: adult-oriented establishments, all businesses open to the public, highways, transportation facilities, schools, places of amusement, parks, playgrounds, hotels, theaters, auditoriums, restaurants, nightclubs, cocktail lounges, and burlesque houses.

(xiii) **Sauna** means an establishment or place which as one of its principal business purposes is in the business of providing:

1. A steam bath; or
2. Massage services.

A business purpose for purposes of these definitions shall be a principal business purpose if any one or more of the following criteria applies:

1. A principal portion of the business's displayed merchandise consists of the foregoing enumerated items; or
2. A principal portion of the wholesale value of the business's displayed merchandise consists of the foregoing enumerated items; or
3. A principal portion of the retail value of the business's displayed merchandise consists of the foregoing enumerated items; or
4. A principal portion of the business's revenues derive from the sale or rental for any form of consideration, of the foregoing enumerated items; or
5. A principal portion of the business's interior business space is used for the display, sale, or rental of the forgoing enumerated items; or
6. The business regularly features the foregoing enumerated items, and prohibits access by minors, because of age, to the premises, and/or advertises itself as offering "adult" or "xxx" or "x-rated" or "erotic" or "sexual" or "sensual" or "pornographic" material on signage visible from a public right of way.

(xiv) **School** means an academic learning center, whether public or private, from the level of nursery through twelfth grade, and including secondary education centers, not limited to, but including, community colleges and universities.

(xv) **Sexual Conduct** means the engaging in or the commission of an act of sexual intercourse, oral-genital contact, or the touching of the sexual organs, pubic region, buttocks or female breast of a person for the purpose of arousing or gratifying the sexual desire of another person.

(xvi) **Sexual Device** means any three-dimensional object primarily designed and marketed for the stimulation of the male or female human genital organs or anus, and shall include three-dimensional reproductions or representations of the human genital organs or anus. Nothing in this definition shall be construed to include devices primarily intended for protection against sexually transmitted diseases or for prevention of pregnancy.

(xvii) **Sexual Device Shop** means a commercial establishment that regularly features sexual devices or offers for sale sexual devices as one of its principal business purposes. Nothing in this definition shall be construed to include any pharmacy, drug store, medical clinic, or any establishment primarily dedicated to providing medical or healthcare products or services, nor shall this definition be construed to include commercial establishments which do not restrict access to any portion of their premises to minors by reason of age. A business purpose for purposes of these definitions shall be a principal business purpose if any one or more of the following criteria applies:

1. A principal portion of the business's displayed merchandise consists of the foregoing enumerated items; or
2. A principal portion of the wholesale value of the business's displayed merchandise consists of the foregoing enumerated items; or
3. A principal portion of the retail value of the business's displayed merchandise consists of the foregoing enumerated items; or
4. A principal portion of the business's revenues derive from the sale or rental for any form of consideration, of the foregoing enumerated items; or
5. A principal portion of the business's interior business space is used for the display, sale, or rental of the forgoing enumerated items; or
6. The business regularly features the foregoing enumerated items, and prohibits access by minors, because of age, to the premises, and/or advertises itself as offering "adult" or "xxx" or "x-rated" or "erotic" or "sexual" or "sensual" or "pornographic" material on signage visible from a public right of way.

(xviii) **Sexual Encounter Center** means a business or commercial enterprise that, as one of its principal business purposes, offers for any form of consideration:

1. Physical contact in the form of wrestling or tumbling between persons of the opposite sex;

2. Physical contact between male and female persons or persons of the same sex when one (1) or more of the persons exposes to view of the persons within such establishment, at any time, the bare female breast below a point immediately above the top of the areola, human genitals, pubic region, or buttocks, even if partially covered by opaque material or completely covered by translucent material.

A business purpose for purposes of these definitions shall be a principal business purpose if any one or more of the following criteria applies:

1. A principal portion of the business's displayed merchandise consists of the foregoing enumerated items; or
2. A principal portion of the wholesale value of the business's displayed merchandise consists of the foregoing enumerated items; or
3. A principal portion of the retail value of the business's displayed merchandise consists of the foregoing enumerated items; or
4. A principal portion of the business's revenues derive from the sale or rental for any form of consideration, of the foregoing enumerated items; or
5. A business space is used for the display, sale, or rental principal portion of the business's interior of the forgoing enumerated items; or
6. The business regularly features the foregoing enumerated items, and prohibits access by minors, because of age, to the premises, and/or advertises itself as offering "adult" or "xxx" or "x-rated" or "erotic" or "sexual" or "sensual" or "pornographic" material on signage visible from a public right of way.

(xix) **Specified Sexual Activities:**

1. Human genitals in a state of actual or simulated sexual stimulation or arousal;
2. Acts of actual or simulated human masturbation, sexual intercourse or sodomy;
3. Actual or simulated fondling or other erotic touching of human genitals, pubic regions, buttocks or female breast.

(xx) **Specified Anatomical Areas:**

1. Less than completely and opaquely covered:
   a. Human genitals,
   b. Pubic region;
   c. Buttocks; and
   d. Female breast below a point immediately above the top of the areola; and
2. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

(Ord. No. 11792, 2/21/06)

(b) Location Restrictions:

Adult-oriented establishments, as defined above, are absolutely and expressly prohibited from all parts of the city, except those portions zoned C-1, C-2, C-3 and M-1. Furthermore, the location and operation of adult-oriented establishments within the C-1, C-2, C-3, and M-1 zones will not be permitted unless a Special Permit is obtained from the Board of Zoning Appeals, subject to the following additional restrictions.

(c) Special Permit Restrictions for Adult-Oriented Establishments:

In no case shall an adult-oriented establishment be permitted to locate within five hundred feet (500') of any boundary of an R-1, R-2, R-3, or R-5 Residential Zone, the R-4 Special Zone, or within five hundred feet (500') of a residential use within any zone, nor shall any proposed adult-oriented establishment be permitted to locate within five hundred feet (500') of a residential use within any zone, nor shall any proposed adult-oriented establishment be permitted to locate within five hundred feet (500') from the nearest property line of a site which is used for the purpose of a recreational park (ornamental parks are not to be considered in the requirement), place of worship, school, day care center, or other adult-oriented establishment. Measurement shall be made from the nearest recorded property line of the adult-oriented establishment to the nearest property line or boundary of the above-mentioned uses.

(d) Evaluation:

For the purpose of enforcing the regulations of this section, it shall be the responsibility of the Planning Commission staff to measure, evaluate, and advise the Board of Zoning Appeals regarding compliance of a proposed adult-oriented establishment with the special restrictions set forth herein. It shall be the responsibility of the applicant to supply site plans, maps, surveys or other such special information as might reasonably be required and requested by the Planning Commission staff for use in making a thorough evaluation of the proposal.

(e) Revocation and Hearing:

Expansion, relocation, substantial misrepresentation, violation of any of the terms of this ordinance or change in dominant sales items or services offered to the public or failure to operate the establishment in conformity with any terms and specifications set forth in the conditions attached to the Special Permit shall constitute grounds for revocation of the Special Permit after notice and hearing. Notice of the hearing before the Board of Zoning Appeals for revocation of the permit shall be given in writing setting forth the grounds of the complaint and the time and place of hearing. Such notice shall be mailed by certified mail to the applicant's last known address at least five (5) days prior to the date set for hearing.

(f) Adult-Oriented Establishments - Unlawful Acts:

It shall be unlawful for any person to own, manage or operate an adult-oriented establishment in any zone other than C-1, C-2, C-3, or M-1 or to own, manage or operate such an establishment without obtaining a Special Permit as hereinabove required.

(g) Penalty:

Any person violating any of the provisions of this ordinance, upon conviction by the court, shall be fined not less than Twenty-five Dollars ($25.00), nor more than Fifty Dollars ($50.00), and may be imprisoned not less than fifteen (15) days, nor more than thirty (30) days, for each

violation, and each day of violation of any provision of this ordinance shall constitute a separate offense.

(h) Status of Pre-Existing Adult-Oriented Establishments:
Adult-oriented establishments existing prior to the date of adoption of this section may continue in operation subject to all restrictions on non-conforming uses as specified in article VIII of these regulations provided that such pre-existing uses shall obtain Special Permits within 90 days, said permits shall be granted as a matter of right.

(19) **Residential Homes for the Handicapped and/or Aged Persons, Assisted Living Facilities and Medically Assisted Living Facilities, Nursing Homes and Hospitals**.[2]

(a) Application to the Board shall be accompanied by a site plan, drawn to scale, showing the following information:
- (i) Size and location, and use of all buildings and structures;
- (ii) Parking and loading facilities;
- (iii) Points of ingress and egress;
- (iv) Surrounding land uses; and
- (v) A list showing:
  1. Number of residents;
  2. Number of employees, visitors and/or volunteers who may reasonably be expected at any one time;
  3. State licensure department (if applicable);
  4. Type of license and nature of operation; and
  5. A statement of whether the facility will be operated on a commercial basis.

(Ord. No. 10473, 9/17/96)

(b) The Board shall find that such uses are appropriate to the zone in which they are proposed to be located; that the proposed use will not conflict with the developed character of the area; that the City Traffic Engineer has approved all plans for the points of ingress and egress, parking and loading facilities; and that the proposed use will not be in conflict with the adopted plans of the community.

(c) Prior to operating any of the above uses, both the Special Permit and the State License (where applicable) must be obtained.

(Ord. No. 10447, 07/16/96)

(20) For the **display and sale of manufactured homes** within the C-2 Convenience Commercial Zone.

Display and Sale of Manufactured Homes is permissible provided that:

(1) The owner shall submit to the Board of Appeals a site plan of the proposed area to be used for display and sale of manufactured homes showing:
- (a) Name of actual or beneficial owner's;
- (b) Location of the tract;
- (c) Tract boundaries and acreage;
- (d) The number and general location of all manufactured homes which shall be placed for display on the lot;
- (e) Driveways and parking spaces;
- (f) Location of any buildings or offices to be constructed or used on the lot.

[2] See T.C.A. §13-24-104 for the exemption of residential homes operated on a non-commercial basis.

(2) All units placed on such lots shall be for display only. No storage shall be allowed of manufactured homes on site other than one display model of each type sold. Purchase of any manufactured home, other than displayed models allowed pursuant to this subsection, shall be shipped directly from the location of the manufacturer.

(3) Any units allowed to be displayed must meet the definition of "Manufactured Home" as defined by Tennessee law and specifically, including T.C.A. §§ 68-102-147, 68-126-206 and 68-126-304, not to the exclusion of other applicable Tennessee State law provisions.

(4) The outdoor storage display of manufactured homes within this zone shall be allowed in excess of the outdoor storage limitations provided within Section 38-187, only where a green belt planting strip, not less than fifteen (15) feet in width, is located along all property lines of the lot in which display and sale of manufactured homes occurs, except in those parts of the perimeter where such planting would create a traffic hazard by impairing visibility. Such green belt shall be composed of one (1) of four (4) methods given below:

(a) One (1) row of deciduous and evergreen trees, spaced not more than fifteen (15) feet apart, at least eight (8) feet tall and with a minimum trunk diameter of one and one-half (1 ½) inches at planting;

(b) One (1) row of shrubs, with a ratio of two (2) deciduous to one (1) evergreen shrub, spaced an average of five (5) feet apart. Such shrubs shall be a minimum of thirty (30) inches in height at planting and expected to grow to a height of five (5) feet in three (3) or four (4) full growing seasons;

(c) Natural vegetation can be retained if its meet the intent of this section or supplemented to meet the intent of this section.

(d) A sight-obscuring screen (either solid or veil block, or some form of fence that is at least fifty (50%) percent opaque and at least six (6) feet high.

(5) To the extent that screening set forth in Paragraph (4) is not provided on all property boundaries, any such lot shall be required to meet the provisions of Section 38-187.(Ord. No. 10790, 11/10/98)

(21) For restaurants with fewer than fifty (50) seats and no drive-thru or drive-in trade or curb service in the C-5 Neighborhood Commercial Zone provided that the following conditions are met:

(a) The application, in addition to the site plan and information required in article VIII, section 38-568, shall show the following information:

(1) Location of parking and loading facilities.

(2) Location of points of ingress and egress.

(3) Location of HVAC and venting units.

(4) Placement of dumpster(s).

(b) A list showing:

(1) Hours of operation.

(2) Schedule of equipment maintenance.

(Ord. No. 11474, § 3, 10-21-03)

(Code 1995, Appendix B, Art. VIII, § 107; Ord. No. 12241, § 3, 5-19-09)

(22) **Special Exceptions Permit for Equine for Personal Use**

(a) The intention of this permit is to permit residents the ability to maintain equine for personal use. Stables and pasture areas are intended to be

used to shelter and maintain horses, mules, burros and ponies that are kept or ridden for the sole purpose of the property owner's recreation and pleasure. Neither the equine or stable facility shall be held out for remuneration or hire.

(b) The applicant shall provide a specific plan which includes the physical containment and location for manure storage and/or a disposal program which minimizes odor and fly impacts on adjacent parcels. The site plan shall also show the location of structures or facilities used for stabling, keeping, or training of animals and the location/amount of pasture area.

(c) The McKamey Animal Center shall be notified of the request for the Special Exceptions Permit. The Center's comments, if any, will be presented to the Board of Zoning Appeals.

(d) Equine shall only be kept in an area that satisfies the following conditions:

(i) Each animal shall have a minimum pasture area of one acre. Equine pasture areas must be securely fenced at all times.

(ii) Equine must be provided with shelter to protect them from the elements.

(iii) The shelter and fenced pasture area shall be kept clean, sanitary and free from accumulations of animal excrement and objectionable odor.

(iv) No barn, building, or fenced pasture area that houses equine shall be erected or maintained within 50 feet of any property line or within 150 feet of any residential dwelling unit or storage such as patio or pool on an adjoining property. This distance separation does not apply to detached storage garages or outbuildings.

(v) All food and feed kept for feeding livestock shall be kept and stored in rat-free and rat-proof containers, compartments or rooms unless kept in a rat-proof building. Any building or container used for the storage of feed shall be located at least 150 feet from any residential building and at least 150 feet from any other property that is zoned or used for residential purposes.

(e) No special events, shows, or activity that generates traffic will be permitted.

(Ord. No. 12508, §3, 5/25/11)

Sec. 38-569. Board's findings.

(1) The Board shall make its findings in writing on each of the conditions stipulated in article VIII, section 38-567, and on such additional items presented as evidence which have influenced its decision. The decision of the Board shall become effective immediately. Such decision, affirming, revising, or modifying the order, requirement, decision, or determination of the administrator of the zoning ordinance and such conditional permits and other Special Permits or special exceptions or variances to the provisions of the zoning ordinance shall be effective for an unlimited period of time unless otherwise specified by this ordinance or the Board.

(2) If the decision of the Board has not been confirmed by the construction of the improvements or the completion of the items required by the Board's decision within the period of two (2) years or other time stipulated by the Board, then the

applicant will be required to reapply to the Board and the application will be reheard upon the grounds stipulated by the applicant as of the time of the new application. (Ord. No. 10640, 11/18/97; Ord. No. 11614, 09/21/04)

(3) The Board shall not rehear any case upon the same grounds within a minimum period of one (1) year of its previous hearing date.

(4) The Board shall adopt for its record such policies as can be reasonably developed for its own guidance in dealing with the more common types of request for adjustment.

(Code 1995, Appendix B, Art. VIII, § 108; Ord. No. 10640, 11/18/97; Ord. No. 11614, 09/21/04)

Sec. 38-570. Records.

The Board shall keep a duplicate record of its proceedings, findings, and action in each case, giving specific reasons for its action and for any deviation from policy it might have established in past cases. The vote of each member on each question shall appear in the record. All records of the Board shall be open to the public.
(Code 1995, Appendix B, Art. VIII, § 109)

Sec. 38-571. Stay.

Upon applying for special exception, variance, interpretation, or review by the Board, the applicant shall stay any cut or fill of property, construction, or alteration on the building or property for which action by the Board is sought.
(Code 1995, Appendix B, Art. VIII, § 110)

Sec. 38-572. Appeal from the board's decision.

The action of the Board of Appeals for Variances and Special Permits shall be final, provided, an appeal from the action of the Board may be taken to a court of competent jurisdiction by any aggrieved, affected party.
(Code 1995, Appendix B, Art. VIII, § 111)

Sec. 38-573. Administration.

The City Finance Officer or his designated assistant shall be the Secretary of the Board. He shall conduct all official correspondence subject to the rules and direction of the Board, and send out all notices and attend all meetings, keep the minutes, compile the records and maintain the official files of the Board or cause the same to be done.
(Code 1995, Appendix B, Art. VIII, § 112)

Secs. 38-574 - 38-590. Reserved.

ARTICLE IX. LANDSCAPING PROVISIONS

Sec. 38-591. Purpose.

Chattanooga's scenic landscapes are closely tied to our community's quality of life, community identity, and civic pride. These landscapes also form the critical first impressions of potential new employers, homeowners, and tourists, thus affecting Chattanooga's economy.

A respect for natural green spaces - from the river gorge to street trees - was strongly expressed in the Futurescape survey conducted county-wide in 1996. In addition, a majority of those surveyed said that it was important to improve the quality and character of commercial, retail, office, and industrial areas. Images of large un-landscaped parking lots and treeless streets consistently received negative scores, while those with trees and landscaping scored positive.

Landscaping also provides important environmental benefits such as reducing air pollution and storm water run-off, improving water quality, and creating wildlife habitats. In today's anti-regulatory environment, it was not expected that people would express support for standards and regulations. But, people felt strongly about protecting the things they value. Of those surveyed, 87% agreed that good streets require such things as trees, street lights, public art, and sidewalks. People supported landscaping requirements as a tool for protecting and enhancing our scenic quality.

Based on these community concerns, the purpose and intent of this article are the following:

- To promote the scenic quality of the community;
- To improve the appearance of parking areas and property abutting public rights-of-way;
- To protect property values;
- To reduce stormwater runoff and improve water quality;
- To provide transition between incompatible land uses; and
- To provide relief from traffic, noise, heat, glare, dust, and debris.

(Code 1995, Appendix B, Art. IX, § 100)

Sec. 38-592. General provisions.

(1) Applicability

The requirements of this Section shall apply to:

(a) All new public/private development;

(b) Existing Public/Private Developments -

For existing developments and parking facilities, expansion in gross floor area (GFA) or parking spaces will trigger landscaping requirements based on the scope of work proposed as established below. Landscaping requirements will not prevent an existing manufacturing facility from expanding. Where both the building expansion and parking lot expansion requirements are applicable, the building expansion requirements shall supersede.

1. Where a building expansion increases GFA at least ten percent (10%) but no more than twenty-five percent (25%), the applicant can choose to either comply with the street yard or parking lot landscaping requirements for the entire property.

2. Where a building expansions increases GFA more than twenty-five percent (25%) but no more than fifty percent (50%):
   a. the entire property shall comply with the street yard requirements;
   b. fifty percent (50%) of the existing parking lot and all of any expanded portions of the parking lot shall comply with the parking lot landscaping requirements; and
   c. the entire property shall comply with the screening requirements.
3. Where a building expansion increases GFA more than fifty percent (50%), the entire property shall comply with all of the provisions of this article.
4. Where a parking lot expansion of at least ten (10) spaces increases the total number of parking spaces by no more than twenty-five percent (25%), the expanded portion of the parking lot shall comply with the parking lot landscaping provisions.
5. Where a parking lot expansion of at least ten (10) spaces increases the total number of parking spaces more than twenty-five percent (25%) but no more than fifty percent (50%), the entire expanded parking lot portion and fifty percent (50%) of the existing parking lot shall comply with the parking lot landscaping provisions.
6. Where a parking lot expansion of at least ten (10) spaces increases the total number of parking spaces more than fifty percent (50%), the entire property including the expanded parking lot portion shall comply with the parking lot landscaping provisions.

(2) One-family detached, two-family, and three-family residential structures on their own lot are exempt from landscaping requirements.

(3) Landscape Plan Submittal

Proposed developments, subject to the provisions of this article, shall file for a land disturbing permit and submit a landscape site plan to the Building Inspections Office. This plan may be incorporated into a parking/paving plan, provided the scale is not less than one (1) inch equals forty (40) feet. The following elements shall be shown on the landscape site plan:

(Ord. No. 10749, 08/26/98; Ord. No. 10810, 12/15/98)

(a) zoning of site and adjoining properties;
(b) existing and proposed contours at five (5) feet intervals or less;
(c) boundary lines and lot dimensions;
(d) date, graphic scale, north arrow, titles and name of owner, and the phone number of the person or firm responsible for the landscape plan;
(e) location of all proposed structures and storage areas;
(f) drainage features and one-hundred (100) year floodplain, if applicable;
(g) parking lot layout including parking stalls, bays, and driving lanes;
(h) existing and proposed utility lines, and easements; and
(i) all paved surfaces and curbs;
(j) existing trees or natural areas to be retained; and
(k) the location of all required landscaped areas (Street Yard, Landscaped Peninsulas, Landscaped Islands, and Screening Buffers).

(4) Plant Installation Plan

Prior to receiving a Certificate of Occupancy, a Plant Installation Plan prepared by a registered landscape architect or architect shall be submitted and approved containing the following information:

(Ord. No. 10749, 08/26/98; Ord. No. 10810, 12/15/98)

(a) location, installation size, quantity, and scientific and common names of landscaping to be installed; and

(b) the spacing between trees and shrubs used for screening.

The applicant has the option of submitting both the Landscape Plan and Plant Installation Plan at the same time.

(5) Hardships

This article does not intend to create undue hardship on affected properties. The required landscaping should not exceed fifteen percent (15%) of the total lot area. For existing developments where the GFA or parking areas are being increased, the loss of off-street parking spaces (required by zoning ordinance) as a result of compliance with the landscaping provisions should not exceed ten percent (10%).

(a) Special Administrative Remedies

1. Lots with a depth of one hundred fifty (150) feet or less, or an area of fifteen thousand (15,000) square feet or less have the following special remedies:

(a) an automatic fifty percent (50%) reduction in landscape yard depth requirements for screening, street yard, and parking lot landscaping sections; and

(b) a twenty-five percent (25%) reduction in planting requirements for all sections except for the required evergreen plantings for screening.

2. Lots that front on more than one (1) street have the following special exception:

(a) all street frontages other than the primary street frontage may have a street yard with a minimum depth of four (4) feet.

3. In situations where the landscape requirements would result in the demolition of an existing building, a loss of more than ten percent (10%) of the gross required off-street parking for an existing development, or a loss of greater than fifteen percent (15%) of the lot area, the following administrative remedies may be applied:

(a) reduce the required minimum landscaped area widths up to fifty percent (50%)

(b) reduce the tree planting requirements by up to twenty-five percent (25%)

(c) Remedy Guidelines

(i) Where possible, reduction of landscaping requirements in one area should be offset by an increase of landscaping requirements in other portions of the site.

(ii) The first priority is to provide trees along the street frontage.

(iii) The second priority is to provide trees within portions of the parking lot that are highly visible from the street.

(iv) A screen should always be provided if it is required by this article. Where there are space limitations, reduce the landscape yard as necessary. If the planting area is less than five (5) feet in width, require a minimum six (6) feet tall wood or composite fence, or masonry wall.

(6) Conflict with other articles in the this chapter and Existing Zoning Conditions

(7) Where any requirement of this section conflicts with the requirement of another article or Existing Zoning Conditions in this chapter, the provisions of this landscaping section shall override.

(Code 1995, Appendix B, Art. IX, § 101)

Sec. 38-593. Street yard requirements.

(1) Intent

The intent of this section is to add quality and definition to the street by planting trees within a landscaped area along the edges of the right-of-way.

(2) Dimensions

(a) Except for points of access, a street yard shall be provided where the proposed development site adjoins the public street right-of-way. Alleys are exempt from this requirement.

(b) The street yard shall have a minimum depth of eight (8) feet as measured from the edge of the public right-of-way towards the interior of the property. The yard shall consist of sod grass or other natural living ground cover material. No impervious surfaces are permitted in the street yard area.

(3) Plantings

(a) Trees shall be planted within the street yard at a minimum ratio of one (1) tree per thirty-five (35) linear feet of right-of-way frontage. Trees do not have to be evenly spaced in thirty-five (35) feet increments. Fractions of trees shall be rounded up to the nearest whole number.

(b) The minimum spacing between trees is fifteen (15) feet measured trunk to trunk. The maximum spacing is fifty (50) feet measured trunk to trunk.

(c) The trees referred to in this section shall have a minimum expected maturity height of at least thirty-five (35) feet and a minimum expected canopy spread of twenty (20) feet (see Plant Installation Specifications Section: Class I Shade Trees).

(4) Existing Woodlands

Existing woodlands along the street right-of-way frontage can be substituted for the street yard requirements subject to the following:

(a) Existing woodlands to be set aside shall have a minimum depth of twenty-five (25) feet as measured from the public street right-of-way;

(b) Number of woodland trees (not including prohibited trees) having a minimum caliper of six (6) inches shall equal or exceed the minimum street tree planting ratio of one (1) tree per thirty-five (35) linear feet;

(c) No impervious surfaces are permitted within the protected woodlands area except for approved access points to the site; and

(d) No cutting/filling activities or storage of materials/equipment are permitted within the protected woodlands.

(5) Exemptions/Special Situations

(a) Areas zoned C-3 and C-7 in the City of Chattanooga are exempt from the street yard requirements.

(Ord. No. 10789, 11/10/98)

(b) Properties adjoining rights-of-way that encroach into established parking areas more than twenty (20) feet have the following street yard options:

1. Plant street trees within the right-of-way provided written permission is obtained from the owner of the public right-of-way;
2. If permission can not be obtained to plant in the right-of-way, no street yard will be required. However, the street trees will be relocated somewhere within the site in an area highly visible from the street. These trees can not be used to meet requirements in other sections;

(c) Existing street trees planted within the right-of-way (not including the center median or opposite side of the street) and approved by the City Urban Forester can be used to meet the street yard requirements.

(d) Where overhead powerlines encroach into the street yard, Class II shade trees can be planted (see Plant Installations Specifications Section: Class II Shade Trees).

(e) Stormwater facilities may be located within the street yard subject to the following conditions:

1. no riprap, crushed stone, concrete, or other impervious materials are exposed; and
2. trees and other living organic materials can be planted along the stormwater facility.

(f) With the written approval of the right-of-way owner, portions of the public right-of-way may be used to meet the street yard requirements.

(6) No trees shall be located within the sight triangle as defined by this chapter.

(Code 1995, Appendix B, Art. IX, § 102; Ord. No. 10749, 08/26/98)

Sec. 38-594. Parking lot requirements.

(1) Intent

The intent of this section is to break up the expanse of asphalt, to provide shade, and to reduce the glare from parked cars and loading docks.

(2) Design Criteria

(a) No parking space can be more than sixty (60) feet from a tree.

(b) A landscaped island or peninsula shall border ends of interior parking bays that contain a minimum of ten (10) contiguous parking spaces.

(c) A landscaped peninsula shall border ends of perimeter bays.

(d) Side and front-facing truck delivery stalls and loading bays shall be screened from the public right-of-way.

(3) Dimensions/Planting Criteria

(a) Landscaped islands and peninsulas used to meet the landscaping requirements shall have a minimum width of eight (8) feet and a minimum landscaped area of two hundred (200) square feet.

(b) Landscaped islands and peninsulas used to meet the landscaping requirements shall be planted with at least one (1) tree.

(c) The trees referred to in this section shall have a minimum expected maturity height of at least thirty-five (35) feet and a minimum expected canopy spread of twenty (20) feet (see Plant Installation Specifications

Section: Class I Shade Trees). In the special situations specified below, smaller Class II Shade Trees may be substituted for Class I Shade Trees:

1. an overhead obstacle such as a canopy or power line limits the tree height; or
2. the tree is located within twenty (20) feet of a building.

(d) All landscaped islands and peninsulas shall be bordered by a curb or a wheel stop.

(e) The screening material for loading docks and delivery stalls shall consist of the following:

1. One (1) row of evergreen shrubs spaced a maximum of five (5) feet on-center or a row of evergreen trees spaced a maximum of ten (10) feet on-center (See Plant Installation Specifications Section for a list of recommended plantings); and
2. Provide a landscaped yard with a minimum depth of eight (8) feet for the planted screen.

(Code 1995, Appendix B, Art. IX, § 103)

Sec. 38-595. Screening requirements.

(1) Intent

To provide transition between incompatible land uses and to protect the integrity of less-intensive uses from more intensive uses, screening and buffering will be required. The purpose of the screen is to provide a year-round visual obstruction. The buffer provides transition between the incompatible uses by requiring a landscape yard of a minimum specified depth along the shared property line.

(2) Procedure

Refer to the matrix attached hereto and incorporated herein by reference to determine any screening requirements for the proposed development. First, identify the type of zoning for the proposed development (along the left side of the matrix) and each adjoining property (along the top of the matrix). Find where the zoning of the proposed development and each adjoining property intersect on the matrix. If a screen is required, a capital letter will indicate the type of screen to be applied. A description of each screen type is provided herein.

When classifying a zoning district for the Screen Matrix, if the proposed use within a zone is also listed as a permitted use within a less-intensive zone, the corresponding class for the less intensive zone may be applied. For example, a proposed commercial use within a manufacturing zone may be classified as a commercial zone for the purposes of using the Screening Matrix.

(Ord. No. 10789, 11/10/98)

SCREEN MATRIX

(See Screen Matrix attached hereto and incorporated herein by reference)

	Zoning Districts
Manufacturing/Warehousing	M-1, M-2, M-3, M-4
Commercial	C-2, C-3, C-4, C-5, C-7
Office	O-1
Residential (High Density)	R-3, R-3MD, R-4, RTZ-1, RT-1, RZ-1
Residential (Low Density)	R-1, R-2, R-5

(3) Screening Type A: Provide a thirty (30) feet deep (as measured towards the interior of the property) landscape yard along the shared property line planted with:

(a) Evergreen trees spaced a maximum of ten (10) feet on-center or two (2) staggered rows {spaced a maximum of seven (7) feet apart} of shrubs spaced a maximum of eight (8) feet on-center, and two (2) rows of shade trees spaced a maximum of thirty-five (35) feet on-center.

(b) All plantings shall meet the installation and planting size requirements specified in the Plant Installation Specifications section.

(4) Screening Type B: Provide a twenty (20) feet deep (as measured towards the interior of the property) landscape yard along the shared property line planted with:

(a) Evergreen trees spaced a maximum of ten (10) feet on-center or two (2) staggered rows {spaced a maximum of seven (7) feet apart} of shrubs spaced a maximum of eight (8) feet on-center, and one (1) row of shade trees spaced a maximum of thirty-five (35) feet on-center.

(b) All plantings shall meet the installation and planting size requirements specified in the Plant Installation Specifications section.

(5) Screening Type C: Provide a ten (10) feet deep (as measured towards the interior of the property) landscape yard along the shared property line planted with:

(a) Evergreen trees spaced a maximum of ten (10) feet on-center or two (2) staggered rows {spaced a maximum of seven (7) feet apart} of shrubs spaced a maximum of eight (8) feet on-center.

(b) All plantings shall meet the installation and planting size requirements specified in the Plant Installation Specifications section.

		EXISTING				
		Manufacturing/ Warehousing	Commercial	Office	High-Density Residential	Low-Density Residential
PROPOSED	Manufacturing/ Warehousing	No screen or buffer required	C	B	A	A
	Commercial	No screen or buffer required	No screen or buffer required	No screen or buffer required	B	B
	Office	No screen or buffer required	No screen or buffer required	No screen or buffer required	C	C
	High-Density Residential	A	B	C	No screen or buffer required	C

(6) Screening of Dumpsters

Dumpsters shall be screened in the manner described below:

(a) Screening shall be a minimum height of six (6) feet;

(b) All four (4) sides of the dumpster shall be screened;

(c) The screen should incorporate access to the dumpster by using a wood fence or other opaque device to serve as a gate;

(d) Screening materials can be any combination of evergreen plantings, wood, or masonry material.

(7) Stormwater facilities may be located in the landscaped yard subject to the following conditions:

(a) No rip-rap, crushed stone, concrete or other impervious materials are exposed; and

(b) Trees and other living organic materials can be planted along the storm water facility.

(Code 1995, Appendix B, Art. IX, § 104)

Sec. 38-596. Stormwater credits.

(1) Credits for landscaping and storm water fee reduction are available for leaving natural buffers along perennial streams. All credits and buffer designs are subject to the review and approval of the Chattanooga Stormwater Engineer. A maximum stormwater fee reduction of twenty-five percent (25%) is available subject to the review and approval of the Chattanooga Stormwater Engineer.

(2) A natural buffer with a minimum width equal to three (3) times the stream width shall be provided on each side of the stream:

(a) The required width per side shall be no less than twenty-five (25) feet and no more than one hundred (100) feet; and

(b) The width of the buffer shall be measured from the edge of the stream bank.

(3) No vegetation within the natural buffer shall be removed or disturbed except for poisonous or non-native plant species.

(4) No fill or cutting activities, including the storage of materials or equipment shall be permitted in the natural buffer area.

(5) No impervious surfaces are permitted in the buffer.

(6) Trees located within the buffer area with a minimum six-inch (6") caliper can be used to meet the landscaping requirements.

(7) The maximum landscaping credit allowance is twenty-five percent (25%) of the landscaping requirements for trees.

(Code 1995, Appendix B, Art. IX, § 105)

Sec. 38-597. Plant installation specifications.

(1) Intent

All landscaping material shall be installed in a professional manner, and according to accepted planting procedures specified in the Arboricultural Specifications Manual available from the City Forester.

(2) Class I Shade Trees: These trees are used to meet the tree planting requirements specified in the Street Yard and Parking Lot sections. All Class I shade trees shall be installed at a minimum caliper of 2 inches as measured from 2-1/2 feet above grade level. Class I shade trees shall also have a minimum expected maturity height of at least 35 feet and a minimum canopy spread of 20 feet. Evergreen trees can be treated as Class I shade trees provided they meet the minimum maturity height and canopy spread criteria.

(a) Recommended Species

Common Name	Scientific Name
River Birch	Betula nigra
Princeton American Elm	Umlauts americana
Allee Elm	Ulmus parvifolia
Athena Elm	Ulmus parvifolia
Drake Elm	Ulmus parvifolia
Ginkgo	Ginkgo biloba (male)
Golden Raintree	Koelreuteria paniculata
Black Gum	Nyssa sylvatica
Sweetgum	Liquidambar styraciflua
Seedless Honey Locust	Gleditsia triacanthos cultivars
American Hophornbeam	Ostrya virginiana
American Hornbeam	Caprinus caroliniana
Europian Hornbeam	Carpinus betulus and cultivars
Katsura Tree	Cercidophyllum japonicam
Littleleaf Linden	Tilia cordata
Silver Linden	Tilia tomentosa
Red Maple	Acer rubrum and cultivars
Southern Sugar Maple	Acer barbatum
Sugar Maple	Acer saccharum and cultivars
English Oak	Quercus robur
Northern Red Oak	Quercus borealis
Overcup Oak	Quercus lyrata
Pin Oak	Quercus palustris
Red Oak	Quercus rubra
Sawtooth Oak	Quercus acutissima
Scarlet Oak	Quercus coccinea
Shumard Oak	Quercus shumardii

Swamp White Oak	Quercus bicolor
Water Oak	Quercus nigra
White Oak	Quercus alba
Willow Oak	Quercus phellos
Aristocrat Pear	Pyrus calleryana 'Aristocrat'
Cleveland Select Pear	Pyrus calleryana 'Cleveland Select'
Chinese Pistache	Pistacia chinensis
Japanese Pogodatree	Sophora japonica
Dawn Redwood	Metasequoia glyptostroboides
Japanese Zelkova	Zelkova serrata
Yellowwood	Cladrastis kentukea

(3) Class II Shade Trees: These trees are intended to be used for planting under overhead power lines only where they encroach into the property. All Class II shade trees shall be installed at a minimum caliper of one and one-half (1-1/2) inches as measured at two and one-half (2-1/2) feet above grade level from the base of the tree. Class II trees shall have a maximum expected maturity height of twenty (20) feet and a minimum canopy spread of ten (10) feet.

(a) Recommended Species:

Common Name	Scientific Name
Autumn Flowering Cherry	Prunus subhirtella var. autumnalis
Okame Cherry	Prunus campanulata
Yoshino Cherry	Prunus yedoensis
Crapemyrtle	Lagerstroemia indica cultivars
Flowering Dogwood	Cornus florida and cultivars
Kousa Dogwood	Cornus kousa and cultivars
Thornless Cockspur	Crataegus crusgalli var. Hawthorne inermis
Winter King Hawthorne	Crataegus viridis 'Winter King'
Sweetbay Magnolia	Magnolia virginiana
Amur Maple	Acer ginnala
Hedge Maple	Acer campestre
Trident Maple	Acer buergeranum
Golden Raintree	Koelreuteria paniculata
Redbud	Cercis canadensis
Serviceberry	Amelanchier species

(4) Screening Trees: Screening trees are used to meet the tree planting requirements of the Screening Section. All screening trees shall be installed at a minimum height of five (5) to (6) six feet and have a minimum expected mature spread of eight (8) feet.

(Ord. No. 10789, 11/10/98)

(a) Recommended Species:

Common Name	Scientific Name
Atlas Cedar	Cedrus atlantica
Deodar Cedar	Cedrus deodara
Eastern Red Cedar	Juniperus virginiana

Leyland Cypress	Cupressocyparis leylandii
Carolina Hemlock	Tsuga caroliniana
Canadian Hemlock	Tsuga canadensis
American Holly	Ilex opaca
Foster Holly	Ilex attenuata 'Fosteri'
Southern Magnolia	Magnolia grandiflora
Loblolly Pine	Pinus taeda
Virginia Pine	Pinus virginiana
White Pine	Pinus strobus

(5) Screening Shrubs: All screening shrubs shall be installed at a minimum size of three (3) gallons and have an expected maturity height of at least eight (8) feet and a mature spread of at least five (5) feet.

(a) Recommended Species:

Common Name	Scientific Name
Burford Holly	Ilex cornuta 'Burfordii'
English Holly	Ilex aquifolium
Nellie R. Stevens Holly	Ilex cornuta 'Nellie Stevens'
Cherrylaurel	Prunus caroliniana
English Laurel	Prunus laurocerasus
Fragrant Olive	Eleagnus pungens
Leatherleaf Viburnum	Viburnum rhytidophyllum
Wax Myrtle	Myrica cerifera

(6) Prohibited Plants: The following plants are prohibited from being used to meet these requirements due to problems with hardiness, maintenance, and nuisance:

Common Name	Scientific Name
Kudzu Vine	Garlic Mustard
Purple Loosestrife	Paulownia
Japanese Honeysuckle	Multiflora Rose
Shrub Honeysuckle	Siberian Elm
Autumn Olive	Silver Poplar
Common Privet	Mimosa
Tree of Heaven	Mulberry
Lespedeza	Silver Maple

(Code 1995, Appendix B, Art. IX, § 106)

Sec. 38-598. Utility easement policy.

(1) Intent
Any tree or shrub used to meet the requirements of this article shall not be located within proposed or existing utility easements unless it meets one of the special exceptions as defined below.

(2) Special Exceptions
(a) Written permission has been obtained from the holder of the utility easement.
(b) Where overhead powerlines cross an area required by the ordinance to be planted with shade trees, smaller shade trees (listed in the Plant

Installation Specifications section as Class II Shade Trees) may be substituted.

(3) If none of the special exceptions apply, the following options shall be considered in order of priority:

(a) Priority #1: Plant the tree as close to the easement as possible.

(b) Priority #2: For highly visible areas (street yards, parking lots in front) plant the tree in the same general area where it can be seen from the street or parking lot.

(4) Utility easements can be used to meet the landscape yard requirements. The applicant is responsible for identifying existing and proposed utility easements within the property on the landscape site plan.

(Code 1995, Appendix B, Art. IX, § 107)

Sec. 38-599. Maintenance.

The property owner shall be responsible for the maintenance of all landscaping provided. All landscaped areas must present a healthy, neat and orderly appearance and shall be kept free from refuse and weeds. Any dead or diseased plant material shall be replaced by the property owner with new plantings that meet the requirements of this article.

(Code 1995, Appendix B, Art. IX, § 108)

Sec. 38-600. Certificate of occupancy/bonding.

(1) If the landscaping has not been installed and inspected for proper installation prior to receiving a Certificate of Occupancy, a Certificate of Occupancy may be granted provided the following conditions are met:

(a) Property owner posts a performance bond or irrevocable letter of credit with the City Treasurer;

(b) The amount of the bond or letter of credit shall be based on material and installation costs of the uninstalled landscape material, including a ten percent (10%) contingency cost, as shown on the submitted landscape plan;

(c) The costs of the landscaping shall be certified by a licensed contractor or determined using a general formula established by the landscape site reviewer (option of applicant).

(Ord. No. 10789, 11/10/98)

(2) After receiving the Certificate of Occupancy, the remaining landscape material shall be installed within six (6) months. The bond or letter of credit shall be called if the required landscaping has not been installed by the end of the six (6) month period and the funds applied to complete the landscaping work.

(Code 1995, Appendix B, Art. IX, § 109)

Sec. 38-601. Appeals.

Any person aggrieved by the administration, interpretation, or enforcement of this article may appeal to the Board of Zoning Appeals within sixty (60) days of the decision. Decisions of the Board of Appeals may be appealed to a court of competent jurisdiction.

Should any court of competent jurisdiction find any portion of this article unlawful or unconstitutional, such finding shall not affect this article as a whole or any portion of it not found invalid.

(Code 1995, Appendix B, Art. IX, § 110)

Sec. 38-602. Definitions.

(1) Caliper - a measurement of the tree trunk diameter measured six (6) inches above grade level.

(Ord. No. 10789, 11/10/98)

(2) Class I Shade Trees - any plant having a central trunk, an expected maturity height of at least thirty-five (35) feet, and an expected minimum mature canopy spread of at least fifteen (15) feet.

(3) Class II Shade Trees - any plant having a central trunk and a maximum expected maturity height of twenty-five (25) feet.

(4) Gross Floor Area (GFA) - total interior space as defined by the Southern Building Code.

(5) Impervious Surfaces - includes concrete, asphalt, brick, metal, or any other material constructed or erected on landscaped or natural buffer areas that impede the percolation of water into the ground.

(6) Interior Bay - all parking bays that do not qualify as a perimeter bay.

(7) Landscape Area/Landscaped Yard - an area to be planted with trees, grass, shrubs, or other natural living ground cover material. No impervious surfaces are permitted in these areas.

(8) Landscaped Island - a landscaped area defined by a curb and surrounded by paving on all sides.

(9) Landscaped Peninsula - a landscaped area defined by a curb and surrounded by paving on three sides.

(10) Landscaped Median - a landscaped area bordering two (2) adjoining parking bays.

(11) Natural Buffer - an area of land set aside for preservation in its natural vegetative state. No removal of plants is permitted with the exception of poisonous or non-native plant species. In addition, no fill/cutting activities or storage of materials is permitted in these areas. No impervious surfaces are permitted.

(Ord. No. 10692, 4/21/98)

(12) New Development – construction of a new building or structure on its own lot is considered as new development. New buildings or structures constructed on a lot which already contains existing buildings is considered as an expansion.

(Ord. No. 10749, 8/25/1998)

(13) Parking Space/Parking Bay – includes spaces and areas for all vehicles except tractor trailers.

(Ord. No. 10789, 11/10/98)

(14) Perimeter Bay - all parking bays that are adjacent to the perimeter of a development.

(15) Screening Shrubs - evergreen shrubs that maintain their foliage year-round.

(16) Screening Trees - evergreen trees that maintain their foliage year-round.

(17) Street Yard - a designated landscaped area where private property abuts the public street right-of-way for the planting of grass, trees, and shrubs.

(Code 1995, Appendix B, Art. IX, § 11; Ord. No. 10692, 4/21/98)

Secs. 38-603 - 38-620. Reserved.

ARTICLE X. HAZARDOUS WASTE REGULATIONS

Sec. 38-621. Intent.

It is the purpose of this article to establish reasonable regulation of all commercial hazardous waste management facilities and commercial medical waste facilities (as defined in this chapter) relative to appropriateness of location and method of operation in order to minimize the impact on the community adjacent to and surrounding such uses and to assure and maintain the public safety and general welfare.

This basic purpose can and should be achieved without precluding or discouraging the following objectives: (1) encourage innovation and the use of new technologies for waste minimization, storage and disposal, (2) increase collaborative activities among area industries which have common environmental concerns, and (3) facilitate access to international markets for products and technologies related to the environment while at the same time giving due concern for the environment, health and safety of the citizens of Hamilton County and all municipalities contained therein.

It is the further intent of the City to encourage the recycling, reclamation, and reuse of materials so as to remove such materials from the solid and hazardous waste stream. To this end, the City encourages the state and federal governments to revise their rules and regulations to encourage such recycling, reclamation and reuse, after which the City shall consider similar revisions.
(Code 1995, Appendix B, Art. X, § 100)

Sec. 38-622. Definitions.

(1) Commercial Hazardous Waste Management Facility: any hazardous waste management facility proposed for a new site, or through a change of operations at an existing site within this jurisdiction that stores, treats (including incineration), or disposes of hazardous waste, of which, more than ten percent (10%) by volume was generated off-site during either six-month period January 1 through June 30 or July 1 through December 31 in any calendar year, with the percentage to be the percent of the amount generated off-site at the receiving facility during the corresponding time period of the preceding calendar year.
(Ord. 10225, 05/23/95)

(2) Generate: the act or process of producing hazardous wastes or medical wastes.

(3) Off-Site: any property that is not classified as on-site by these regulations.

(4) On-Site: on the site of generation. "On-site" further means the same or geographically contiguous property which may be divided by public or private right(s)-of-way. Noncontiguous property owned by the hazardous waste generator that is connected by a right-of-way which such hazardous waste generator controls and to which the public does not have access is also considered on-site property.

(5) Hazardous Waste: a solid waste, or combination of solid wastes, which because of its quantity, concentration, or physical chemical, or infectious characteristics may

(a) cause, or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness; or

(b) pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed.

(6) Commercial Medical Waste Management Facility: any medical waste management facility proposed for a new site or through a change of operations at an existing site within this jurisdiction used for treatment (including incineration), storage or disposal of any medical waste generated off-site, except that a facility that receives medical waste that is generated only at a site or sites owned or operated by the same corporation, or subsidiaries of such corporation, or sites under contract to such corporation for medical wastes generated by the corporation shall not be deemed to be a commercial medical waste management facility provided that the volume of medical waste received from such sites and placed in storage for more than one calendar month does not exceed twenty-five percent (25%) of the storage capacity at the designated accumulation area of the facility, referred to at the definition of "storage" in Title 40 CFR 259.10(a), Revised as of July 1, 1991, regarding Standards for the Tracking and Management of Medical Waste, and identified as required in article X, section 38-621 of this chapter, and provided that during no calendar month may more than twenty-five percent (25%) of the total medical waste treated or disposed at the facility be from such sites, and the facility shall maintain records available for public inspection for two (2) years to demonstrate compliance.

(7) Medical Waste: solid or liquid wastes which contain pathogens with sufficient virulence and quantity such that exposure to the waste by a susceptible host could result in an infectious disease. All of the following types of wastes shall be considered to be medical wastes for the purposes of these regulations:

(a) Biological wastes and discarded materials contaminated with blood, excretion, exudates, or secretions from patients who are isolated to protect others from certain highly communicable diseases, or isolated animals known to be infected with highly communicable diseases; and

(b) Cultures and stocks of infectious agents and associated biologicals, including cultures from medical and pathological laboratories, cultures and stocks of infectious agents from research and industrial laboratories, wastes from the production of biologicals, discarded live and attenuated vaccines, and culture dishes and devices used to transfer, inoculate, and mix cultures; and

(c) Human pathological wastes, including tissues, organs, and body parts and body fluids that are removed during surgery or autopsy, or other medical procedures, and specimens of body fluids and their containers; and

(d) Liquid waste human blood; products of blood; items saturated and/or dripping with human blood; or items that were saturated and/or dripping with human blood that are now caked with dried human blood; including serum, plasma, and other blood components, and their containers, which were used or intended for use in either patient care, testing and laboratory analysis or the development of pharmaceuticals; and intravenous bags; and

(e) Sharps that have been used in animal or human patient care or treatment or in medical, research, or industrial laboratories, including hypodermic needles, syringes (with or without the attached needle), pasteur pipettes, scalpel blades, blood vials, needles with attached tubing, and culture dishes (regardless of presence of infectious agents). Also included are

other types of broken or unbroken glassware that were in contact with infectious agents, such as used slides and cover slips; and

(f) Contaminated animal carcasses, body parts, and bedding of animals that were known to have been exposed to infectious agents during research (including research in veterinary hospitals), production of biologicals or testing of pharmaceuticals; and

(g) The following unused, discarded sharps: hypodermic needles, suture needles, syringes, and scalpel blades.

(8) Storage: holding hazardous waste or medical waste for a period of more than ninety (90) days, at the end of which the hazardous waste or medical waste is treated, disposed of, or stored elsewhere. A commercial hazardous waste management facility or a commercial medical waste management facility shall not be subject to the ninety days restriction for the purposes of this definition and these zoning regulations if it either:

(a) Generates more than 100 kilograms and less than 1000 kilograms of hazardous waste or medical waste in a calendar month; and the quantity of waste accumulated on-site never exceeds 6000 kilograms; and the facility has complied with all other applicable provisions of 40 CFR 262.34(d), in which case accumulation on-site would constitute "storage" after 180 days.

In addition, if such a facility must transport its hazardous waste or medical waste or offer them for transportation over a distance of 200 miles or more for off-site treatment, storage or disposal, then accumulation on-site would constitute "storage" after 270 days; or

(b) Generates less than 100 kilograms of hazardous waste or medical waste in a calendar month; and generates one (1) kilogram or less of acute hazardous wastes listed in 40 CFR 261.31, 261.32, or 261.33(e); and generates 100 kilograms or less of any residue or contaminated soil, waste, or other debris resulting from the cleanup of a spill, into or on any land or water, of any acute hazardous wastes listed in 40 CFR 261.31, 261.32, or 261.33(e); and the quantity of hazardous or medical waste accumulated on-site never exceeds 1000 kilograms; and the facility has complied with all other applicable provisions of 40 CFR 261.5, in which case accumulation on-site could continue indefinitely at a facility that is not otherwise a "commercial hazardous waste facility" or a "commercial medical waste facility" for the purposes of these zoning regulations.

(9) Construction: in general, initiation of physical on-site construction activities on a management unit which are of a permanent nature. Such activities include, but are not limited to, installation of building supports and foundations, laying of underground pipe work, and construction of permanent storage structures. With respect to a change in the method of operation this term refers to those on-site activities, other than preparation activities, which mark the initiation of the change.

(10) 100-Year Floodplain: any land area which is subject to a one percent or greater chance of flooding in any given year from any source as defined in 44 Code of Federal Regulations Part 67, Final Flood Elevation Determinations and as effective on the date of issuance of the Flood Insurance Rate Map showing the 100-year flood elevations for the community.

(11) 500-Year Floodplain: any land area which is subject to a two tenths chance in one hundred (one chance in five hundred) of being flooded in any one-year period as shown on the Flood Insurance Rate Map.

(12) [deleted]

(13) Flood Insurance Rate Map: an official map of a community, on which the Federal Insurance Administration of the Federal Emergency Management Agency (FEMA) has delineated both the areas of special flood hazard and the risk premium zones applicable to the community. For the purposes of these regulations, the floodplains identified by FEMA in its Flood Insurance Rate Maps Numbers 47065C 0214F, 0217F, 0218F, 0219F, 0228F, 0229F, 0236F, 0237F, 0239F, 0243F, 0319F, 0326F, 0327F, 0328F, 0329F, 0331F, 0332F, 0333F, 0334F, 0336F, 0337F, 0338F, 0339F, 0341F, 0342F, 0343F, 0344F, 0351F, 0352F, 0353F, 0354F, 0356F, 0357F, 0358F, 0359F, 0361F, 0362F, 0363F, 0364F, 0366F, 0367F, 0368F, 0369F, 0378F, 0379F, 0383F, 0380F, 0386F, 0387F, 0388F, 0432F, 0451F, 0452F, 0456F, 0477F, 0481F. At least one copy of each map has been filed in the office of the city building inspector at least fifteen (15) days prior to adoption of these amendments to the Chattanooga Zoning Ordinance for public use, inspection and examination.

(14) Bedrock: the solid rock underlying unconsolidated surface material such as soil.

(15) Fault: a fracture along which strata on one side have been displaced with respect to that on the other, as shown on the East Central Sheet, Geologic Map of Tennessee, 1966, William D. Hardeman, State Geologist, compiled and edited by George D. Swingle, Robert A. Miller, Edward T. Luther, William D. Hardeman, Donald S. Fullerton, C. Ronald Sykes, and R. Keith Garman. At least one (1) copy of this map has been filed in the office of the city building inspector at least fifteen (15) days prior to adoption of these amendments to the Chattanooga Zoning Ordinance for public use, inspection and examination.

(16) Thrust Fault: a reverse fault in which the dip of the fault plane is at a low angle to horizontal and in which the hanging wall block (or upper plate) may have overridden the footwall block (or lower plate).

(17) Hanging Wall Block: the overlying surface of an inclined fault plane.

(18) Footwall Block: the underlying surface of an inclined fault plane.

(19) Sinkhole: a hollow in a limestone region in which drainage collects that communicates with a cavern or passage.

(20) Private Water Supply: all water supplies that are not public water supplies and which are primary drinking water sources.

(21) Public Water Supply: a system that supplies to the public piped water for human consumption, if such system has at least 15 service connections or regularly serves an average of at least 25 individuals daily at least 60 days of the year.

(22) Scenic, Cultural or Recreational Area: parks, forests, recreational areas, natural areas, museums, and wildlife management areas owned and/or operated by the Federal, State, and or local government (or agencies created by such government); sites included on the National Register of Historic Places established by the United States Department of Interior or forwarded for consideration for National Register listing to the United States Department of Interior by the Tennessee State Historical Commission State Review Board.

(23) Unit: a contiguous area of land on or in which hazardous or medical waste is placed, or the largest area in which there is significant likelihood of mixing hazardous waste constituents in the same area. Examples of waste management units include a surface impoundment, a waste pile, a land treatment area, a landfill cell, an incinerator, a tank and its associated piping and underlying containment system, and a container storage area. A container alone does not constitute a unit; the unit includes containers and the land or pad upon which they are placed.

(24) Land-Based Unit: a unit subject to regulations promulgated by the Tennessee Department of Environment and Conservation Division of Solid Waste including surface impoundments, landfills, waste piles, land treatment units, and hazardous waste management units. Units exempt from groundwater monitoring correction requirements under regulations promulgated by the Tennessee Department of Environment and Conservation Division of Solid Waste and covered indoor waste piles in compliance with regulations promulgated by the Tennessee Department of Environment and Conservation Division of Solid Waste are considered non-land-based units.

(25) Non-Land-Based Unit: an incinerator, tank and its associated piping and underlying containment system, or container storage area, hazardous waste management units and other similar units that are not subject to regulations for land-based units promulgated by the Tennessee Department of Environment and Conservation Division of Solid Waste.

(26) Unstable Area: a location that is susceptible to natural or human-induced events or forces capable of impairing the integrity of a commercial hazardous waste or medical waste treatment or storage facility's structural components responsible for preventing releases, including:

(a) subsidence prone areas (i.e., areas subject to the lowering or collapse of the land surface either locally or over broad regional areas);

(b) areas susceptible to mass movement (i.e., where the downslope movement of soil and rock under gravitational influence occurs);

(c) areas with weak and unstable soils (e.g., soils that lose their ability to support foundations as a result of expansion or shrinkage).

(27) Wetlands: lands which have hydric soils and a dominance (fifty percent [50%] or more of stem count based on communities) of obligate hydrophytes. They include the following generic types:

(a) Fresh water meadows;

(b) Shallow fresh water marshes;

(c) Shrub swamps with semi-permanent water regimes most of the year;

(d) Wooded swamps or forested wetlands;

(e) Open fresh water except farm ponds; and

(f) Bogs.

(Code 1995, Appendix B, Art. X, § 101)

Sec. 38-623. Identification of storage areas.

A new or rebuilt facility, or an expanded portion of an existing facility, or any facility which changes its operations, proposed for use as a "commercial medical waste management facility", as defined in these zoning regulations notwithstanding the exclusions within the definition, shall be required, in both its building permit application prior to construction or reconstruction and in any required installation permit at the Chattanooga-Hamilton County Air Pollution Control Bureau, to identify in writing on its building and operating plans any and all portions of the proposed facility or portion of an existing facility through a change in operations or expanded portion of an existing facility proposed for "storage", as defined in these zoning regulations notwithstanding the exclusions within the definition. Such identification of storage areas shall include the total cubic footage designated for accumulation of medical wastes at the "commercial medical waste management facility", as defined in these zoning regulations notwithstanding the exclusions within the definition.

(Code 1995, Appendix B, Art. X, § 102)

Sec. 38-624. Prohibited uses.

No commercial hazardous waste management facility or commercial medical waste management facility unit shall be allowed to be constructed within any 500-year floodplain identified on a Flood Hazard Boundary Map or a Flood Insurance Rate Map. This restriction shall also apply to any facility that meets the definition of "commercial hazardous waste management facility" or "commercial medical waste management facility" through a change in operations that does not involve constructing or reconstructing a building, so that such facility may not operate a commercial hazardous waste management facility or a commercial medical waste management facility within any 500-year floodplain identified on a Flood Hazard Boundary Map or a Flood Insurance Rate Map.

Any construction, alteration, repair, reconstruction, or improvement to a commercial hazardous waste management facility or commercial medical waste management facility on which the start of construction was begun after the effective date of these regulations shall meet all applicable requirements for new construction as contained in these regulations, except as provided in the next sentence.

Any commercial hazardous waste management facility unit or commercial medical waste management facility unit in existence prior to the effective date of this requirement that is hereafter damaged by any means to an extent of more than fifty percent (50%) of its assessed value may be reconstructed and used as before only if it is rebuilt in a manner that complies with all requirements in effect on the date the rebuilding commences and operates in that rebuilt portion of the unit in a manner that complies with all requirements in effect on the date that operation commences in the rebuilt commercial hazardous waste management facility unit or commercial medical waste management facility unit. In addition, the following requirements must be met:

(1) The reconstruction must not exceed the volume and external dimensions of the original structure or offer any greater obstruction to the flow of flood waters within the 500-year floodplain than did the original structure; and

(2) The lowest floor elevation (including basement) must be above the level of the 500-year floodplain or the structure must be floodproofed to a height above the level of the 500-year floodplain. Floodproofing measures shall be in accordance with the watertight performance standards of the publication Flood-Proofed Regulations prepared by the Office of the Chief of U.S. Army Corps of Engineers, Washington, D.C. dated March 31, 1992, which is hereby incorporated by reference as if fully set forth herein. One (1) copy of this document has been filed in the office of the City Clerk at least fifteen (15) days prior to adoption of these amendments to the Chattanooga Zoning Ordinance for public use, inspection and examination; and

(3) The reconstruction must commence within twelve (12) months after the damage first occurs, and the reconstruction must be completed within twenty-four (24) months after the damage first occurs. In the event of fire, flood, labor dispute, epidemic, abnormal weather conditions or acts of God, the reconstruction commencement time period and/or the reconstruction completion period will be extended in an amount equal to time lost due to delays beyond the control of the owner or operator of the facility subject to this requirement.

These requirements also apply to any commercial hazardous waste management or commercial medical waste management facility unit in existence prior to the effective date of these regulations that proposes to expand after the effective date of these regulations to the

expanded portion of the facility. These requirements also apply to any commercial hazardous waste management or commercial medical waste management facility unit which is built subsequent to the adoption of these zoning regulations and thereafter damaged by any means to an extent of more than fifty percent (50%) of its assessed value.

These requirements also apply to any facility that meets the definition of "commercial hazardous waste management facility" or "commercial medical waste management facility" through a change in operations that does not involve constructing or reconstructing a building, which is thereafter damaged by any means to an extent of more than fifty percent (50%) of its assessed value.
(Code 1995, Appendix B, Art. X, § 103)

Sec. 38-625. Proximity of commercial hazardous waste or commercial medical waste management facilities to other uses.

All distances are to be measured from the "unit" as defined in this zoning ordinance to the nearest point of the property boundary line of the other land use.

(1) Groundwater and Public Drinking Water Supplies

(a) No commercial hazardous waste or commercial medical waste management facility unit shall be located within 2000 feet horizontally of a public drinking water supply well or public water supply intake point in a river, spring, lake, pond or reservoir, or within 1000 feet horizontally of a private drinking water supply well or private water supply intake point in a river, spring, lake, pond or reservoir.

(b) A commercial hazardous waste or commercial medical waste management facility unit shall not be constructed on a wetland or a sinkhole, nor drain into a sinkhole or into a wetland, and shall comply with all requirements necessary to obtain a National Pollution Discharge Elimination System (NPDES) permit.

(c) No commercial hazardous waste or commercial medical waste management facility unit shall be located within an area where the depth to the seasonally high water table in the uppermost saturated zone will rise to within five (5) feet of the ground surface.

(d) No commercial hazardous waste or commercial medical waste management facility unit at which hazardous or medical wastes are stored or treated below ground (e.g. underground tank, surface impoundment) shall be located or constructed in such a manner that the bottom of the liner system or secondary containment system is closer than ten (10) feet from the uppermost saturation area.

(e) Vertical Buffer Zones

(i) Commercial hazardous waste or commercial medical waste management facility land-based units shall be located and constructed such that there is, between the bottom of the unit's liner system and the seasonably high groundwater elevation in the uppermost saturated zone underlying the unit, a buffer layer of natural and/or emplaced soil meeting one of the following descriptions:

(A) Ten (10) feet thick, with a saturated hydraulic conductivity of 1 x 10-5 centimeters/second, or

(B) Five (5) feet thick, with a saturated hydraulic conductivity of 1 x 10-6 centimeters/second.

(ii) Commercial hazardous waste or commercial medical waste management facility non-land-based units shall be located and constructed such that there is, between the bottom of the unit's secondary containment system and the seasonably high water elevation in the uppermost saturated zone underlying the unit, a buffer layer of natural and/or emplaced soil meeting one of the following descriptions:

(A) Four feet thick, with a saturated hydraulic conductivity of 1 x 10-5 centimeters/ second, or

(B) Two feet thick, with a saturated hydraulic conductivity of 1 x 10-6 centimeters/ second, or

(C) A buffer layer of other material, mechanically separate from the secondary containment system which will provide protection to fluid movement equivalent or superior to (e)(ii)(A) or (B).

(iii) Hydraulic conductivity measurements are to be measured by the ASTM D5084 soil permeability test.

(iv) No commercial hazardous waste or commercial medical waste management facility unit or on-site access road to it shall be located within an area on the hanging wall block of a thrust fault line such that a vertical line as determined by a plumb line drilled by core drill to a depth of two hundred (200) feet will intersect a fault plane.

(2) <u>County Septic Tank Pumper Permanent Dumping Sites</u>

No commercial hazardous waste or commercial medical waste management facility unit shall be located within 1000 feet of any septic tank pumper permanent dumping site authorized by the Chattanooga-Hamilton County Health Department Rules and Regulations governing subsurface sewage disposal, including open-air disposal of septic tank effluent through land absorption.

(3) <u>Scenic, Cultural and Recreational Areas</u>

No commercial hazardous waste or commercial medical waste management facility unit shall be located within, or within 500 feet of, a scenic, cultural or recreational area in existence on the date a completed building permit application is submitted.

(4) <u>Structures</u>

To minimize incompatibility with the character of the surrounding area and to minimize the effect on the value of surrounding areas, the following minimum separation distances shall be required of any commercial hazardous waste or commercial medical waste management facility unit:

(a) It shall not be located within 2000 feet of existing schools, hospitals, or day care centers, residences or residential zones.

(b) It shall not be located within 200 feet of any commercial buildings, other than those which are part of the facility.

(c) It shall not be located within 1000 feet of existing churches and non-commercial buildings, other than those which are part of the facility.

(d) A commercial hazardous waste management facility or commercial medical waste management facility unit shall not be located within 200 feet of the facility's property boundaries.

(e) It shall not be located within 2000 feet of an existing commercial hazardous waste management facility or commercial medical waste management facility unit or site specifically designated as a superfund site by either state or federal regulations, provided this restriction does

not apply to a site which is temporarily used to ameliorate an adjacent site.

(f) Except for the purposes of Structures (4)(d), distance measurements shall be from the nearest point in a property line of a parcel containing the non-hazardous or non-medical waste management facility use to the nearest point of the "unit" as defined in this zoning ordinance.

(5) Unstable Areas

No commercial hazardous or medical waste management facility unit shall be located or constructed in an unstable area.

(Code 1995, Appendix B, Art. X, § 104)

Sec. 38-626. Exceptions.

(1) The following solid wastes are not hazardous wastes:

(a) Household waste, including household waste that has been collected, transported, stored, treated, disposed, recovered (e.g., refuse-derived fuel) or reused. "Household waste" means any material (including garbage, trash and sanitary wastes in septic tanks) derived from households (including single and multiple residences, hotels and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds and day-use recreation areas). A resource recovery facility managing municipal solid waste shall not be deemed to be treating, storing, disposing of, or otherwise managing hazardous wastes for the purposes of regulation under this definition, if such facility:

(i) Receives and burns only

(A) Household waste (from single and multiple dwellings, hotels, motels, and other residential sources) and

(B) Solid waste from commercial or industrial sources that does not contain hazardous waste; and

(ii) Such facility does not accept hazardous wastes and the owner or operator of such facility has established contractual requirements or other appropriate notification or inspection procedures to assure that hazardous wastes are not received at or burned in such facility.

(b) Solid wastes generated by any of the following and which are returned to the soils as fertilizers:

(i) The growing and harvesting of agricultural crops.

(ii) The raising of animals, including animal manures.

(c) Mining overburden returned to the mine site.

(d) Fly ash waste, bottom ash waste, slag waste, and flue gas emission control waste, generated primarily from the combustion of coal or other fossil fuels, except as provided by 40 Code of Federal Regulations 266.112 for facilities that burn or process hazardous waste.

(e) Drilling fluids, produced waters, and other wastes associated with the exploration, development or production of crude oil, natural gas or geothermal energy.

(f) Wastes which fail the test for the Toxicity Characteristic because chromium is present or are listed in Title 40 Code of Federal Regulations Part 261, subpart D due to the presence of chromium which do not fail the test for the Toxicity Characteristic for any other constituent or are not listed due to the presence of any other constituent, and which do not fail

the test for any other characteristic, if it is shown by a waste generator or by waste generators that:

(i) The chromium in the waste is exclusively (or nearly exclusively) trivalent chromium; and

(ii) The waste is generated from an industrial process which uses trivalent chromium exclusively (or nearly exclusively) and the process does not generate hexavalent chromium; and

(iii) The waste is typically and frequently managed in non-oxidizing environments.

(g) Specific wastes which meet the standard in Section 38-626(1)(f)(i), (ii), and (iii) (so long as they do not fail the test for Toxicity Characteristic, and do not fail the test for any other characteristic) are:

(i) Chrome (blue) trimmings generated by the following subcategories of the leather tanning and finishing industry; hair pulp/chrome tan/retan/wet finish; hair save/chrome tan/retan/wet finish; retain/wet finish; no beamhouse; through-the-blue; and shearling.

(ii) Chrome (blue) shavings generated by the following subcategories of the leather tanning and finishing industry: Hair pulp/chrome tan/retan/wet finish; hair save/chrome tan/retan/wet finish; retan/wet finish; no beamhouse; through-the-blue; and shearling.

(iii) Buffing dust generated by the following subcategories of the leather tanning and finishing industry: hair pulp/chrome tan/retan/wet finish; hair save/chrome tan/retan/wet finish; no beamhouse; through-the-blue.

(iv) Sewer screenings generated by the following subcategories of the leather tanning and finishing industry: Hair pulp/chrome tan/retan/wet finish; hair save/chrome tan/retan/wet finish; retan/wet finish; no beamhouse; through-the-blue; and shearling.

(v) Waste water treatment sludges generated by the following subcategories of the leather tanning and finishing industry: Hair pulp/chrome tan/ retan/wet finish; hair save/chrome tan/retan/wet finish; retan/wet finish; no beamhouse; through-the-blue; and shearling.

(vi) Waste water treatment sludges generated by the following subcategories of the leather tanning and finishing industry: Hair pulp/chrome tan/retan/wet finish; hair save/chrometan/ retan/wet finish; and through-the blue.

(vii) Waste scrap leather from the leather tanning industry, the shoe manufacturing industry, and other leather product manufacturing industries.

(viii) Waste water treatment sludges from the production of TiO2 pigment using chromium-bearing ores by the chloride process.

(h) Solid waste from the extraction, beneficiation, and processing of ores and minerals (including coal, phosphate rock and overburden from the mining of uranium ore), except as provided by 40 Code of Federal Regulations 266.112 for facilities that burn or process hazardous waste. For purposes of 40 CFR 261.4(b)(7), beneficiation of ores and minerals is restricted to the following activities: Crushing; grinding; washing; dissolution; crystallization; filtration; sorting; sizing; drying; sintering;

pelletizing; briquetting; calcining to remove water and/or carbon dioxide; roasting, autoclaving, and/or chlorination in preparation for leaching (except where the roasting (and/or autoclaving) and/or chlorination)/leaching sequence produces a final or intermediate product that does not undergo further beneficiation or processing); gravity concentration; magnetic separation; electrostatic separation; flotation; ton exchange; solvent extraction; electro-winning; precipitation; amalgamation; and heap, dump, vat, tank, and in situ leaching. For the purpose of 40 CFR 261.4(b)(7), solid waste from the processing of ores and minerals includes only the following wastes:

(i) Slag from primary copper processing;
(ii) Slag from primary lead processing;
(iii) Red and brown muds from bauxite refining;
(iv) Phosphogypsum from phosphoric acid production;
(v) Slag from elemental phosphorus production;
(vi) Gasifier ash from coal gasification;
(vii) Process wastewater from coal gasification;
(viii) Calcium sulfate wastewater treatment plant sludge from primary copper processing;
(ix) Slag tailings from primary copper processing;
(x) Fluorogypsym from hydrofluoric acid production;
(xi) Process wastewater from hydrofluoric acid production;
(xii) Air pollution control dust/sludge from iron blast furnaces;
(xiii) Iron blast furnace slag;
(xiv) Treated residue from roasting/leaching of chrome ore;
(xv) Process wastewater from primary magnesium processing by anhydrous process;
(xvi) Process wastewater from phosphoric acid production;
(xvii) Basic oxygen furnace and open hearth furnace air pollution control dust/sludge from carbon steel production;
(xviii) Basic oxygen furnace and open hearth furnace slag from carbon steel production;
(xix) Chloride process waste solids from titanium tetrachloride production;
(xx) Slag from primary zinc processing.

(i) Cement kiln dust waste, except as provided by 40 CFR 266.112 for facilities that burn or process hazardous waste.

(j) Solid waste which consists of discarded wood or wood products which fails the test for the Toxicity Characteristic solely for arsenic and which is not a hazardous waste for any other reason or reasons, if the waste is generated by persons who utilize the arsenical-treated wood and wood products for these materials' intended end use.

(k) Petroleum-contaminated media and debris that fail the test for the Toxicity Characteristic of 40 CFR 261.24 (Hazardous Waste Codes D018 through D042 only) and are subject to the corrective action regulations under 40 CFR 280.

(l) Injected groundwater that is hazardous only because it exhibits the Toxicity Characteristic (Hazardous Waste Codes D018 through D043 only) in 40 CFR 261.24 that is re-injected through an underground injection well pursuant to free phase hydrocarbon recovery operations undertaken at petroleum refineries, petroleum marketing terminals,

petroleum bulk plants, petroleum pipelines, and petroleum transportation spill sites until January 25, 1993. This extension applies to recovery operations in existence, or for which contracts have been issued, on or before March 25, 1991. For groundwater returned through infiltration galleries from such operations at petroleum refineries, marketing terminals, and bulk plants, until January 1, 1993. New operations involving injection wells (beginning after March 25, 1991) will qualify for this compliance date extension (until January 25, 1993) only if:

(i) Operations are performed pursuant to a written state agreement that includes a provision to assess the groundwater and the need for further remediation once the free phase recovery is completed; and

(ii) A copy of the written agreement has been submitted to: Characteristics Section (OS-333), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

(m) Used chlorofluorocarbon refrigerants from totally enclosed heat transfer equipment, including mobile air conditioning systems, mobile refrigeration, and commercial and industrial air conditioning and refrigeration systems that use chlorofluorocarbons as the heat transfer fluid in a refrigeration cycle, provided the refrigerant is reclaimed for further use.

(n) Used oil that exhibits one or more of the characteristics of hazardous waste but is recycled in some other manner than being burned for energy recovery.

(o) Any waste from any facility sited within Hamilton County, which waste is excluded from Title 40 Code of Federal Regulations Part 261.3 or the lists of hazardous wastes in Title 40 Code of Federal Regulations Part 261, Subpart D, by the United States Environmental Protection Agency pursuant to Title 40 Code of Federal Regulations Part 260.20 or Part 260.22 and published in either the Federal Register or in Title 40 Code of Federal Regulations Part 261, Appendix IX, or in both.

(2) For purposes of this definition and these zoning regulations, "solid waste" means any garbage, refuse, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility and other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations, and from community activities, but does not include solid or dissolved material in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to permits under section 33 U.S.C. 1342, or source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954, as amended (68 Stat. 923)[42 U.S.C.A. Section 2011 et. seq.].

(3) <u>The following materials are not solid wastes for the purpose of this definition</u>:

(a) Domestic sewage and any mixture of domestic sewage and other wastes that passes through a sewer system to a publicly-owned treatment works for treatment. "Domestic sewage" means untreated sanitary wastes that pass through a sewer system.

(b) Industrial wastewater discharges that are point source discharges subject to regulation under section 402 of the Clean Water Act, as amended. This exclusion applies only to the actual point source discharge. It does not exclude industrial waste waters while they are being collected, stored or

treated before discharge, nor does it exclude sludges that are generated by industrial wastewater treatment.

(c) Irrigation return flows.

(d) Source, special nuclear or byproduct material as defined by the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2011 et.seq.

(e) Materials subjected to in-situ mining techniques which are not removed from the ground as part of the extraction process.

(f) Pulping liquors (i.e. black liquor) that are reclaimed in a pulping liquor recovery furnace and then reused in the pulping process, unless it is accumulated speculatively as defined in 40 Code of Federal Regulations 261.1(c).

(g) Spent sulfuric acid used to produce virgin sulfuric acid, unless it is accumulated speculatively as defined in 40 Code of Federal Regulations 261.1(c).

(h) Secondary materials that are reclaimed and returned to the original process or processes in which they were generated where they are reused in the production process provided:

(i) Only tank storage is involved, and the entire process through completion of reclamation is closed by being entirely connected with pipes or other comparable enclosed means of conveyance;

(ii) Reclamation does not involve controlled flame combustion (such as occurs in boilers, industrial furnaces, or incinerators);

(iii) The secondary materials are never accumulated in such tanks for over twelve months without being reclaimed; and

(iv) The reclaimed material is not used to produce a fuel, or used to produce products that are used in a manner constituting disposal.

(i) Spent wood preserving solutions that have been reclaimed and are reused for their original intended purpose; and waste waters from the wood preserving process that have been reclaimed and are reused to treat wood.

(j) When used as a fuel, coke and coal tar from the iron and steel industry that contains or is produced from decanter tank tar sludge, EPA Hazardous Waste K087. The process of producing coke and coal tar from such decanter tank tar sludge in a coke oven is likewise excluded from regulation.

(k) Materials that are reclaimed from solid waste and that are used beneficially are not solid wastes and hence are not hazardous waste unless the reclaimed material is burned for energy recovery or used in a manner constituting disposal.

(4) A facility that reclaims materials that are used beneficially as provided in section 38-623C(11) from solid waste it created is not a commercial hazardous waste management facility for the purpose of this chapter, unless that facility also stores or disposes of hazardous waste of which more than twenty-five percent (25%) by volume was generated off-site during either six-month period January 1 through June 30 or July 1 through December 31 in any calendar year, with the percentage to be the percent of the amount generated on-site at the receiving facility during the corresponding time period of the preceding calendar year.

(Code 1995, Appendix B, Art. X, § 105)

Sec. 38-627. Zoning requirements.

Commercial Hazardous Management Facilities and Commercial Medical Waste Management Facilities shall be permitted only in the M-1 Manufacturing Zone subject to the requirements of the M-1 Zone and the provisions of article X.
(Code 1995, Appendix B, Art. X, § 106)

Sec. 38-628. Building permit application requirements.

Application for a building permit shall be accompanied by a site plan indicating method and hours of operation, building and structure location and function, extent and nature of all screening and buffer areas, type and volume of waste materials, proximity to waterways and drainage characteristics, location and type of surrounding land use. Additional information, if required, shall be submitted upon request by the Director of Codes Administration.
(Code 1995, Appendix B, Art. X, § 107)

Sec. 38-629. Severability.

If any provision of these zoning regulations or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of these zoning regulations which can be given effect without the invalid provision or application, and to that end the provisions of these zoning regulations are declared to be severable.
(Code 1995, Appendix B, Art. X, § 108)

Secs. 38-630 - 38-640. Reserved

ARTICLE XI. PLATS

Sec. 38-641. Building permit applications to include plat.

(1) Each application for a building permit for a new building or to enlarge an existing building shall be accompanied by a plat drawn to scale, showing:
   (a) The actual dimensions of the lot to be built upon,
   (b) The size, shape, and location of the building to be erected or enlarged and such other information as may be necessary to provide for the enforcement of the ordinance comprising this chapter.

(2) A record of such application and plat shall be kept in the office of the City Building Inspector.

(3) Where application is made to enlarge an existing non-conforming use, the application shall be accompanied by an affidavit giving the description of the premises owned at the date of the passage of the ordinance comprising this chapter.

(Code 1995, Appendix B, Art. XI, § 100)

Secs. 38-642 - 38-650. Reserved.

ARTICLE XII. INTERPRETATION, PURPOSE, AND CONFLICT

Sec. 38-651. Generally.

In interpreting and applying the provisions of this chapter, they shall be held to the minimum requirements for the promotion of the public health, safety, morals and general welfare of the community. It is not intended by this chapter to interfere with or abrogate or annul any easements, covenants, or other agreements between parties; provided, however, that where this chapter imposes a greater restriction upon the height of buildings, or requires larger open spaces than are imposed or required by other Ordinances, rules, regulations or by easements, covenants, the provisions of this chapter shall control. If, because of error or omission in the zoning map, any property in the City of Chattanooga, Tennessee, is not shown as being in a zoning zone, the classification of such property shall be R-2 Two Family Zones, unless changed by amendments to this chapter; provided, however, that property annexed to the City of Chattanooga shall be temporarily reclassified from its former zoning classification as follows:

FORMER CLASSIFICATION	TEMPORARY CLASSIFICATION
A-1 Agricultural District R-1 Single – Family Residential District	To R-1 Residential Zone
RT-1 Residential Townhouse District	To RT-1 Residential Townhouse Zone
R-2 Urban Residential District R-2A Rural Residential District	To R-2 Residential Zone
R-3 Apartment – Townhouse District MH Manufactured Home Park District	To R-3 Residential Zone
R-3 MD Moderate Density Apartment – Townhouse District	To R-3MD Moderate Density Zone
R-5 Single Lot Manufactured Home District	To R-5 Residential Zone
O-1 Office District	To R-4 Special Zone
C-1 Tourist Court & Motel District	To C-2 Convenience Commercial Zone
C-2 Local Business Commercial District C-3 General Business District	To C-2 Convenience Commercial Zone
M-1 Industrial District	To M-1 Manufacturing Zone
M-2 Wholesale & Light Industrial District	To M-2 Light Industrial Zone
M-3 Warehouse and Wholesale District	To M-3 Warehouse and Wholesale Zone
F/H Flood Hazard District	To F/H Flood Hazard District

(Code 1995, Appendix B, Art. XII, § 100)

Sec. 38-652. Temporary classifications.

The temporary classifications shall be and remain in full force and effect during the interim period between the effective date of the annexation and the adoption of an official zoning plan for the area by the City Council, as hereinafter provided, and the building inspector may issue building permits during said interim based upon such temporary zoning.
(Code 1995, Appendix B, Art. XII, § 102)

Sec. 38-653. Zoning plan for newly annexed areas.

It shall be the duty of the Planning Commission, within ninety (90) days of the effective date of annexation, to recommend a zoning plan for the newly annexed areas to the City Council. Following the receipt of the recommendation of such a zoning plan from the Planning

Commission, the City Council after giving notice as required in article XIII regarding changes and amendments to the zoning ordinance, shall thereafter adopt a zoning plan as an amendment to the official zoning map for the newly annexed area.
(Code 1995, Appendix B, Art. XII, § 102)

Sec. 38-654. Prospective application of provisions.

This ordinance shall apply only to property annexed by the city after March 4, 1969, it being the intent of the City Council that this ordinance shall have only prospective application.
(Code 1995, Appendix B, Art. XII, § 103)

Sec. 38-655. Amendments to zoning regulations – effect on map, etc.

To assure continuity of land use control, major amendments to the text of zoning regulations shall, as a rule, be considered as constituting a corresponding amendment to the official zoning map and a re-adoption of the limits of all affected zones. Unless otherwise provided, property shown on the official zoning map as being within a zoning zone which is identified by an alphanumeric symbol such as R-1, C-2, M-3, etc., shall be subject to the amended zoning regulations which are identified by the same alphanumeric symbol in the text of the zoning ordinance. Legal structures or other land uses which were in existence and permitted by zoning regulations prior to any amendment but which are disallowed by newly adopted regulations shall be subject to the provisions for non-conforming uses as set forth in article VII of these regulations. Specifically, for amendments to the text of the commercial zone regulations, as adopted by the Chattanooga City Commission on January 9, 1979, all property within the former commercial zones as shown on the official zoning map shall be subject to the corresponding amended zoning regulations in the text of the zoning ordinance, as specified below:

Former Classification	Amended Classification
C-1 Tourist Service Commercial District	C-1 Highway Commercial Zone
C-2 Convenience Commercial District	C-2 Convenience Commercial Zone
C-3 Central Business District	C-3 Central Business Zone

At the time of adoption of the amended Commercial Zoning Regulations, no property was classified under the C-4 Planned Commerce Center Zone or the C-5 Neighborhood Commercial Zone. Accordingly, property is to be added to these zones through the normal process of amendments to the official zoning map.
(Code 1995, Appendix B, Art. XII, § 104)

Secs. 38-656 - 38-670. Reserved.

ARTICLE XIII. CHANGES AND AMENDMENTS

Sec. 38-671. City council may amend, etc., zones.

The City Council of the City of Chattanooga, Tennessee, may, from time to time, amend, supplement, or change the regulations and zones herein or subsequently established; but no amendment shall become effective unless it be first submitted to and approved by the Planning Commission, or if disapproved, shall receive the favorable vote of a majority of the entire membership of the City Council.
(Code 1995, Appendix B, Art. XIII, § 100)

Sec. 38-672. Method of procedure.

(1) A proposed change or amendment may originate with the City Council, with the Planning Commission, or on petition. The proposed change or amendment must first be referred to the Planning Commission for a recommendation. Following the receipt of a recommendation from the Planning Commission, the City Council shall give at least fifteen (15) days' prior notice of the time and place for a public hearing which shall be held in regard to the proposed changes or amendments. This notice shall be published in a newspaper of general circulation in the City. The cost of such notice will be borne by the petitioner.

(2) Provided, however, that a petition for rezoning or to close and abandon shall not be accepted for a period of nine (9) months following denial of a previous petition involving the same property or any part there of.
(Code 1995, Appendix B, Art. XIII, § 101)

Secs. 38-673 - 38-680. Reserved.

ARTICLE XIV. ENFORCEMENT, VIOLATIONS, AND PENALTIES

Sec. 38-681. Building inspector to enforce.

The Building Inspector is hereby designated and authorized to enforce this chapter. Any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this chapter shall be fined not less than two ($2.00) dollars nor more than fifty ($50.00) for each offense. Each day a violation exists shall constitute a separate offense.
(Code 1995, Appendix B, Art. XIV, § 100)

Secs. 38-682 – 35-690. Reserved

ARTICLE XV. VALIDITY

Sec. 38-691. Severability of provisions.

Should any section, sub-section, phrase, clause or provision of this chapter be declared by a Court of competent jurisdiction to be invalid, the same shall not affect the validity of the chapter as a whole or any part thereof, other than the part so declared to be invalid.
(Code 1995, Appendix B, Art. XV, § 100)