

# **CITY OF TUSCULUM**

T E N N E S S E E

## **ZONING ORDINANCE**

**AS AMENDED, September 14, 2012**

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**ZONING ORDINANCE  
OF THE  
CITY OF TUSCULUM, TENNESSEE**

**AUTHORITY**

An ordinance, pursuant to the authority granted by Sections 13-7-201, through 13-7-210, Tennessee Code Annotated for the purpose of promoting the public health, safety, morals, convenience, order, prosperity and general welfare; to provide for the establishment of districts within the corporate limits; to regulate, within such districts, the location, height, bulk, number of stories and size of buildings and structures, the percentage of lot occupancy, the required open spaces, the density of population and the uses of land, buildings and structures; to provide methods of administration of this ordinance and to prescribe penalties for the violation thereof.

BE IT ORDAINED by the Board of Mayor and Commissioners of the City of Tusculum:

**ARTICLE I. SHORT TITLE**

This ordinance shall be known as the "Zoning Ordinance of the City of Tusculum, Tennessee," and the map herein referred to, which is identified by the title "Zoning Map of the City of Tusculum, Tennessee, " dated May 2003 and all explanatory matter thereon are hereby adopted and made a part of this ordinance.

**ARTICLE II. PURPOSE**

The zoning regulations and districts as herein set forth have been made in accordance with a comprehensive plan for the purpose of promoting the health, safety, morals and the general welfare of the community. They have been designed to lessen congestion in the streets, to secure safety from fire, panic and other danger, to provide adequate light and air, to prevent the overcrowding of land, to avoid undue concentration of population, to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements. They have been made with reasonable consideration, among other things, as to the character of each district and its particular suitability for particular uses, and with a view of conserving the value of buildings and encouraging the most appropriate use of land throughout the city.

### **ARTICLE III. DEFINITIONS**

Unless otherwise stated the following words shall, for the purpose of this ordinance, have the meaning herein indicated. Words used in the present tense include the future. The singular number includes the plural and the plural the singular. The word "shall" is mandatory, not directory. The word "used" or "occupied" as applied to any land or building shall be construed to include the word "intended," arranged or designed to be used or occupied.

**Arterial street:** A street that provides for traffic movement between areas and across portions of the city and secondarily for direct access to abutting land, as shown on the zoning map of the City of Tusculum.

**Bed and Breakfast Facility:** A residential unit in which no more than six (6) guest rooms are available for overnight accommodations and breakfast for the registered guests is provided. The owner/innkeeper shall have primary residence on the premises, shall live on the premises, and the site shall be subordinate and incidental to the main residential use of the building.

**Boarding or Rooming House:** A residential building where more than two, but not more than five rooms are provided for lodging for definite periods of time. Meals may or may not be provided, but is limited to one common kitchen facility. No meals are provided to outside guests. (amended 4/18/05)

**Buffer Strip:** A plant material acceptable to the building inspector which has such growth characteristics as will provide an obscuring screen not less than six feet in height.

**Building:** Any structure having a roof supported by columns or by walls and intended for the shelter, housing or enclosure of persons, animals, or chattel.

(a) **Principal Building:** A building in which is conducted the main or principal use of the lot on which said building is located. In any residential district, a single family, two family or multi family dwelling (as defined under Article III) shall be deemed to be the principal building of the lot on which the same is situated.

**Location:** The location of all principal buildings shall meet the provisions under Article VIII, Yard and Height Requirements, as per the Tusculum Zoning Ordinance.

1. The principal building shall not straddle (be located on both sides of a property line) a property lot line.

2. **Replat of Property:** An owner of property with two or more lots in single ownership may re-plat two or more lots into one larger lot in so far that said proposed principal building can meet the setback requirements for principal buildings under Article VIII, Yard and Height Requirements, as per the Tusculum Zoning Ordinance. The proposed re-plat must be reviewed and approved by the Tusculum Planning Commission.

(b) **Accessory Buildings or use:** A building or use customarily incidental and subordinate to the principal building (as defined under Article III) or use and located in the rear yard on the same lot as the principal building.

Location: The location of all accessory buildings shall be in the rear yard and shall meet the following setback and height requirements:

Setbacks

1. Up to 120 Square Feet in Total Size

Rear: No closer than 5 feet to the rear property line.

Side: No closer than 5 feet to the side property line.

Height: Maximum height of 10 feet.

2. 121 Square Feet to 850 Square Feet in Total Size

Rear: No closer than 30 feet to the rear property line.

Side: No closer than 15 feet to the side property line.

Height: Maximum height of 20 feet.

3. Re-Plat of Property: An owner of property with two or more contiguous lots in single ownership may not place an accessory building on a vacant lot by itself without a principal building (as defined under Article III); however the owner may re-plat two or more lots into one larger lot in so far that said lot contains a principal building and the proposed accessory building can meet the setback and height requirements for accessory buildings under Article III, Definitions, as per the Tusculum Zoning Ordinance. The proposed re-plat must be reviewed and approved by the Tusculum Planning Commission.

(amended 4/18/05)

(c) A building shall not include, among other things, structures which are constructed from or consists of the use of a tractor and/or trailer truck, a railroad car or engine of any type, any automobile, a truck bed, any other converted vehicle, a camper, trailer, or mobile home of any kind, a sway car or gondola, a boat or ship, or any combination of the above. (Ord. 08-03, 5/19/08)

Building Height: The vertical distance measured from the finished grade at the building line to the highest point of the roof.

Building Setback: The distance from a building to the adjoining lot line, or street or alley right of way line. This distance to be measured from the edge of the roof line or from any portion of the structure such as uncovered porches, decks or patios where the floor or railings is more than three feet in height above ground level.

Business Sign: A sign which directs attention to a business or profession conducted on the premises. A "For Sale" sign or a "To Let" sign for the property on which it is displayed shall be deemed a business sign.

Collector Street: A street providing for traffic movement within the city as shown on the zoning map of the City of Tusculum.

Cultural Services: A library, museum, or similar public or quasi-public use displaying, preserving, and exhibiting objects of community and cultural interest in one or more of the arts or sciences. (amended 4/18/05)

Dwelling, Single Family: A building designed exclusively for and occupied exclusively by one family. A family under this definition is defined to include:

- a) persons who have a biological relationship living together as a single household unit;
- b) persons who have a legal relationship living together as a single household unit;
- c) no more than two adults who do not have a legal or biological relationship living together as a single household unit;
- d) care providers for any of the above.

(For Planned Unit Developments see Article IX, Exceptions and Modifications)

(amended 4/18/05)

Dwelling, Two-Family: A building designed or arranged to be occupied by two families living independently, said structure permitting only two dwelling units, each unit having a separate entrance. A family under this definition is defined to include:

- a) persons who have a biological relationship living together as a single household unit;
- b) persons who have a legal relationship living together as a single household unit;
- c) no more than two adults who do not have a legal or biological relationship living together as a single household unit;
- d) care providers for any of the above.

(For Group Housing Projects, Planned Unit Developments, Condominiums see Article IX, Exceptions and Modifications)

(amended 4/18/05)

Dwelling, Multiple-Family: A building designed exclusively for occupancy by three or more families living independently of each other in individual dwelling units, each unit having a separate entrance. A family under this definition is defined to include:

- a) persons who have a biological relationship living together as a single household unit;
- b) persons who have a legal relationship living together as a single household unit;
- c) no more than two adults who do not have a legal or biological relationship living together as a single household unit;
- d) care providers for any of the above.

(For Group Housing Projects, Planned Unit Developments, Condominiums see Article IX, Exceptions and Modifications)

(amended 4/18/05)

Grading: The act of excavation or filling or combination thereof or any leveling to a smooth horizontal or sloping surface on a property, but not including normal cultivation associated with an agricultural operation or domestic gardening.

Lodges and Clubs: A membership organization that holds regular meetings in buildings and facilities, owned or operated by a corporation, association, person or persons, for social, educational, or recreational purpose, and not primarily operated for profit being restricted to members and their guests. (amended 4/18/05)

Lot: A parcel of land which fronts on and has access to a public street and which is occupied or intended to be occupied by a building or buildings with customary accessories and open spaces.

- (a) Lot line: The boundary dividing a given lot from a street, alley, or adjacent lots.
- (b) Lot of record: A lot, the boundaries of which are filed as legal record.

Medical Clinic – A licensed facility for examining and treating patients with medical problems on an out-patient basis. A medical clinic is not a methadone treatment clinic or facility or substance abuse treatment facility as per the Tusculum Zoning Ordinance. (amended 2/16/09)

Methadone Treatment Clinic or Facility – A licensed facility for counseling of patients and the distribution of methadone for outpatient, non-residential purposes only. A methadone treatment clinic or facility is not a medical clinic or substance abuse treatment facility as per the Tusculum Zoning Ordinance. (amended 2/16/09)

Mobile Home: A detached single-family dwelling unit with all of the following characteristics: Designed for long-term occupancy, and containing sleeping accommodations a flush toilet, a tub or shower bath, and kitchen facilities, with plumbing and electrical connections provided for attachment to outside systems; designed to be transported after fabrication on its own wheels, or on flatbed or other trailers or detachable wheels; and arriving at the site where it is to be occupied as a dwelling complete, including major appliances and furniture, and ready for occupancy except for minor and incidental unpacking and assembly operations, location on foundation supports, connection to utilities, and the like.

Nonconforming Use: Any structure or land lawfully occupied by a use that does not conform to the use regulations of the district in which it is situated.

Nursing Home: One licensed by the State of Tennessee.

Outdoor Advertising: an attached, free standing or structural poster panel or painted or lighted sign for the purpose of conveying some information, knowledge or idea to the public.

Places of Amusement and Assembly: Establishments engaged in providing amusements, or entertainment as a commercial business for a fee or admission charge and includes such activities as dance halls, studios, theatrical procedures, orchestras, bowling alleys, recreation clubs, and swimming pools. (amended 4/18/05)

Portable Storage Container: A boxlike container used for outdoor storage including commercial storage, transported to a desired location, typically designed to be delivered and recovered on a specialized truck or transport system of such a size as to make it impractical to be

easily moved by hand in the event of fire or other emergency. A portable storage container shall not include, among other things, structures which are constructed from or consists of the use of a tractor and/or trailer truck, a railroad car or engine of any type, any automobile, a truck bed, any other converted vehicle, a camper, trailer, or mobile home of any kind, a gondola, sway car, a boat or ship, or any combination of the above. (Ord. 08-04, 5/19/08)

Professional Offices: The office of a member of a recognized profession maintained for the conduct of business in any of the following related categories: architectural, engineering, planning, law, interior design, accounting, insurance, real estate, medical, dental, optical, chiropractor, consulting services, mortgage or title agency, investment agency, or any similar type of profession. (amended 4/18/05)

Story: That portion of a building included between the upper surface of any floor and the upper surface of the floor next above; or any portion of a building used for human occupancy between the topmost floor and the roof. A basement not used for human occupancy other than for a janitor or domestic employee shall not be counted as a story.

Structure: Anything constructed or erected, the use of which requires location on the ground, or attachment to something having location on the ground.

Substance Abuse Treatment Facility – A licensed facility with purpose of providing out patient treatment, counseling or similar services to individuals who are dependent on legal and illegal drugs, opiates, alcohol or other similar substances. A substance abuse treatment facility is not a medical clinic or methadone treatment clinic or facility as per the Tusculum Zoning Ordinance. (amended 2/16/09)

Swimming Pool: The term “**Swimming Pool**” means any structure intended for swimming, recreational bathing or wading which contains or which is designed to contain water over 24 inches deep. This includes in-ground, above-ground and on-ground pools; indoor pools; hot tubs; spas; and fixed-in-place wading pools. (Ord. 08-02, 5/19/08)

Total Floor Area: The area of all floors of a building including finished attic, finished basement and covered porches.

Yard: An open space on the same lot with a principal building, open, unoccupied and unobstructed by buildings from the ground to the sky except as otherwise provided in this ordinance.

(a) Front yard: The yard extending across the entire width of the lot between the front lot line and the nearest part of the principal building, including covered porches.

(b) Rear yard: The yard extending across the entire width of the lot between the rear lot line and the nearest part of the principal building, including covered porches.

(c) Side yard: A yard extending along the side lot line from the front yard to the rear yard, and lying between the side lot line and the nearest part of the principal building, including covered porches.



**ARTICLE IV. ESTABLISHMENT OF DISTRICTS**

For the purpose of this ordinance, the City of Tusculum Tennessee is hereby divided into six (6) classes of districts as follows:

Residence	-	R-1 District	-	Low Density
Residence	-	R-2 District	-	High Density
Business	-	B-1 District	-	Neighborhood Business
Business	-	B-2 District	-	Arterial Business
Business	-	PSD	-	Professional & Service
Industrial	-	M-1 District	-	General Industrial
Mixed	-	MX District	-	Mixed Use

The boundaries of these districts are hereby established as shown on the map entitled "Zoning Map of the City of Tusculum, Tennessee, dated May 2003, and all amendments thereof, which is a part of this ordinance and which is on file in the office of the City Recorder. Unless otherwise specifically indicated on the map, the boundaries of districts are lot lines or the center lines of streets or alleys or such lines extended, the corporate limit lines or the center lines of streams or other water bodies. Questions concerning the exact locations of district boundaries, shall be determined by the Board of Zoning Appeals.

**ARTICLE V. APPLICATION OF REGULATIONS**

Except as herein provided:

Section A. Use. No building or land shall hereafter be used and no building or part thereof shall be erected, moved or altered unless for a use expressly permitted by and in conformity with the regulations herein specified for the district in which it is located.

Section B. Street frontage. No dwelling shall be erected on a lot which does not abut on at least one street for at least fifty (50) feet, except that lots fronting on cul-de-sacs may have a minimum road frontage of forty (40) feet if the lot is at least fifty (50) feet in width at the building line.

Section C. Corner Lots. The minimum width of a side yard along an intersecting street shall be 50 percent greater than the minimum side yard requirements of the district in which the lot is located.

Section D. One Principal Building on a Lot. Only one principal building and its customary accessory buildings may hereafter be erected on any lot.

Section E. Reduction of Lot Size. No lot shall be reduced in area so that yards, lot area per family, lot width, building area or other provisions of this ordinance shall not be maintained.

Section F. Yard and Other Spaces. No part of a yard or other open space required about any building for the purpose of complying with the provisions of this ordinance shall be included as a part of a yard or other open space required under this ordinance for another building.

Section G. Conformity to Subdivision Regulations. No building permit shall be issued for or no building shall be erected on any lot within the municipality, unless the street giving access to the lot upon which said building is proposed to be placed shall have been accepted or opened as a public street prior to that time or unless such street corresponds in its location and lines with a street shown on a subdivision plat approved by the Tusculum Municipal Planning Commission and such approval entered in writing on the plat by the secretary of the commission.

Section H. Height and Density. No building or structure shall hereafter be erected or altered so as to exceed the height limit, to accommodate or house a greater number of families, to have narrower or smaller front yards or side yards that are required or specified in the regulations herein for the district in which it is located.

Section I. Annexations. All territory which may hereafter be annexed to the City of Tusculum, Tennessee shall be considered to be in the R-1 Low Density Residential District until otherwise classified.

Section J. Minimum Housing Size. The minimum housing size for all residential structures located in Tusculum, Tennessee shall be one thousand (1,000) square feet of living space. Garages, carports, basements, and utility structures cannot be included as part of the minimum living space requirement.

## **ARTICLE VI. GENERAL PROVISIONS**

Section A. Continuance of Nonconforming Uses. Any lawful use of any building or land existing at the time of the enactment of this ordinance or whenever a district is changed by an amendment thereafter may be continued although such use does not conform with the provisions of this ordinance with the following limitations:

1. No building or land containing a nonconforming use shall hereafter be extended unless such extensions shall conform with the provisions of this ordinance for the district in which it is located; provided, however, that a nonconforming use may be extended throughout those parts of a building which were manifestly arranged or designed for such use prior to the time of enactment of this ordinance.

2. Any nonconforming building which has been damaged by fire or other causes, may be reconstructed and used as before unless the building inspector determines that the building is damaged to the extent of more than seventy-five (75) percent of its appraised value for tax purposes in which case any repair or reconstruction shall be in conformity with the provisions of this ordinance.

3. When a nonconforming use of any building or land has ceased for a period of one year, it shall not be reestablished or changed to any use not in conformity with the provisions of this ordinance.

4. All nonconforming outdoor advertising signs, junk yards, commercial animal yards, and general storage yards not on the same lot with a plant or factory shall be required to conform to the provisions of this ordinance within three (3) years from June 20, 1988 upon official notification by the Building Inspector.

Section B. Off-Street Automobile Parking. Off street automobile parking space shall be provided on every lot on which any of the following uses are hereafter established. The

number of automobile parking spaces provided shall be at least as great as the number specified below for various uses. Each space shall have at least two hundred square feet in area and shall have vehicular access to a public street. Turning space shall be provided so that no vehicle will be required to back into the street.

1. Automobile repair garages: One space for each regular employee plus one space for each 250 square feet of floor space used for repair work.
2. Churches: One space for each four (4) seats.
3. Clubs and lodges: One space for each three hundred (300) square feet of floor space over one thousand square feet.
4. Dwellings; One space for each dwelling unit.
5. Funeral parlors: One space for each four (4) seats in the chapel.
6. Gasoline service stations and similar establishments; Four (4) spaces for each bay or similar facility plus one space for each employee.
7. Hospitals and nursing homes: One space for each staff or visiting doctor plus one space for each two employees and one space for each four beds, computed on the largest number of employees on duty at any period of time.
8. Hotel: One space for each four (4) employees plus one space for each two (2) guest rooms.
9. Industry: One space for each three (3) employees, computed on the largest number of persons employed at any period during day or night.
10. Motels and tourist courts: One space for each four (4) employees plus one space for each accommodations.
11. Offices: Medical - one space for each three hundred (300) square feet of floor space.  
  
Other professional - one space for each four hundred (400) square feet of floor space.  
  
General - one space for each four hundred (400) square feet of floor space.
12. Places of public assembly: One space for each five (5) seats in the principal assembly room or area.
13. Recreation and amusement areas without seating capacity: One space for each five (5) customers, computed on maximum service capacity.
14. Restaurants: One space for each four (4) employees, plus one space for each one hundred (100) square feet of floor space devoted to patron use.
15. Retail business and similar uses: One space for each two hundred (200) square feet of gross floor space.

16. Schools: One space for each faculty member, plus one space for each four (4) pupils except in elementary and junior high schools.

17. Mobile home parks: One space for each mobile home.

18. Wholesale business: One space for each three (3) employees based on maximum seasonal employment.

19. If off-street parking space required above cannot be reasonably provided on the same lot on which the principal use is conducted, the Board of Zoning Appeals may permit such space to be provided on other off-street property provided such space lies within four hundred (400) feet of the main entrance to such principal use. Such vehicle standing space shall be deemed to be required open space associated with the permitted use and shall not thereafter be reduced or encroached upon in any manner.

20. Extension of parking space into a residential district; Required parking space may extend up to 120 feet into a residential zoning district, provided that:

- (1) the parking space adjoins a commercial or industrial district;
- (2) has its only exit to or from upon the same street as the property in the commercial or industrial district from which it provides the required parking space; and
- (3) is separated from abutting properties in the residential district by a plant or fence buffer strip as determined by the building inspector.

Section C. Off-Street Loading and Unloading Space.

On every lot on which a business, trade, or industry use is hereafter established space with access to a public street or alley shall be provided as indicated below for the loading and unloading of vehicles off the public street or alley:

1. Retail business: One space of at least 12 x 25 feet for each 3,000 square feet of floor area or part thereof.

2. Wholesale and industrial: One space of at least 12 x 50 feet for each 10,000 square feet of floor area or part thereof.

3. Bus and truck terminals: Sufficient space to accommodate the maximum number of buses or trucks that will be stored and loading and unloading at the terminal at any one time.

Section D. Vision Clearance. In all districts there shall be no plats or structures placed in or on any yard portion of a lot that would obstruct the vision of auto or pedestrian traffic using the intersecting public streets.

Section E. Flood Protection. Any structure proposed to be located within fifty (50) feet of any main drainage channel or stream (hereafter referred to as a stream) within the City of Tusculum, Tennessee must be approved by the Tusculum Municipal Planning Commission. The planning commission shall determine, on the basis of watershed and the probable runoff, the openings needed for the stream and how close a structure may be built to the stream in order to

assure adequate space for flow of flood water. However, in no case shall a building or structure be permitted within fifteen (15) feet of the top of the bank of any stream.

Section F. Towers. Wireless communications towers will be allowed in the City of Tusculum provided certain requirements are met. These requirements are as follows:

1. A scaled site plan will be submitted to the Tusculum Planning Commission which clearly indicates the location, type and height of the proposed tower, on-site and adjoining land uses and zoning, adjacent roadways, proposed means of access, setbacks from property lines, other structures located on or near the site, parking, a detailed landscaping plan, all existing and proposed tower sites within a five mile radius, and any other information deemed by the Planning Commission to be necessary in order to approve the plan.
2. In order to avoid proliferation of towers, all towers will be designed for multi-purpose use. (Principle use, plus two, or more additional piggy-backed uses)
3. For security purposes, fencing will be required.
4. Towers will not be artificially lighted unless required by the FAA or other applicable authority. If lighting is required, the lighting alternatives and design chosen must cause the least disturbance to the surrounding area.
5. No signs shall be allowed on an antenna or tower.(except one small sign indicating the owner of the tower)
6. The antenna or tower must comply with all FCC and FAA regulations.
7. Guys and accessory buildings must satisfy the minimum zoning district setback requirements.
8. The developers, or owners of a proposed antenna or tower site must submit a written statement with an electrical engineers stamp that states that local electronic equipment will not be detrimentally affected by transmissions from the antenna or tower.
9. Any antenna or tower that is not operated for a continuous period of twelve (12) months shall be considered abandoned and the owner of such antenna or tower shall remove the same within ninety (90) days of receipt of notice from the City of Tusculum notifying the owner of such abandonment. Failure to remove an abandoned antenna or tower within said ninety (90) days shall be grounds to remove the tower or antenna at the owner's expense.
10. This section shall not apply to any tower or other structure used to support antenna for stations licensed by the Federal Communications Commission in the amateur radio service. Provided, however, that there is no sale, rent, or lease of equipment to others as a result of this activity.
11. Towers shall be required to set back from all property lines one foot (1) for each one foot (1) of height.
12. Structures are permitted as of right, subject to applicable regulations, in the B-1 Neighborhood Business, B-2 Arterial Business, and M-1 Industrial Districts.

13. A certification that no other tower is located within 2,500 feet of the proposed location.
14. The height of the tower shall not exceed 195 feet for the total structure height.
15. No wireless transmission facility shall extend more than one hundred and fifty (150) feet above the ridgeline or tree line of any surrounding knob areas.
16. The control of erosion during development and the design of drainage systems suitable to handle stormwater runoff after the site is developed shall be approved by the Tusculum Planning Commission.
17. That no existing towers or suitable alternative tower structures are located within the geographic antenna placement area required to meet the applicant's engineering requirements.
18. The applicants engineer shall provide documentation that the proposed wireless transmission facility meets or exceeds the standards of the American National Standards Institute (ANSI) for professionally acceptable radio frequency emissions standards.
19. Prior to the approval of any tower in excess of thirty-five (35) feet in height, the applicant shall provide the Tusculum Planning Commission with written certification from a registered structural engineer that the tower is able to minimally withstand winds of 70 miles per hour with 1/2 inch radial ice as per the ANSI Standards and/or 100 miles per hour and/or 130 miles per hour wind gusts, whichever is greater. For towers placed on buildings, the applicant shall also provide the Tusculum Planning Commission such written certification plus evidence that the building itself is structurally capable of supporting the tower and its' accompanying equipment. The tower shall not affect the structural integrity of the building.
20. At all tower sites, the design of all buildings and related structures shall use materials, colors, textures, screening, and landscaping that will blend the tower facilities to the natural setting and building environment.
21. Buildings or equipment enclosures shall not contain more than two hundred (200) square feet of gross floor area or be more than ten (10) feet in height for each carrier using the site.
22. The applicant shall also address the extent to which shared use of the proposed tower will be allowed in the future. A letter of intent committing the tower owner and his or her successors to allow shared use of the tower shall be filed in the office of the Tusculum City Recorder prior to any building permit being issued.
23. The user shall provide the Tusculum Planning Commission with a letter of certification from the design engineers (electrical, structural, mechanical and civil) indicating that the wireless transmission facility was constructed according to the plans approved by the City of Tusculum. The letter shall be submitted within 30 days of completion of the facility.
24. The user shall provide the Tusculum City Recorder with a copy of the Tennessee State Electrical Inspector's Report, which ensures that the user met code requirements during construction of the facility.

25. The user shall provide the Tusculum City Recorder with a certified copy of the engineer's annual inspection report, which includes but is not limited to the condition of the grounding system, the structural integrity of the facility, any damage incurred over the past year, the condition of the bolts, and a plan to correct any deficiencies.

26. Prior to the issuance of a building permit, security acceptable to the City shall be required to ensure completion of all landscaping and screening provisions as outlined in the plan approved by the Tusculum Planning Commission. The security shall be posted in an amount equal to 110% of the total cost of the materials and installation of said improvements. Upon the issuance of a certificate of occupancy for the building, or upon the completion of construction of the wireless transmission facility, if no certificate of occupancy is required, a maintenance bond, or similar security acceptable to the City shall be required for a period of one year to ensure that the vegetation remains as a living and viable screen.

Section G. Modular Housing. Factory built modular housing shall be allowed in any zone provided that such manufactured residential dwellings have the same general appearance as required for site-built homes and provided that:

1. The house shall meet all applicable building codes required by the Southern Standard Building Code and/or HUD standards for manufactured houses. The houses shall have a permanent foundation including concrete footers and permanent foundation walls constructed of a continuous exterior masonry or concrete. The tongue and wheels shall be removed from the house. The house shall have a permanent porch and stairs at each outside exit with handrails if over three risers high. The porch and stairs shall meet Southern Standard Building Code requirements.

2. Modular Housing shall not be located side ways on the lot. The house shall be located on the lot so that the front of the house as designed in the factory shall be placed facing the street.

Section H. Flood Permit. No building or structure shall be constructed, altered or repaired, no mobile homes or units placed and no land shall be filled or excavated in the designated 100 year flood zones until all of the requirements of the Tusculum Flood Zone Ordinance are met and a permit has been obtained.

Section I. Sign Regulations. The purpose of this Section is to provide a comprehensive system of sign regulation which will promote the best development of the City of Tusculum through the establishment of regulations which regulate the type, placement, and size of signs and other graphic devices within the city; protect and enhance the scenic beauty of the natural environment in the city; emphasize the assets of community appearance and high environmental quality in promoting industrial recruitment and economic development; promote the public health, safety, and welfare by prohibiting improperly designed or located signs which could distract, confuse, mislead, or obstruct vision; ensure safe construction and maintenance of signs; protect and enhance public and private property; ensure equity in the distribution of the privilege of using the public visual environment to communicate private information; and improve the appearance of the city's business areas, especially along major thoroughfares.

1. No freestanding, portable or off-premise advertising sign shall be erected, replaced, reconstructed, expanded, or relocated without first securing a building permit from the Municipal Building Inspector. No permit shall be required for customary maintenance or a change of copy on a sign, the customary use of which involves frequent and periodic changes of copy, e.g.,

reader boards with changeable letters, and service station price signs. Other signs do not require a permit, but shall conform to applicable regulations of this article.

2. The City of Tusculum Building Inspector is hereby authorized and empowered to revoke any permit upon failure of the holder to comply with any provision of this resolution or with the terms of the permit at the time of its issuance.

3. At any time deemed necessary, the City of Tusculum Building Inspector, or designee, may inspect each sign regulated by this Section to ensure that such sign conforms to this Section and to all other applicable resolutions of the city.

4. The fee for signs requiring permits shall be \$50.00 per sign. The assigned fee includes the following signs:

a. Permanent identification/entrance sign for Subdivisions, Group Housing Projects, Planned Unit Developments, and condominiums.

b. Temporary signs for a Subdivision or Planned Unit Development while under development.

c. Free standing and portable signs in the B-1, B-2, and Manufacturing Districts.

d. Animated signs, blinking signs, conventional motion picture theater signs, and lighted marquee signs.

5. The following signs shall be permitted in all zoning districts:

a. Political Campaign Signs. One (1) sign per candidate per premise, each sign not to exceed thirty-two (32) square feet in all districts, may be erected on private property no more than *forty-five* (45) days prior to the election. All campaign signs shall be removed by the property owner within seven (7) days after the results of an election are certified.

b. Temporary Signs.

i. Temporary special event signs not exceeding sixteen (16) square feet which announce a special event sponsored by a civic, philanthropic, educational, or religious organization may be erected on private property no more than thirty (30) days prior to the event. All special event signs shall be removed by the property owner within seven (7) days of the conclusion of an event.

ii. Temporary banner signs announcing the grand opening of a new business, or the closing of an existing business, but in no event, shall such signs remain more than thirty (30) days. These signs shall be limited to thirty-two (32) square feet in size.

c. Construction Site Signs. One sign noting construction information and trades shall be permitted for each site. The maximum size shall be thirty-two (32) square feet. The sign shall be allowed only until the project is complete and shall be removed prior to issuance of a certificate of occupancy.

d. Parking Areas. Signs internal to parking areas which direct vehicular or pedestrian traffic but bear no advertising. They shall be no larger than three (3) Square feet each.



e. Real Estate Sale/Lease Signs. Signs up to total area of nine (9) square feet in residential zones or up to total area of thirty-two (32) square feet in commercial and manufacturing zones, advertising the sale, rental, or lease of the premises or part of the premises on which the signs are displayed are permitted. Such signs shall be removed within fourteen (14) days of the sale, rental, or lease.

f. Residential Name/Address Signs. For each single family dwelling unit, one (1) nameplate indicating name, address, house number, home occupation, or an announcement of space for boarders or roomers if applicable, limited to two (2) square feet in area, is permitted.

6. The following signs shall be prohibited in all zoning districts:

a. If the Building Inspector shall find that any sign is unsafe or insecure, or is a menace to the public, or has been constructed or erected or is being maintained in violation of the provisions of this resolution, he shall give written notice to the owner of the sign and/or of the property and/or the architect, builder, contractor, or agent requiring that the sign be made safe and secure or to be removed. If the sign is not removed or altered so as to render it safe and secure, the Building Inspector shall proceed with action as provided by law. The Building Inspector may cause any sign which is an immediate danger to persons or property to be removed immediately and without notice.

b. Any sign located within, upon, or over the public right-of-way, except government signs, political signs, and special event banners in the B-2 District.

c. Any sign located on a tree, telephone pole, power pole, or street light pole, except special event banners in the B-2 (Central Business) District.

d. Any sign which contains flashing or intermittent red, blue, green, or amber illumination.

e. Illuminated signs within one hundred (100) feet of a residential district, unless the illumination is designed so as not to shine, reflect or *direct* light onto the residential district.

f. Any sign which constitutes a traffic hazard. No sign or revolving beam or beacon of light shall be erected at any location where by reason of the position, shape, color, type, or illumination or reflectance it may interfere with, obstruct the view of, or be confused with any authorized traffic sign, signal, or device. Any such sign shall be removed immediately at the direction of the Building Inspector.

g. Off premises signs (billboards) shall be prohibited in all zoning districts, with the exception of Manufacturing Districts that fronts on a portion of the National System of Interstate Highways or on an arterial street as specified on the Zoning Map of the City of Tusculum, Tennessee. All regulations pertaining to off premise signs as outlined in Sign Regulations Number 9h, 9i, and 9j shall apply.

7. For permitted uses, the following regulations shall apply for Residential Zoning Districts.

a. For Subdivisions, Group Housing Projects, Planned Unit Developments and Condominiums, two (2) permanent identification/entrance sign, not to exceed twenty (20) square feet each in area nor twelve (12) feet in height, is permitted. Individual buildings within a

Planned Unit Development may have one (1) identification sign not exceeding nine (9) square feet in area.

b. While under development, a subdivision or Planned Unit Development may have one (1) temporary sign, not exceeding 20 square feet in area nor twelve (12) feet in height. Such sign is permitted in addition to any permanent identification sign, but shall be removed after two (2) years or when ninety (90) percent of the project is sold, whichever occurs first.

8. For permitted uses, the following regulations shall apply for B-1 Zoning Districts:

a. One (1) freestanding sign for each street frontage granting access to the premises. Maximum height of each such freestanding sign shall be fifteen (15) feet. Maximum area of each such sign shall be thirty-two (32) square feet. No such sign shall be permitted which does not meet the required ten (10) foot setback from any property line or public right-of-way.

b. One (1) portable sign provided it has no flashing lights and is located at least 10 feet off the right-of-way and does not obstruct vision to vehicular traffic, but in no event, shall such signs remain more than sixty (60) days.

c. No sign shall have or consist of any rotating, revolving, or otherwise moving part. No sign shall be animated.

d. No sign shall advertise a product, service, or other business not situated on the same premises without obtaining written consent from the property owner in regard to private property, and the building inspector in regard to public property. Maximum area of each such sign shall be nine (9) square feet.

9. For permitted uses, the following regulations shall apply for B-2 and Manufacturing Zoning Districts:

a. One (1) freestanding sign for each street frontage granting access to the premises shall be permitted. Maximum height of each such freestanding sign shall be twenty-five (25) feet. Maximum area of each such sign shall be thirty-two (32) square feet. No such sign shall be permitted which does not meet the required ten (10) foot setback from any property line or public right-of-way.

b. Animated signs, blinking signs, conventional motion picture theater signs, or lighted marquee signs are permitted in the B-2 and Manufacturing District, and must be submitted to the planning commission for review and approval before obtaining a permit.

c. Each parcel in a B-2 and Manufacturing District shall be permitted one or more freestanding signs under the following conditions:

d. A parcel in B-2 and Manufacturing is permitted one (1) freestanding sign per street frontage granting access to the parcel, center or planned development. If the length of a single street frontage is greater than four hundred (400) feet, the parcel, center, or planned development shall be permitted a second freestanding sign along that frontage. In computing the allowable number of signs for parcels with more than one qualifying frontage, each frontage shall be considered separately.

e. The maximum height of each freestanding sign shall be determined by its setback distance from the adjoining qualifying street, according to the following table:

<u>Setback Distance</u>	<u>Maximum Height</u>
10 ft. to 25 ft.	20 ft. plus setback (in ft.)
25 ft. or greater	45 ft.

f. The maximum area of each freestanding sign shall be determined by its setback distance from the adjoining qualifying street, according to the following table:

<u>Setback Distance</u>	<u>Maximum Area</u>
10 ft. to 45 ft.	2 ft. x (setback - 10 ft.) + 100 sq. ft.
45 ft. or greater	250 sq. ft.

g. One (1) portable sign provided it has no flashing lights and is located at least 10 feet off the right-of-way and does not obstruct vision to vehicular traffic.

h. One (1) off-premise advertising sign per parcel is permitted in a Manufacturing District that fronts on a portion of the National System of Interstate Highways or on an arterial street as specified on the Zoning Map of the City of Tusculum, Tennessee. The following regulations shall govern the placement of all off-premise advertising signs:

i. Off premise advertising signs shall conform to the Rules and Regulations for the Control of Outdoor Advertising, Tennessee Department of Transportation, dated March 13, 1989 and any subsequent amendments thereto.

j. In addition to requirements of the Tennessee Department of Transportation, a sign shall be no closer than seven hundred and fifty (750) feet to any residential district or one thousand (1000) feet to any historical district, or historical site listed in the National Register of Historical Sites and Places.

10. Any sign advertising a discontinued use, occupant, product or service after a period of one (1) year shall not be reestablished or changed in any way not in conformity with provisions of this resolution.

11. Any proposed freestanding sign not addressed by the preceding provisions of this article shall conform to the requirements of Section I, Number 8(a).

12. Special signs may be permitted on review by the planning commission, provided however that no permit may be issued except with the written approval of the planning commission and subject to such conditions as the planning commission may require to preserve and protect the character of the district in which the proposed sign is to be located.

Section J. Site Plan Regulations.

A site plan shall be submitted to the planning commission for all proposed development activities in the following Zoning Districts: B-1, B-2, M-1, and PSD Districts, or any duplex, two-family, multi-family, group housing project, planned unit development, and condominium development.

For purposes of this ordinance, the following shall be considered development activities: the construction of a new building or new addition to an existing building, the

relocation of an existing building, or the new utilization of land for parking as a primary use and the construction of drainage appurtenances.

A site plan shall contain and be subject to the following general provisions:

1. General Provisions

- a. All site plans shall be prepared and certified by a licensed engineer, landscape architect, architect, and/or surveyor as may be appropriate, and in accordance with state law regarding the practice of these professions. Drawings shall be at a scale of not less than 1" = 20' for small tracts and 1" = 50' for large tracts.
- b. All site plans shall show:
  - i. Topography of existing and finished grades.
  - ii. Location of all land subject to flooding; including a flood zone certification stating zone, community number, panel number and date.
  - iii. Dimensions and calls of all property lines.
  - iv. North point, scale, acreage of site, and location map.
  - v. Location of all existing and proposed structures (including signs), street rights-of-way, sidewalks, easements, and covenants.
  - vi. Dimensions of all existing and proposed structures, including height.
  - vii. Plans for vehicular and pedestrian circulation, utilities, solid waste disposal, landscaping and open space, buffer strips, signs, off-street parking, traffic patterns, and storm water drainage.
- c. Tennessee Department of Environment and Conservation (TDEC) approval of public sewer or subsurface sewage disposal system.

2. Open Space and Landscaping Plan

To obtain sufficient space between uses and buildings for adequate light, air, privacy, and amenities, the following requirements for open space and landscaping are established:

- a. Landscaping shall mean the planting of grass, trees, shrubs, or other comparable surface cover or decorative plazas and/or pools. Where existing landscape features exist at the site, all or part of such features may be used to meet the requirements of this section upon the approval of the planning commission.
- b. All developments shall meet the minimum yard requirements as per the appropriate zone.
- c. The setback space between a public street and parking areas shall be landscaped with berms and/or appropriate landscaping plants which shall be maintained in a healthy, growing condition through a permanent maintenance program.
- d. Buffer Strip

A buffer strip shall be required on any site plan adjacent to residential properties. A buffer strip shall be composed of plant material to provide an obscuring screen consisting of shrubs spaced not more than five feet apart that will grow to at least five feet in width and six feet in height after one full growing season. Buffer strips shall be a minimum of ten feet in width and shall be landscaped with trees, shrubs, grass and in a manner as specified by the Planning Commission. Other material or method of screening than that outlined above may be approved by the planning commission. The type of buffer shall take into consideration all existing and proposed utilities (power, phone, cable, water, sewer, subsurface sewage disposal systems - septic systems, etc...)

### 3. Signs

Sign size and placement shall be governed by the provisions of Article VI, Section I.

### 4. Off-Street Parking and Access

The off-street parking; off-street loading and unloading; vision clearance; design, construction and maintenance of off-street parking and unloading; access control; points of ingress/egress, and driveways shall be developed in accordance with the provisions of Article VI, Section B.

### 5. Waste Disposal

All waste disposal facilities are to be located to the rear of the development and shall be 100% screened by wood, vinyl, or solid brick walls, in such a way that

they are not visible from any public street or adjoining properties. Any other type of alternative screening shall be approved by the Planning Commission.

6. Mechanical Equipment

All ground mounted mechanical equipment shall be screened from view from an arterial street by the use of walls, fences, or landscaping. All roof mounted mechanical equipment shall be properly screened to minimize visual impact, where such screening will be effective. Where screening will not be effective, the color of the equipment shall be the same as the building.

7. Service, Loading, and Equipment Storage Areas

Service areas, including storage, special equipment, maintenance, and loading areas, shall be 100% screened by wood, vinyl, or solid brick walls, in such a way that they are not visible from an arterial street. Any other type of alternative screening shall be approved by the Planning Commission.

8. Outdoor Storage and Sales of Merchandise

- a. Outdoor storage shall only be permitted as an accessory use and shall be located behind the front building line and outside any required setback from an arterial street.
- b. Outdoor sales of merchandise shall be permitted as an accessory use and shall be located outside the required front yard setback and any required setback from an arterial street.

9. Utility Lines

All new utility lines and service lines shall be placed underground, including, but not limited to, electric, telephone, and cable. Electric power lines in excess of 100 amp, 3 phase, 2500 KVA may be placed aboveground.

10. Lighting

Direct light and glare from lights can be both a hazard and a nuisance to drivers and neighboring residential development. Exterior lighting shall not emit any light above the roof line, nor project onto adjacent properties or streets. Searchlights, laser source lights, or any similar high intensity light for advertising purposes shall be prohibited. The Planning Commission may require shielded lighting in order to meet these requirements.

11. Wireless Transmission Facilities

All Wireless Transmission Facilities shall be governed by the provisions of Article VI, Section F.

12. Stormwater Drainage

A certified plan for stormwater drainage shall be included with the site plan, which identifies all easements, drainage structures, including sizes/capacities, and other pertinent information concerning the assumptions upon which the plan is based. The estimated stormwater runoff based on a 10, 25, 50, and 100-year storm shall be calculated for pre-development and post-development. The amount of runoff shall not be increased, and shall be accommodated on site. A Notice of Intent and Notice of Coverage may be required to be submitted and approved by the Tennessee Department of Environment and Conservation (TDEC) prior to planning commission approval and issuance of a building permit.

13. Expiration of Approved Site Plans

Approval of a site plan shall expire six (6) months after the date of its approval unless a building permit has been issued and substantial progress has been made toward completion of the project. If site plan deemed expired, a new site plan shall be submitted to the planning commission for re-approval.

Section K. Portable Storage Container.

In any residential zoning district, a Temporary Use Permit shall be required for a portable storage container and issued based on the following requirements:

1. The use of a portable storage container shall be limited to no more than 60 consecutive days in any year. In the event the owner of the property suffers a catastrophic loss due to fire, flood or other physical calamity occurring on the property in question, the Temporary Use Permit may be extended for additional two-week periods upon a showing of need. There shall be no more than three (3) extensions of any Temporary Use Permit. An exception to this shall be made if the portable storage container is being used as temporary storage when work requiring a building or demolition permit is being done to structures or buildings on the property. In such cases, the use of the portable storage container shall not exceed the period for which the building or demolition permit has been issued.
2. Portable storage containers shall not be placed in a public right-of-way, or located so as to interfere with traffic safety or visibility. They shall also comply with building setback requirements.
3. Portable storage containers shall not be placed in the front yard of the main/principal building, unless there is a physical hardship or characteristic of the property that will not allow the placement of the container in any other location without undue expense or damage to the property.

4. Portable storage containers shall not be placed adjacent to existing structures, and shall be at least 10 feet from all structures unless approved by the Tusculum Volunteer Fire Department. (Ord. 08-04, 5/19/08)

Section L. Swimming Pool. (Ord. 08-02 5/19/08)

The following regulations shall apply to swimming pools;

1. A swimming pool shall be located in the rear yard and shall be setback a minimum of fifteen (15) feet from all property lines, and not located within any easement or any septic absorption field.
2. No swimming pool or part thereof, including related equipment, aprons, walks and equipment rooms shall protrude into the required setback area. Pool house structures shall meet the accessory building provision under Article III of this ordinance.
3. The maximum height of any type of swimming pool, including any related equipment, shall be ten (10) feet.

**ARTICLE VII. PROVISIONS GOVERNING USE DISTRICTS**

Section A. R-1 (Low Density) Residential. It is the intent of this district to establish low density residential areas along with open areas which appear likely to develop in a similar manner. The requirements for the district are designed to protect essential characteristics of the district, to promote and encourage an environment for family life and to prohibit all business activities. In order to achieve the intent of the R-1 (Low Density) Residential District, as shown on the Zoning Map of the City of Tusculum, Tennessee, the following uses are permitted:

1. Single family dwellings;  
(amended 4/18/05)
2. Customary general farming;
3. Customary home occupations provided that: There is no external evidence of the occupation except an announcement sign not more than two (2) square feet in area: that only one person, not a resident of the dwelling is employed; and not more than 30 percent of the total floor area of the dwelling is used.
4. Public owned building and uses, schools offering general education, and churches provided that:
  - (a) The location of these uses shall first be reviewed by the Tusculum Municipal Planning commission;
  - (b) The buildings are placed not less than fifty (50) feet from the side and rear property lines;
  - (c) There are planted buffer strips along side and rear property lines.
5. Customary Accessory Buildings provided that:



- (a) They meet the location, setback, size, height and other requirements as defined under Article III, Definitions, Accessory Buildings or Use, as per the Tusculum Zoning Ordinance.
- (b) That they are located on a permanent foundation of concrete, block, or masonry material such as brick, stone, or concrete slab, and that this material be of solid continuous construction from ground level to the beginning of the floor of the structure.
- (c) That the total area taken up by all accessory structures and the principle structure be no more than 35 percent of the total yard area.
- (d) Farms do not have to meet the requirements of this section. A farm is a tract of land consisting of five acres or more.
- (e) All accessory buildings must be constructed with new building materials.

(amended 4/18/05)

Section B. R-2 (High Density) Residential. It is the intent of this district to provide areas for high density residential development plus open areas where similar development is likely to occur. Professional services are permitted in the district provided that they meet applicable standards, and are limited so as not to encourage general business activity. In order to achieve the intent of the R-2 (High Density) Residential District, as shown on the Zoning Map of the City of Tusculum, Tennessee, the following uses are permitted.

- 1. Any use permitted in the R-1 Residential District;
- 2. Two family and multiple family dwellings;
- 3. Bed and Breakfast Facilities provided that:  
(Ord #03-4)
  - (a) The house in which the Bed and Breakfast is to be located shall have a minimum of at least 1,800 square feet and must be owner/innkeeper occupied.
  - (b) The serving of meals for compensation in the house is limited to breakfast for registered guests.
  - (c) There shall be no more than twelve (12) registered guests at any one time, with guests staying not more than fourteen (14) days, and the owner/innkeeper shall keep a current guest register.
  - (d) A buffer strip shall be required on any site plan adjacent to residential properties. A buffer strip shall be composed of plant material to provide an obscuring screen consisting of shrubs or trees spaced not more than five feet apart that will grow to at least five feet in width and six feet in height after one full growing season. Other material or method of screening than that outlined above may be approved by the Planning Commission.
  - (e) No street parking will be permitted.

- (f) Signs shall be limited to one sign not exceeding three square feet, which must be attached to the building.
  - (g) The site plan for the proposed facility must be reviewed and approved by the planning commission.
  - (h) The site plan for the proposed facility must be reviewed and approved by the State Fire Marshal and Health Department.
4. Boarding or Rooming House.  
(amended 4/18/05)

Section C. B-1 (Neighborhood Business) District. It is the intent of this district to establish business areas to serve surrounding residential districts. The district regulations are intended to discourage strip business development and encourage grouping of uses in which parking and traffic congestion is reduced to a minimum. In order to achieve the intent of the B-1 (Neighborhood business) District, as shown on the zoning map of the City of Tusculum, Tennessee, the following uses are permitted:

- 1. Shopping centers, provided that they shall conform to all requirements of the shopping center regulations of the City of Tusculum, Tennessee, to be adopted.
- 2. Grocery stores, drug stores, hardware stores, shoe repair shops, barber and beauty shops, laundromats and laundry pick-up stations, restaurants, and similar uses.
- 3. Business signs provided that all signs, except on detached signs allowable in shopping center ordinance, shall be erected flat against front or side of a building or within eighteen (18) inches thereof. All signs shall not project above buildings nor have flashing, intermittent, or moving illumination.
- 4. Gasoline service stations provided that all structures, including underground storage tanks shall be placed not less than twenty (20) feet from all property lines. Points of access and egress shall be not less than fifteen (15) feet from intersection of street lines.

Section D. B-2 (Arterial Business) District. It is the intent of this district to establish business areas that encourage the groupings of compatible business activities in which parking and traffic congestion can be reduced to a minimum. In order to achieve the intent of the B-2 (Arterial Business) District, as shown on the Zoning Map of the City of Tusculum, Tennessee, the following uses are permitted: (amended 4/18/05)

- 1. Any business uses permitted in the B-1 District;
- 2. Hotels and motels;
- 3. Auto, mobile home, and travel trailer sales provided that all automobiles are placed a minimum of five (5) feet from property lines and mobile homes and travel trailers are placed a minimum of twenty (20) feet from the front property line and ten (10) feet from all side property lines. The sale of used mobile homes and travel trailers shall be in compliance as per T.C.A. 68-102-147. Prior to the sale of used mobile homes and travel trailers, written proof shall be furnished to the City of Tusculum, by the retailer/seller, verifying that the mobile home or trailer has been inspected and meets the

safety standards as per the Rules and Regulations of the State of Tennessee, T.C.A. 68-126-203 through 68-126-204. (Amended by Ord. 04-02)

4. Places of amusement and assembly;
5. Funeral homes;
6. Auto repair garages and similar operations.

Section E. Professional and Service District (PSD). It is the intent of this district to provide space for professional and service oriented activities to accommodate the surrounding residential and commercial districts. The following uses are permitted:

1. Professional offices;
2. Semi-public buildings and uses;
3. Lodges and clubs;
4. Churches;
5. Park and recreation facilities;
6. Cultural facilities.

(amended 4/18/05)

Section F. M-1 (Industrial) District. It is the intent of this district to establish industrial areas along with open areas which will likely develop in a similar manner. The requirements established in the district regulations are designed to protect the essential characteristics, to promote and encourage industrial, wholesaling, and business uses and to discourage residential development. In order to achieve the intent of the M-1 (Industrial) District, as shown on the zoning map of the City of Tusculum, Tennessee, the following uses are permitted:

1. Any use permitted in business district except residences.
2. Terminals.
3. Wholesale business.
4. Warehouses.
5. Storage yards and buildings and similar uses.
6. Mini-Warehouses upon review and approval by the planning commission of a site plan providing for necessary driveways, water run-off controls, and if needed, adequate screening. (Ord. 04-1)
7. Any industry which does not cause injurious or obnoxious noise, fire hazards, or other objectionable conditions as determined by the building inspector.

8. Uses Permitted Upon Review (amended 2/16/09)

Methadone Treatment Clinic or Facility, Substance Abuse Treatment Facilities

a. The consideration for approval by the Planning Commission of a methadone treatment clinic or facility and substance abuse treatment facility shall be contingent upon the receipt of the appropriate license and certificate of need by the State of Tennessee.

b. Maps showing existing land use and zoning within one-quarter (1/4) mile of the proposed site should be submitted with an application for Use of Review approval along with the license of the applicant, certificate of need, site plan, survey or other information deemed reasonable by the Planning Commission for use in making a thorough evaluation of the proposal.

c. The clinic or facility shall be located on and have access to a Principal Arterial street.

d. Measurement shall be made in a straight line on the Tusculum Zoning Map from the nearest property line of the lot on which the methadone treatment clinic or facility and substance abuse treatment facility is situated to the nearest property line of the following uses:

1) The clinic or facility shall not be located within one thousand (1,000) feet of a school, day care facility, park, church, synagogue, mosque, mortuary or hospital.

2) The clinic or facility shall not be located within one thousand (1,000) feet of any establishment that sells alcoholic beverages for either on-or-off premises consumption.

3) The clinic or facility shall not be located within one thousand (1,000) feet of any area devoted to public recreation activity.

4) The clinic or facility shall not be located within one thousand (1,000) feet of any amusement catering to family entertainment.

5) The site shall not be less than one thousand (1,000) feet of any residential dwelling at the time of approval.

6) The site shall not be less than one-half (1/2) mile from any other methadone treatment clinic or facility and substance abuse treatment facility.

Section G. MX - Mixed Use District. (amended 2/16/09) INTENT: The purpose of the MX Mixed Use District is to accommodate the development of a wide-range of residential and compatible non-residential uses to encourage high quality design and innovative arrangement of buildings and open space, the district provides flexibility from conventional use and dimension requirements of other zoning districts. Structures with commercial, service, or office uses on the first floor and upper level residential uses are encouraged. Outside storage and customary accessory buildings are prohibited.

**PERMITTED USES:**

Within the MX Mixed Use District the following uses are permitted:

- 1) Professional offices;
- 2) Residential dwellings in the upper level(s) of the commercial uses.

Within the MX Mixed Use District the following uses are permitted by Special Exception.

- 3) Grocery stores, drug stores, hardware stores, shoe repair shops, barber and beauty shops, Laundromats and laundry pick-up stations, restaurants, and similar uses.

**PERMITTED SIGNS:**

Wall Signs not to exceed nine (9) sq. ft., Residential Name/Address, Parking Area Signs, Temporary Banners and Special Signs as described in Article IV: General Provisions, Section I: Sign Regulations.

**NON-PERMITTED USES**

Outside storage and customary accessory buildings are prohibited.

**ARTICLE VIII. YARD AND HEIGHT REQUIREMENTS**

District	Minimum Lot Area in Sq. Ft.	Minimum Lot Width at Building Line	Minimum Yard Requirements From Property Line			Maximum Height of Structures
			Front	Side	Rear	
R-1	15,000 with sanitary sewer systems. 20,000 without sanitary sewer systems.	80 ft.	30 ft.	15 ft.	30 ft.	35 ft.
R-2	7,500 per family up to a total of four. 2,500 per each additional family over four.	50 ft.	30 ft.	8 ft.	25 ft.	35 ft.
B-1			30 ft.	10 ft.	25 ft.	70 ft. *
B-2			30 ft.	10 ft.	25 ft.	70 ft. *
M-1			40 ft.	20 ft.	25 ft.	70 ft. *
PSD			30 ft.	10 ft.	25 ft.	70 ft. *
MX			30 ft.	10 ft.	25 ft.	70 ft. *

\* Structures that exceed 35 feet in building height must be fully sprinkled. This limitation may be waived if the building is equipped with an approved automatic sprinkler system that is properly maintained.

## **ARTICLE IX. EXCEPTIONS AND MODIFICATIONS**

**Section A. Lot of record.** Where the owner of a lot consisting of one or more adjacent lots of official record at the time does not own sufficient land to enable him to conform to the yard or other requirements of this ordinance, an application may be submitted to the Board of Zoning Appeals for a variance from the terms of this ordinance, in accordance with Article XI. Such a lot may be used as a building site, provided, however, that the yard and other requirements of the district are complied with as closely as is possible in the opinion of the Board of Zoning Appeals.

**Section B. Adjoining and Vacant Lots of Record.** A plat of land consisting of one or more adjacent lots with continuous frontage in single ownership which individually are less than lot widths required by this ordinance, such groups of lots shall be considered as a single lot or several lots of minimum permitted size and the lot or lots in one ownership shall be subjected to the requirements of this ordinance.

**Section C. Front Yards.** The front yard requirements of this ordinance for dwellings shall not apply to any lot where the average depth of existing front yards on developed lots, located within one hundred (100) feet on each side of such lot and within the same block and zoning district and fronting on the same street such as lot, is less than the minimum required front yard depth. In such case, the minimum front yard shall be the average of the existing front yard depths on the developed lots.

**Section D. Group Housing Projects, Planned Unit Developments and Condominiums.**  
A group housing project is defined as any group of two or more buildings to be constructed on one parcel of land.  
A planned unit development is defined as a comprehensive residential or commercial development where project design does not include standard street, lot, and subdivision arrangements, and where shares, property, or units are to be sold. A condominium is defined as property where individual living units are to be sold and all property and infrastructure is held common by the purchasers of the units. Group housing projects, planned unit developments and condominiums are allowed upon review and approval by the Tusculum Planning Commission provided that the following conditions are met:

1. A site plan showing the location of proposed buildings, road drives, parking utilities, drainage, and any other information necessary for review must be presented to the planning commission.
2. In no case shall the planning commission approve a use prohibited, or a smaller lot area per family than the minimum required, or a greater height, or a larger lot coverage than permitted in the district where the project is located.
3. A one acre minimum lot size is required where two or more structures are to be constructed on a single lot.
4. When property is subdivided for the purpose of selling either proposed or existing townhouses, duplexes or similar housing units, the following requirements apply: side yard setbacks will not be required where housing units connect at property lines; road frontage requirements may be reduced to thirty feet width; each parcel of land shall be treated as an individual lot and shall meet lot size requirements, density requirements, and all other provisions of the Tusculum Subdivision Regulations and Zoning Ordinance.

5. Public and private roads in all developments in which property is to be subdivided must be constructed to standards set forth in the Tusculum Subdivision Regulations. All common driveways and parking areas for group housing developments, planned unit developments and condominiums must be paved with hot asphalt or concrete pavement prior to final approval.
6. A plat for the conversion of rental units to condominiums must be approved by the Tusculum Planning Commission.
7. Preliminary or design approval and final or recording approval shall be required by the planning commission before any units can be sold. For projects to be developed in stages or phases, preliminary or design approval shall be required for the entire project with final or recording approval showing the development as built required at the completion of each stage of construction.
8. Where property is being subdivided and streets, utilities, parking areas or other areas are held in common the developer shall organize a property owners association to provide a way for maintaining such common areas prior to final approval.

Section E. Exception on Height Limits. The height limitations of this ordinance shall not apply to church spires, belfries, cupolas and domes not intended for human occupancy, monuments, water towers, observation towers, transmission towers, windmills, chimneys, smokestacks, derricks, conveyors, flag poles, radio towers, masts and aerials.

## **ARTICLE X. ENFORCEMENT**

Section A. Enforcing Officer. The provisions of this ordinance shall be administered and enforced by the Municipal Building Inspector. This official shall have the right to enter upon any premises necessary to carry out his duties in the enforcement of this ordinance.

Section B. Building Permit Required. It shall be unlawful to commence the excavation for or the construction of any building including accessory buildings or to commence the moving or alteration of any building, including accessory buildings, until the building inspector has issued for such work a building permit including a statement that the plans, specifications and intended use of such building in all respects conform with the provisions of this ordinance. Application for a building permit shall be made to the building inspector.

Section C. Issuance of Building Permit. In applying to the building inspector for a building permit, the applicant shall submit a dimensioned sketch or scale plan indicating the shape, size, height, and location of all buildings to be erected, altered or moved, and of any building already on the lot. He shall also state the existing and intended use of all such buildings and supply such other information as may be required by the building inspector for determining whether the provisions of this ordinance are being observed. If the proposed excavation or construction set forth in the application are in conformity with the provisions of this ordinance, the building inspector shall issue a building permit for such excavation or construction. If a building permit is refused, the building inspector shall state such refusal in writing with cause.

Section D. Grading Permit Required. It shall be unlawful to commence with any grading activity on commercially zoned property which results in the disturbance of more than one-half acre until the building inspector has issued a grading permit for such work. Application for a grading permit shall be made to the building inspector.

Section E. Issuance of Grading Permit. In order to obtain a grading permit; the applicant shall submit a set of grading, erosion control and drainage plans which include a site plan in each set. Plans must be prepared by a qualified professional and shall show the following:

1. Property limits and the location of any buildings or structures on adjoining property and within fifteen (15) feet of the property line
2. Accurate contours of existing ground and details of terrain and area drainage, limiting dimensions to include elevations or finish contours to be achieved by the grading and proposed drainage channels and related construction, location of areas of proposed paving
3. Limits of vegetative clearing, plans for vegetative reestablishment, and estimates of exposure time of denuded land.
4. Additional documents may include; detailed plans of all surface and subsurface drainage devices, walls, cribbing, dams and other protective devices to be constructed with, or as a part of, the proposed work together with a map showing the drainage area and the estimated runoff of the area served by any drains.
5. A schedule for performance of all earthwork, earth stabilization, and reclamation activities.

Section F. Expiration/Extension of Building and Grading Permits

1. *Expiration of Building or Grading Permit.* Construction must begin or placement of structure must occur within six (6) months from the issuance date of a building or building permit or the permit will be found invalid and the intent of the permit is void.
2. *Extension of Building or Grading Permit.* The Municipal Building Inspector may grant any number of ninety (90) day extensions to a building permit holder for a building/grading permit, if just cause can be given to justify the extension and if progress toward completion of the project can be shown. Such requests for an extension shall be submitted made through a formal letter and must include the requestors name and contact information, the site address and a description of the circumstances preventing completion of the development activity. The letter shall be submitted to the City Recorder's office.
3. *Abandonment of Permitted Projects.* Any project for which a building/grading permit has been issued and where an accessory or principal building has only been partially constructed at the end of one (1) year and for which an application for



extension has not been submitted, may be subject to being considered as an unsafe and illegal building and may be subject to the provisions of adopted edition of the International Building Code and any other applicable provisions of this or any other ordinance of the city.

Section G. Certificate of Occupancy. Upon the completion of the construction or alteration of a building or structure for which a building permit has been granted, application shall be made to the building inspector for a certificate of occupancy. Within three days of such application, the building inspector shall make a final inspection of the property in question, and shall issue a certificate of occupancy if the building or structure is found to conform to the provisions of the ordinance and the statements made in the application for the building permit. If such a certificate is refused, the building inspector shall state such refusal in writing, with the cause. No land or building hereafter erected or altered in its use, shall be used until such a certificate of occupancy has been granted.

Section H. Penalties. Any person violating any provision of this ordinance shall be guilty of a misdemeanor, and upon conviction shall be fined not less than two dollars (\$2.00) nor more than fifty dollars (\$50.00) for each offense. Each day such violation shall continue shall constitute a separate offense.

Section I. Remedies. In case any building or structure is erected, constructed, reconstructed, repaired, converted or maintained, or any building, structure or land is used in violation of this ordinance, the building inspector or any other appropriate authority or any adjacent or neighboring property owner who would be damaged by such violation, in addition to other remedies may institute injunction, mandamus or other appropriate action in proceeding to prevent the occupancy or use of such building.

## **ARTICLE XI. BOARD OF ZONING APPEALS**

Section A. Creation and Appointment. A Board of Zoning appeals is hereby established in accordance with Section 13-7-205 Tennessee Code Annotated. The Tusculum Municipal Planning Commission is hereby designated as the Board of Zoning Appeals and the terms of the members of the Board of Zoning Appeals shall be concurrent with the terms of the members of the Tusculum Municipal Planning Commission.

Section B. Procedure. Meetings of the Board of Zoning Appeals shall be held at the call of the chairman or by a majority of the membership and at such other times as the Board may determine. Such chairman, or in his absence, the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of the board shall be open to the public. The board shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact; shall take all evidence necessary to justify or explain its action, and shall keep records of its examinations and of other official action, all of which shall be immediately filed in the office of the board and shall be a public record.

Section C. Appeals: How Taken. Any appeal to the Board of Zoning Appeals may be taken by any person, firm or corporation aggrieved, or by any governmental officer, department, board or bureau affected by any decision of the building inspector based in the whole or part on provisions of this ordinance. Such appeal shall be taken within a reasonable time, as provided by the rules of the board, by filing with the building inspector and with the Board of Zoning Appeals a notice of appeal, specifying the grounds thereof. The building inspector shall transmit forthwith to the board all papers constituting the record upon which the

action appealed was taken. The board shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to the adjoining property owners that would be directly affected by the appeal and to any other parties of interest. The board shall decide the appeal within a reasonable time. Upon hearing, any party may appear in person or by agent or by attorney. Any person, firm or association making an appeal to the Board of Zoning Appeals for a zoning variance shall file an application for the relief sought. Included with the application shall be drawings and other information necessary to make a decision. A fee of sixty dollars shall be paid when the application is made to offset the cost of public notice.

Section D. Powers. The Board of Zoning Appeals shall have the following powers:

1. Administrative review. To hear and decide appeals where it is alleged by the appellant that there is error in any order requirement, permit, decision, determination or refusal made by the building inspector or other Administrative official in the carrying out of enforcement of any provision of this ordinance.

2. Special exceptions. To hear and decide special exceptions to this ordinance as set forth in Article IX.

3. Variance. To hear and decide applications for variance from the terms of this ordinance, but only where, by reason of exceptional narrowness, shallowness or shape of a specific piece of property at the time of the adoption of this ordinance was a lot of record; or where by reason of exceptional topographical conditions or other extraordinary or exceptional situations or application of the provisions of this ordinance would result in exceptional practical difficulties to or exceptional and undue hardship upon the owner of such property, provided that such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of this ordinance. In granting a variance the board may attach thereto such conditions regarding the location, character and other features of the proposed building, structure or use as it may deem advisable in furtherance of the purpose of this ordinance.

Before any variance is granted it shall be shown that special circumstances are attached to the property which do not generally apply to other property in the neighborhood.

Section E. Action of the Board of Zoning Appeals. In exercising the aforementioned powers, the Board of Zoning Appeals may, in conformity with the provision of this ordinance, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from, and to that end shall have all powers of the building inspector. The concurring vote of a majority of the board shall be necessary to reverse any order requirement, decision or determination of any such Administrative official, or to decide in favor of the application any matter upon which it is required to pass under this ordinance, or to authorize any variance from the terms of this ordinance.

## **ARTICLE XII. AMENDMENT**

Section A. Procedure. The Board of Mayor and Commissioners may amend the regulations, restrictions, boundaries, or any provision of this ordinance. Any member of the Board of Mayor and Commissioners may introduce such amendment, or any official, board or any other person may present a petition to the Board of Mayor and Commissioners requesting an amendment or amendments to this ordinance.

Section B. Approval by Planning Commission. No such amendment shall become effective unless the same be first submitted for approval, disapproval or suggestions to the planning Commission. If the planning commission within thirty (30) days disapproves after such submission, it shall require the favorable vote of a majority of the entire membership of the Board of Mayor and Commissioners to become effective. If the planning Commission neither approves nor disapproves such proposed amendment within forty-five (45) days after such submission, the action of such amendment by said board shall be deemed favorable.

Section C. Introduction of Amendment. Upon the introduction of an amendment to this ordinance or upon the receipt of a petition to amend this ordinance or zoning map, both the planning commission and the city commission shall publish a notice of such request for an amendment, together with the notice of time set for hearing on the requested change. Said notice shall be published in some newspaper of general circulation in the City of Tusculum, Tennessee. Said hearing by the planning commission shall take place not sooner than ten (10) days after the date of publication and said hearing by the city commission shall take place no sooner than fifteen (15) days after the date of publication of such notice. A fee of sixty dollars shall be paid when the application is made to offset the cost of public notice. If the amendment is approved by the planning commission an additional fee of sixty dollars shall be paid to offset the cost of the public notice for the city commission.

### **ARTICLE XIII. LEGAL STATUS PROVISIONS**

Section A. Conflict with Other Ordinances. In case of conflict between this ordinance or any part thereof, and the whole or part of any existing or future ordinance of the City of Tusculum, the most restrictive shall in all cases apply.

Section B. Validity. In any section, clause, provision or portion of this ordinance shall be held to be invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect any other section, clause, provision, or portion of this ordinance which is not of itself invalid or unconstitutional.

Section C. Effective Date. This ordinance shall take effect and be in force fifteen (15) days from and after its passage, the public welfare demanding it.

Certified by the Planning Commission \_\_\_\_\_ February 11, 1988 \_\_\_\_\_

Passed on 1st Reading: \_\_\_\_\_ March 21, 1988 \_\_\_\_\_

Passed on 2nd Reading: \_\_\_\_\_ June 20, 1988 \_\_\_\_\_

## ARTICLE XIV

### MUNICIPAL FLOODPLAIN ZONING ORDINANCE

**AN ORDINANCE ADOPTED FOR THE PURPOSE OF AMENDING THE CITY OF TUSCULUM, TENNESSEE MUNICIPAL ZONING ORDINANCE REGULATING DEVELOPMENT WITHIN THE CORPORATE LIMITS OF TUSCULUM, TENNESSEE, TO MINIMIZE DANGER TO LIFE AND PROPERTY DUE TO FLOODING, AND TO MAINTAIN ELIGIBILITY FOR PARTICIPATION IN THE NATIONAL FLOOD INSURANCE PROGRAM.**

#### **ARTICLE I. STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND OBJECTIVES**

##### **Section A. Statutory Authorization**

The Legislature of the State of Tennessee has in Sections 13-7-201 through 13-7-210, Tennessee Code Annotated delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the **City of Tusculum**, Tennessee, Mayor and **Board of Commissioners**, do ordain as follows:

##### **Section B. Findings of Fact**

1. The City of Tusculum, Tennessee, Mayor and its Legislative Body wishes to maintain eligibility in the National Flood Insurance Program (NFIP) and in order to do so must meet the NFIP regulations found in Title 44 of the Code of Federal Regulations (CFR), Ch. 1, Section 60.3.
2. Areas of the City of Tusculum, Tennessee are subject to periodic inundation which could result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.
3. Flood losses are caused by the cumulative effect of obstructions in floodplains, causing increases in flood heights and velocities; by uses in flood hazard areas which are vulnerable to floods; or construction which is inadequately elevated, floodproofed, or otherwise unprotected from flood damages.

##### **Section C. Statement of Purpose**

It is the purpose of this Ordinance to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas. This Ordinance is designed to:

1. Restrict or prohibit uses which are vulnerable to flooding or erosion hazards, or which result in damaging increases in erosion, flood heights, or velocities;

2. Require that uses vulnerable to floods, including community facilities, be protected against flood damage at the time of initial construction;
3. Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of floodwaters;
4. Control filling, grading, dredging and other development which may increase flood damage or erosion;
5. Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.

#### **Section D. Objectives**

The objectives of this Ordinance are:

1. To protect human life, health, safety and property;
2. To minimize expenditure of public funds for costly flood control projects;
3. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
4. To minimize prolonged business interruptions;
5. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodprone areas;
6. To help maintain a stable tax base by providing for the sound use and development of floodprone areas to minimize blight in flood areas;
7. To ensure that potential homebuyers are notified that property is in a floodprone area;
8. To **maintain** eligibility for participation in the NFIP.

#### **ARTICLE II. DEFINITIONS**

Unless specifically defined below, words or phrases used in this Ordinance shall be interpreted as to give them the meaning they have in common usage and to give this Ordinance its most reasonable application given its stated purpose and objectives.

**"Accessory Structure"** means a subordinate structure to the principal structure on the same lot and, for the purpose of this Ordinance, shall conform to the following:

1. Accessory structures shall only be used for parking of vehicles and storage.
2. Accessory structures shall be designed to have low flood damage potential.

3. Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters.
4. Accessory structures shall be firmly anchored to prevent flotation, collapse, and lateral movement, which otherwise may result in damage to other structures.
5. Utilities and service facilities such as electrical and heating equipment shall be elevated or otherwise protected from intrusion of floodwaters.

**"Addition (to an existing building)"** means any walled and roofed expansion to the perimeter or height of a building.

**"Appeal"** means a request for a review of the local enforcement officer's interpretation of any provision of this Ordinance or a request for a variance.

**"Area of Shallow Flooding"** means a designated AO or AH Zone on a community's Flood Insurance Rate Map (FIRM) with one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate; and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

**"Area of Special Flood-related Erosion Hazard"** is the land within a community which is most likely to be subject to severe flood-related erosion losses. The area may be designated as Zone E on the Flood Hazard Boundary Map (FHBM). After the detailed evaluation of the special flood-related erosion hazard area in preparation for publication of the FIRM, Zone E may be further refined.

**"Area of Special Flood Hazard"** see **"Special Flood Hazard Area"**.

**"Base Flood"** means the flood having a one percent chance of being equaled or exceeded in any given year. This term is also referred to as the 100-year flood or the one (1)-percent annual chance flood.

**"Basement"** means any portion of a building having its floor subgrade (below ground level) on all sides.

**"Building"** see **"Structure"**.

**"Development"** means any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavating, drilling operations, or storage of equipment or materials.

**"Elevated Building"** means a non-basement building built to have the lowest floor of the lowest enclosed area elevated above the ground level by means of solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of floodwater, pilings, columns, piers, or shear walls adequately anchored so as not to impair the structural integrity of the building during a base flood event.

**"Emergency Flood Insurance Program"** or **"Emergency Program"** means the program as implemented on an emergency basis in accordance with Section 1336 of the Act. It is intended as a program to provide a first layer amount of insurance on all insurable structures before the effective date of the initial FIRM.

**"Erosion"** means the process of the gradual wearing away of land masses. This peril is not "per se" covered under the Program.

**"Exception"** means a waiver from the provisions of this Ordinance which relieves the applicant from the requirements of a rule, regulation, order or other determination made or issued pursuant to this Ordinance.

**"Existing Construction"** means any structure for which the "start of construction" commenced before the effective date of the initial floodplain management code or ordinance adopted by the community as a basis for that community's participation in the NFIP.

**"Existing Manufactured Home Park or Subdivision"** means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, final site grading or the pouring of concrete pads) is completed before the effective date of the first floodplain management code or ordinance adopted by the community as a basis for that community's participation in the NFIP.

**"Existing Structures"** see **"Existing Construction"**.

**"Expansion to an Existing Manufactured Home Park or Subdivision"** means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

**"Flood" or "Flooding"** means a general and temporary condition of partial or complete inundation of normally dry land areas from:

1. The overflow of inland or tidal waters.
2. The unusual and rapid accumulation or runoff of surface waters from any source.

**"Flood Elevation Determination"** means a determination by the Federal Emergency Management Agency (FEMA) of the water surface elevations of the base flood, that is, the flood level that has a one percent or greater chance of occurrence in any given year.

**"Flood Elevation Study" means** an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) or flood-related erosion hazards.

**"Flood Hazard Boundary Map (FHBM)"** means an official map of a community, issued by FEMA, where the boundaries of areas of special flood hazard have been designated as Zone A.

**"Flood Insurance Rate Map (FIRM)"** means an official map of a community, issued by FEMA, delineating the areas of special flood hazard or the risk premium zones applicable to the community.

**"Flood Insurance Study"** is the official report provided by FEMA, evaluating flood hazards and containing flood profiles and water surface elevation of the base flood.

**"Floodplain" or "Floodprone Area"** means any land area susceptible to being inundated by water from any source (see definition of "flooding").

**"Floodplain Management"** means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and floodplain management regulations.

**"Flood Protection System"** means those physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the area within a community subject to a "special flood hazard" and the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees or dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

**"Floodproofing"** means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities and structures and their contents.

**"Flood-related Erosion"** means the collapse or subsidence of land along the shore of a lake or other body of water as a result of undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood, or by some similarly unusual and unforeseeable event which results in flooding.

**"Flood-related Erosion Area"** or **"Flood-related Erosion Prone Area"** means a land area adjoining the shore of a lake or other body of water, which due to the composition of the shoreline or bank and high water levels or wind-driven currents, is likely to suffer flood-related erosion damage.

**"Flood-related Erosion Area Management"** means the operation of an overall program of corrective and preventive measures for reducing flood-related erosion damage, including but not limited to emergency preparedness plans, flood-related erosion control works and floodplain management regulations.

**"Floodway"** means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

**"Freeboard"** means a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. "Freeboard" tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, blockage of bridge or culvert openings, and the hydrological effect of urbanization of the watershed.

**"Functionally Dependent Use"** means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

**"Highest Adjacent Grade"** means the highest natural elevation of the ground surface, prior to construction, adjacent to the proposed walls of a structure.

**"Historic Structure"** means any structure that is:



1. Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
3. Individually listed on the Tennessee inventory of historic places and determined as eligible by states with historic preservation programs which have been approved by the Secretary of the Interior; or
4. Individually listed on the City of Tusculum, Tennessee inventory of historic places and determined as eligible by communities with historic preservation programs that have been certified either:
  - a. By the approved Tennessee program as determined by the Secretary of the Interior or
  - b. Directly by the Secretary of the Interior.

**"Levee"** means a man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control or divert the flow of water so as to provide protection from temporary flooding.

**"Levee System"** means a flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

**"Lowest Floor"** means the lowest floor of the lowest enclosed area, including a basement. An unfinished or flood resistant enclosure used solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this Ordinance.

**"Manufactured Home"** means a structure, transportable in one or more sections, which is built on a permanent chassis and designed for use with or without a permanent foundation when attached to the required utilities. The term "Manufactured Home" does not include a "Recreational Vehicle".

**"Manufactured Home Park or Subdivision"** means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

**"Map"** means the Flood Hazard Boundary Map (FHBM) or the Flood Insurance Rate Map (FIRM) for a community issued by FEMA.

**"Mean Sea Level"** means the average height of the sea for all stages of the tide. It is used as a reference for establishing various elevations within the floodplain. For the purposes of this Ordinance, the term is synonymous with the National Geodetic Vertical Datum (NGVD) of 1929, the North American Vertical Datum (NAVD) of 1988, or other datum, to which Base Flood Elevations shown on a community's Flood Insurance Rate Map are referenced.

**"National Geodetic Vertical Datum (NGVD)"** means, as corrected in 1929, a vertical control used as a reference for establishing varying elevations within the floodplain.

**"New Construction"** means any structure for which the "start of construction" commenced on or after the effective date of the initial floodplain management Ordinance and includes any subsequent improvements to such structure.

**"New Manufactured Home Park or Subdivision"** means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of this ordinance or the effective date of the initial floodplain management ordinance and includes any subsequent improvements to such structure.

**"North American Vertical Datum (NAVD)"** means, as corrected in 1988, a vertical control used as a reference for establishing varying elevations within the floodplain.

**"100-year Flood"** see **"Base Flood"**.

**"Person"** includes any individual or group of individuals, corporation, partnership, association, or any other entity, including State and local governments and agencies.

**"Reasonably Safe from Flooding"** means base flood waters will not inundate the land or damage structures to be removed from the Special Flood Hazard Area and that any subsurface waters related to the base flood will not damage existing or proposed structures.

**"Recreational Vehicle"** means 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;
4. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

**"Regulatory Floodway"** means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

**"Riverine"** means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

**"Special Flood Hazard Area"** is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. The area may be designated as Zone A on the FHBM. After detailed ratemaking has been completed in preparation for publication of the FIRM, Zone A usually is refined into Zones A, AO, AH, A1-30, AE or A99.

**"Special Hazard Area"** means an area having special flood, mudslide (i.e., mudflow) and/or flood-related erosion hazards, and shown on an FHBM or FIRM as Zone A, AO, A1-30, AE, A99, or AH.

**"Start of Construction"** includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure (including a manufactured home) on a site, such as the pouring of slabs or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; and includes the placement of a manufactured home on a foundation. Permanent construction does not include initial land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds, not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

**"State Coordinating Agency"** the Tennessee Department of Economic and Community Development's, Local Planning Assistance Office, as designated by the Governor of the State of Tennessee at the request of FEMA to assist in the implementation of the NFIP for the State.

**"Structure"** for purposes of this Ordinance, means a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

**"Substantial Damage"** 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 Improvement"** means any reconstruction, rehabilitation, addition, alteration or other improvement of a structure in which the cost equals or exceeds fifty percent (50%) of the market value of the structure before the "start of construction" of the initial improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The market value of the structure should be (1) the appraised value of the structure prior to the start of the initial improvement, or (2) in the case of substantial damage, the value of the structure prior to the damage occurring.

The term does not, however, include either: (1) Any project for improvement of a structure to correct existing violations of State or local health, sanitary, or safety code specifications which have been pre-identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions and not solely triggered by an improvement or repair project or; (2) Any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure".

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

**"Variance"** is a grant of relief from the requirements of this Ordinance.

**"Violation"** means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certification, or other evidence of compliance required in this Ordinance is presumed to be in violation until such time as that documentation is provided.

**"Water Surface Elevation"** means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, the North American Vertical Datum (NAVD) of 1988, or other datum, where specified, of floods of various magnitudes and frequencies in the floodplains of riverine areas.

### **ARTICLE III. GENERAL PROVISIONS**

#### **Section A. Application**

This Ordinance shall apply to all areas within the incorporated area of the **City of Tusculum**, Tennessee.

#### **Section B. Basis for Establishing the Areas of Special Flood Hazard**

The Areas of Special Flood Hazard identified on the City of Tusculum, Tennessee, as identified by FEMA, and in its Flood Insurance Study (FIS) and Flood Insurance Rate Map (FIRM), Community Panel Numbers 47059C0235D, 47059C0242D, 47059C0244D, 47059C0255D, 47059C0265D, dated July 3, 2006, along with all supporting technical data, are adopted by reference and declared to be a part of this Ordinance.

#### **Section C. Requirement for Development Permit**

A development permit shall be required in conformity with this Ordinance prior to the commencement of any development activities.

#### **Section D. Compliance**

No land, structure or use shall hereafter be located, extended, converted or structurally altered without full compliance with the terms of this Ordinance and other applicable regulations.

#### **Section E. Abrogation and Greater Restrictions**

This Ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants or deed restrictions. However, where this Ordinance conflicts or overlaps with another regulatory instrument, whichever imposes the more stringent restrictions shall prevail.

#### **Section F. Interpretation**

In the interpretation and application of this Ordinance, all provisions shall be: (1) considered as minimum requirements; (2) liberally construed in favor of the governing body and; (3) deemed neither to limit nor repeal any other powers granted under Tennessee statutes.

**Section G. Warning and Disclaimer of Liability**

The degree of flood protection required by this Ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This Ordinance does not imply that land outside the Areas of Special Flood Hazard or uses permitted within such areas will be free from flooding or flood damages. This Ordinance shall not create liability on the part of the City of Tusculum, Tennessee or by any officer or employee thereof for any flood damages that result from reliance on this Ordinance or any administrative decision lawfully made hereunder.

**Section H. Penalties for Violation**

Violation of the provisions of this Ordinance or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance shall constitute a misdemeanor punishable as other misdemeanors as provided by law. Any person who violates this ordinance or fails to comply with any of its requirements shall, upon adjudication therefore, be fined as prescribed by Tennessee statutes, 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 Tusculum, Tennessee from taking such other lawful actions to prevent or remedy any violation.

**ARTICLE IV. ADMINISTRATION**

**Section A. Designation of Ordinance Administrator**

The Building Inspector or designee is hereby appointed as the Administrator to implement the provisions of this Ordinance.

**Section B. Permit Procedures**

Application for a development permit shall be made to the Administrator on forms furnished by the community prior to any development activities. The development permit may include, but is not limited to the following: plans in duplicate drawn to scale and showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, earthen fill placement, storage of materials or equipment, and drainage facilities. Specifically, the following information is required:

1. Application stage
  - a. Elevation in relation to mean sea level of the proposed lowest floor, including basement, of all buildings where Base Flood Elevations are available, or to certain height above the highest adjacent grade when applicable under this Ordinance.
  - b. Elevation in relation to mean sea level to which any non-residential building will be floodproofed where Base Flood Elevations are available, or to certain height above the highest adjacent grade when applicable under this Ordinance.

- c. A FEMA Floodproofing Certificate from a Tennessee registered professional engineer or architect that the proposed non-residential floodproofed building will meet the floodproofing criteria in Article V, Sections A and B.
- d. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

2. Construction Stage

Within AE Zones, where Base Flood Elevation data is available, any lowest floor certification made relative to mean sea level shall be prepared by or under the direct supervision of, a Tennessee registered land surveyor and certified by same. The Administrator shall record the elevation of the lowest floor on the development permit. When floodproofing is utilized for a non-residential building, said certification shall be prepared by, or under the direct supervision of, a Tennessee registered professional engineer or architect and certified by same.

Within approximate A Zones, where Base Flood Elevation data is not available, the elevation of the lowest floor shall be determined as the measurement of the lowest floor of the building relative to the highest adjacent grade. The Administrator shall record the elevation of the lowest floor on the development permit. When floodproofing is utilized for a non-residential building, said certification shall be prepared by, or under the direct supervision of, a Tennessee registered professional engineer or architect and certified by same.

For all new construction and substantial improvements, the permit holder shall provide to the Administrator an as-built certification of the lowest floor elevation or floodproofing level upon the completion of the lowest floor or floodproofing.

Any work undertaken prior to submission of the certification shall be at the permit holder's risk. The Administrator shall review the above-referenced certification data. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further work being allowed to proceed. Failure to submit the certification or failure to make said corrections required hereby, shall be cause to issue a stop-work order for the project.

**Section C. Duties and Responsibilities of the Administrator**

Duties of the Administrator shall include, but not be limited to, the following:

1. Review all development permits to assure that the permit requirements of this Ordinance have been satisfied, and that proposed building sites will be reasonably safe from flooding.
2. Review proposed development to assure that all necessary permits have been received from those governmental agencies from which approval is required by

Federal or State law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.

3. Notify adjacent communities and the Tennessee Department of Economic and Community Development, Local Planning Assistance Office, prior to any alteration or relocation of a watercourse and submit evidence of such notification to FEMA.
4. For any altered or relocated watercourse, submit engineering data/analysis within six (6) months to FEMA to ensure accuracy of community FIRM's through the Letter of Map Revision process.
5. Assure that the flood carrying capacity within an altered or relocated portion of any watercourse is maintained.
6. Record the elevation, in relation to mean sea level or the highest adjacent grade, where applicable, of the lowest floor (including basement) of all new and substantially improved buildings, in accordance with Article IV, Section B.
7. Record the actual elevation, in relation to mean sea level or the highest adjacent grade, where applicable to which the new and substantially improved buildings have been floodproofed, in accordance with Article IV, Section B.
8. When floodproofing is utilized for a nonresidential structure, obtain certification of design criteria from a Tennessee registered professional engineer or architect, in accordance with Article IV, Section B.
9. Where interpretation is needed as to the exact location of boundaries of the Areas of Special Flood Hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), make the necessary interpretation. Any person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this Ordinance.
10. When Base Flood Elevation data and floodway data have not been provided by FEMA, obtain, review, and reasonably utilize any Base Flood Elevation and floodway data available from a Federal, State, or other sources, including data developed as a result of these regulations, as criteria for requiring that new construction, substantial improvements, or other development in Zone A on the City of Tusculum, Tennessee FIRM meet the requirements of this Ordinance.
11. Maintain all records pertaining to the provisions of this Ordinance in the office of the Administrator and shall be open for public inspection. Permits issued under the provisions of this Ordinance shall be maintained in a separate file or marked for expedited retrieval within combined files.

## **ARTICLE V. PROVISIONS FOR FLOOD HAZARD REDUCTION**

### **Section A. General Standards**

In all areas of special flood hazard, the following provisions are required:

1. New construction and substantial improvements shall be anchored to prevent flotation, collapse and lateral movement of the structure;
2. Manufactured homes shall be installed using methods and practices that minimize flood damage. They must be elevated and anchored to prevent flotation, collapse and lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State of Tennessee and local anchoring requirements for resisting wind forces.
3. New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage;
4. New construction and substantial improvements shall be constructed by methods and practices that minimize flood damage;
5. All electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;
6. New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
7. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters;
8. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding;
9. Any alteration, repair, reconstruction or improvements to a building that is in compliance with the provisions of this Ordinance, shall meet the requirements of "new construction" as contained in this Ordinance;
10. Any alteration, repair, reconstruction or improvements to a building that is not in compliance with the provision of this Ordinance, shall be undertaken only if said non-conformity is not further extended or replaced;
11. All new construction and substantial improvement proposals shall provide copies of all necessary Federal and State permits, including Section 404 of the Federal Water Pollution Control Act amendments of 1972, 33 U.S.C. 1334;
12. All subdivision proposals and other proposed new development proposals shall meet the standards of Article V, Section B;
13. When proposed new construction and substantial improvements are partially located in an area of special flood hazard, the entire structure shall meet the standards for new construction;



14. When proposed new construction and substantial improvements are located in multiple flood hazard risk zones or in a flood hazard risk zone with multiple Base Flood Elevations, the entire structure shall meet the standards for the most hazardous flood hazard risk zone and the highest Base Flood Elevation.

**Section B. Specific Standards**

In all Areas of Special Flood Hazard, the following provisions, in addition to those set forth in Article V, Section A, are required:

1. Residential Structures

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 one (1) foot above the Base Flood Elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with the standards of this section: "Enclosures".

Within approximate A Zones where Base Flood Elevations have not been established and where alternative data is not available, the administrator shall require the lowest floor of a building to be elevated to a level of at least three (3) feet above the highest adjacent grade (as defined in Article II). 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 this section: "Enclosures"

2. Non-Residential Structures

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 this section: "Enclosures"

In approximate A Zones, where Base Flood Elevations have not been established and where alternative data is not 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 three (3) feet above the highest adjacent grade (as defined in Article II). 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 this section: "Enclosures"

Non-Residential buildings located in all A Zones may be floodproofed, in lieu of being elevated, provided that all areas of the building below the required elevation are watertight, with walls substantially impermeable to the passage of

water, and are built with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. A Tennessee registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions above, and shall provide such certification to the Administrator as set forth in Article IV, Section B.

3. Enclosures

All new construction and substantial improvements that include fully enclosed areas formed by foundation and other exterior walls below the lowest floor 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 or architect 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 Article V, Section B.

4. Standards for Manufactured Homes and Recreational Vehicles

- a. All manufactured homes placed, or substantially improved, on: (1) individual lots or parcels, (2) in expansions to existing manufactured home parks or subdivisions, or (3) in new or substantially improved manufactured home parks or subdivisions, must meet all the requirements of new construction.
- b. All manufactured homes placed or substantially improved in an existing manufactured home park or subdivision must be elevated so that either:
  - 1) In AE Zones, with Base Flood Elevations, the lowest floor of the manufactured home is elevated on a permanent foundation to no lower than one (1) foot above the level of the Base Flood Elevation or

- 2) In approximate A Zones, without Base Flood Elevations, the manufactured home chassis is elevated and supported by reinforced piers (or other foundation elements of at least equivalent strength) that are at least three (3) feet in height above the highest adjacent grade (as defined in Article II).
  - c. Any manufactured home, which has incurred “substantial damage” as the result of a flood, must meet the standards of Article V, Sections A and B.
  - d. All manufactured homes must be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.
  - e. All recreational vehicles placed in an identified Special Flood Hazard Area must either:
    - 1) Be on the site for fewer than 180 consecutive days;
    - 2) Be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is licensed, on its wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached structures or additions), or;
    - 3) The recreational vehicle must meet all the requirements for new construction.
5. Standards for Subdivisions and Other Proposed New Development Proposals

Subdivisions and other proposed new developments, including manufactured home parks, shall be reviewed to determine whether such proposals will be reasonably safe from flooding.

- a. All subdivision and other proposed new development proposals shall be consistent with the need to minimize flood damage.
- b. All subdivision and other proposed new development proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.
- c. All subdivision and other proposed new development proposals shall have adequate drainage provided to reduce exposure to flood hazards.
- d. In all approximate A Zones require that all new subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than 50 lots or 5 acres, whichever is the lesser, include within such proposals Base Flood Elevation data (See Article V, Section E).

**Section C. Standards for Special Flood Hazard Areas with Established Base Flood Elevations and With Floodways Designated**

Located within the Special Flood Hazard Areas established in Article III, Section B, are areas designated as floodways. A floodway may be an extremely hazardous area due to the velocity of floodwaters, debris or erosion potential. In addition, the area must remain free of encroachment in order to allow for the discharge of the base flood without increased flood heights and velocities. Therefore, the following provisions shall apply:

1. Encroachments are prohibited, including earthen fill material, new construction, substantial improvements or other development within the regulatory floodway. Development may be permitted however, provided it is demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practices that the cumulative effect of the proposed encroachments or new development shall not result in any increase in the water surface elevation of the Base Flood Elevation, velocities, or floodway widths during the occurrence of a base flood discharge at any point within the community. A Tennessee registered professional engineer must provide supporting technical data, using the same methodologies as in the effective Flood Insurance Study for the City of Tusculum, Tennessee and certification, thereof.
2. New construction and substantial improvements of buildings, where permitted, shall comply with all applicable flood hazard reduction provisions of Article V, Sections A and B.

**Section D. Standards for Areas of Special Flood Hazard Zones AE with Established Base Flood Elevations but Without Floodways Designated**

Located within the Special Flood Hazard Areas established in Article III, Section B, where streams exist with base flood data provided but where no floodways have been designated (Zones AE), the following provisions apply:

1. No encroachments, including fill material, new construction and substantial improvements shall be located within areas of special flood hazard, unless certification by a Tennessee registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any point within the community. The engineering certification should be supported by technical data that conforms to standard hydraulic engineering principles.
2. New construction and substantial improvements of buildings, where permitted, shall comply with all applicable flood hazard reduction provisions of Article V, Sections A and B.

**Section E. Standards for Streams without Established Base Flood Elevations and Floodways (A Zones)**

Located within the Special Flood Hazard Areas established in Article III, Section B, where streams exist, but no base flood data has been provided and where a Floodway has not been delineated, the following provisions shall apply:

1. The Administrator shall obtain, review, and reasonably utilize any Base Flood Elevation and floodway data available from any Federal, State, or other sources, including data developed as a result of these regulations (see 2 below), as criteria for requiring that new construction, substantial improvements, or other development in approximate A Zones meet the requirements of Article V, Sections A and B.
2. Require that all new subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than 50 lots or 5 acres, whichever is the lesser, include within such proposals Base Flood Elevation data.
3. Within approximate A Zones, where Base Flood Elevations have not been established and where such data is not available from other sources, require the lowest floor of a building to be elevated or floodproofed to a level of at least three (3) feet above the highest adjacent grade (as defined in Article II). All applicable data including elevations or floodproofing certifications shall be recorded as set forth in Article IV, Section B. Openings sufficient to facilitate automatic equalization of hydrostatic flood forces on exterior walls shall be provided in accordance with the standards of Article V, Section B.
4. Within approximate A Zones, where Base Flood Elevations have not been established and where such data is not available from other sources, no encroachments, including structures or fill material, shall be located within an area equal to the width of the stream or twenty feet (20), whichever is greater, measured from the top of the stream bank, unless certification by a Tennessee registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any point within the **City of Tusculum, Tennessee**. The engineering certification should be supported by technical data that conforms to standard hydraulic engineering principles.
5. New construction and substantial improvements of buildings, where permitted, shall comply with all applicable flood hazard reduction provisions of Article V, Sections A and B. Within approximate A Zones, require that those subsections of Article V Section B dealing with the alteration or relocation of a watercourse, assuring watercourse carrying capacities are maintained and manufactured homes provisions are complied with as required.

**Section F. Standards For Areas of Shallow Flooding (AO and AH Zones)**

Located within the Special Flood Hazard Areas established in Article III, Section B, are areas designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one (1) to three (3) feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate; therefore, the following provisions, in addition to those set forth in Article V, Sections A and B, apply:

1. All new construction and substantial improvements of residential and non-residential buildings shall have the lowest floor, including basement, elevated to at least one (1) foot above as many feet as the depth number specified on the FIRM's, in feet, above the highest adjacent grade. If no flood depth number is specified on the FIRM, the lowest floor, including basement, shall be elevated to at least three (3) feet above the highest adjacent grade. Openings sufficient to facilitate automatic equalization of hydrostatic flood forces on exterior walls shall be provided in accordance with standards of Article V, Section B.
2. All new construction and substantial improvements of non-residential buildings may be floodproofed in lieu of elevation. The structure together with attendant utility and sanitary facilities must be floodproofed and designed watertight to be completely floodproofed to at least one (1) foot above the flood depth number specified on the FIRM, with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. If no depth number is specified on the FIRM, the structure shall be floodproofed to at least three (3) feet above the highest adjacent grade. A Tennessee registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this Ordinance and shall provide such certification to the Administrator as set forth above and as required in accordance with Article IV, Section B.
3. Adequate drainage paths shall be provided around slopes to guide floodwaters around and away from proposed structures.

**Section G. Standards For Areas Protected by Flood Protection System (A-99 Zones)**

Located within the Areas of Special Flood Hazard established in Article III, Section B, are areas of the 100-year floodplain protected by a flood protection system but where Base Flood Elevations have not been determined. Within these areas (A-99 Zones) all provisions of Article IV and Article V shall apply.

**Section H. Standards for Unmapped Streams**

Located within the **City of Tusculum**, Tennessee, are unmapped streams where areas of special flood hazard are neither indicated nor identified. Adjacent to such streams, the following provisions shall apply:

1. No encroachments including fill material or other development including structures shall be located within an area of at least equal to twice the width of the stream, measured from the top of each stream bank, unless certification by a Tennessee registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface

elevation of the base flood more than one (1) foot at any point within the locality.

2. When a new flood hazard risk zone, and Base Flood Elevation and floodway data is available, new construction and substantial improvements shall meet the standards established in accordance with Articles IV and V.

## **ARTICLE VI. VARIANCE PROCEDURES**

### **Section A. Municipal Board of Zoning Appeals**

1. Authority

The **City of Tusculum**, Tennessee Municipal Board of Zoning Appeals shall hear and decide appeals and requests for variances from the requirements of this Ordinance.

2. Procedure

Meetings of the Municipal Board of Zoning Appeals shall be held at such times, as the Board shall determine. All meetings of the Municipal Board of Zoning Appeals shall be open to the public. The Municipal Board of Zoning Appeals shall adopt rules of procedure and shall keep records of applications and actions thereof, which shall be a public record. Compensation of the members of the Municipal Board of Zoning Appeals shall be set by the Legislative Body.

3. Appeals: How Taken

An appeal to the Municipal Board of Zoning Appeals may be taken by any person, firm or corporation aggrieved or by any governmental officer, department, or bureau affected by any decision of the Administrator based in whole or in part upon the provisions of this Ordinance. Such appeal shall be taken by filing with the Municipal Board of Zoning Appeals a notice of appeal, specifying the grounds thereof. In all cases where an appeal is made by a property owner or other interested party, a fee of sixty (\$60.00) dollars for the cost of publishing a notice of such hearings shall be paid by the appellant. The Administrator shall transmit to the Municipal Board of Zoning Appeals all papers constituting the record upon which the appeal action was taken. The Municipal Board of Zoning Appeals shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to parties in interest and decide the same within a reasonable time which shall not be more than thirty (30) days from the date of the hearing. At the hearing, any person or party may appear and be heard in person or by agent or by attorney.

4. Powers

The Municipal Board of Zoning Appeals shall have the following powers:

- a. Administrative Review

To hear and decide appeals where it is alleged by the applicant that there is error in any order, requirement, permit, decision, determination, or refusal made by the Administrator or other administrative official in carrying out or enforcement of any provisions of this Ordinance.

b. Variance Procedures

In the case of a request for a variance the following shall apply:

- 1) The City of Tusculum, Tennessee Municipal Board of Zoning Appeals shall hear and decide appeals and requests for variances from the requirements of this Ordinance.
- 2) Variances may be issued for the repair or rehabilitation of historic structures as defined, herein, upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary deviation from the requirements of this Ordinance to preserve the historic character and design of the structure.
- 3) In passing upon such applications, the Municipal Board of Zoning Appeals shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this Ordinance, and:
  - a) The danger that materials may be swept onto other property to the injury of others;
  - b) The danger to life and property due to flooding or erosion;
  - c) The susceptibility of the proposed facility and its contents to flood damage;
  - d) The importance of the services provided by the proposed facility to the community;
  - e) The necessity of the facility to a waterfront location, in the case of a functionally dependent use;
  - f) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
  - g) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
  - h) The safety of access to the property in times of flood for ordinary and emergency vehicles;



- i) The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site;
  - j) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, water systems, and streets and bridges.
- 4) Upon consideration of the factors listed above, and the purposes of this Ordinance, the Municipal Board of Zoning Appeals may attach such conditions to the granting of variances, as it deems necessary to effectuate the purposes of this Ordinance.
  - 5) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

**Section B. Conditions for Variances**

1. Variances shall be issued upon a determination that the variance is the minimum relief necessary, considering the flood hazard and the factors listed in Article VI, Section A.
2. Variances shall only be issued upon: a showing of good and sufficient cause, a determination that failure to grant the variance would result in exceptional hardship; or a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or Ordinances.
3. Any applicant to whom a variance is granted shall be given written notice that the issuance of a variance to construct a structure below the Base Flood Elevation will result in increased premium rates for flood insurance (as high as \$25 for \$100) coverage, and that such construction below the Base Flood Elevation increases risks to life and property.
4. The Administrator shall maintain the records of all appeal actions and report any variances to FEMA upon request.

**ARTICLE VII. LEGAL STATUS PROVISIONS**

**Section A. Conflict with Other Ordinances**

In case of conflict between this Ordinance or any part thereof, and the whole or part of any existing or future Ordinance of the City of Tusculum, Tennessee, the most restrictive shall in all cases apply.

**Section B. Severability**

If any section, clause, provision, or portion of this Ordinance shall be held to be invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect any other section, clause, provision, or portion of this Ordinance which is not of itself invalid or unconstitutional.

**Section C.     Effective Date**

This Ordinance shall become effective immediately after its passage, in accordance with the Charter of the City of Tusculum, Tennessee, and the public welfare demanding it.

Approved and adopted by the City of Tusculum, Tennessee, Mayor and Board of Commissioners.